

**NOTICE OF PUBLIC MEETING
OF THE
LEGISLATIVE COMMITTEE
OF THE
ARIZONA CRIMINAL JUSTICE COMMISSION
AND
AGENDA**

Pursuant to A.R.S § 38-431.02, notice is hereby given to the members of the **Legislative Committee** of the Arizona Criminal Justice Commission and to the general public that the **Legislative Committee** will hold a meeting open to the public on **Wednesday, October 8, 2014** beginning at **1:30 p.m.** at the **Arizona Criminal Justice Commission Office, 1110 W. Washington, Suite 250, Phoenix, Arizona 85007.**

Pursuant to the Americans with Disabilities Act (ADA), the Arizona Criminal Justice Commission endeavors to ensure the accessibility of its meetings to all persons with disabilities. Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Commission Office at (602) 364-1146. Requests should be made as early as possible to allow time to arrange the accommodation.

Agenda for the meeting is as follows:

I. Call to Order and Roll Call **Chairperson David Sanders**

Legislative Committee Members:

David Sanders, Chairperson
David Byers
Chris Gibbs
Robert Halliday
Drew John
Barbara LaWall
Bill Montgomery
Bill Pribil
Mark Spencer

II. Minutes of the November 19, 2009 Meeting

- Approval of Minutes

P-F-T

- III. Legislative Proposals** **Andy LeFevre**
- Review, discussion, consideration and possible action on support of proposed ACJC legislation. **P-F-T**
- IV. Update on Other Legislative Discussions** **Andy LeFevre**
- Updates will be provided on other legislative discussions that have occurred since the close of the 2014 legislative session. **Info**
- V. Call to the Public**
- Those wishing to address the Committee need not request permission in advance. Action taken as a result of public comment will be limited to directing staff to study the matter or rescheduling the matter for further consideration and decision at a later date.
- VI. Date, Time, and Location of Next Meeting**
- The next Legislative Committee meeting will be held on at the call of the Chairperson.
- VII. Adjournment**

A copy of the agenda background material provided to Committee members is available for public inspection at the Arizona Criminal Justice Commission Office, 1110 West Washington, Suite 230, Phoenix, Arizona 85007, (602) 364-1146. This document is available in alternative formats by contacting the Commission Office.



**LEGISLATIVE COMMITTEE
OF THE
ARIZONA CRIMINAL JUSTICE COMMISSION**

Request for Committee Action

Action Requested:	Type of Action Requested:	Subject:
October 8, 2014	<input checked="" type="checkbox"/> Formal Action/Motion <input type="checkbox"/> Information Only <input type="checkbox"/> Other	Minutes of the November 19, 2009 Meeting

TO: Chairperson and Committee Members

FROM: Andy LeFevre, Public Information Officer

RECOMMENDATION:

The Committee approve the minutes of the Legislative Committee meeting held on November 19, 2009.

DISCUSSION:

N/A

FISCAL IMPACT:

N/A

ALTERNATIVES:

Not Approve - Modify - Table

**Legislative Committee
Minutes
November 19, 2009**

A public meeting of the Legislative Committee of the Arizona Criminal Justice Commission was convened on November 19, 2009 at the Arizona Criminal Justice Commission, 1110 W. Washington, Suite 250, Phoenix, Arizona 85007.

Members Present:

Andrew Thomas, Chairperson, Maricopa County Attorney, Phil MacDonnell representing
John Armer, Gila County Sheriff
Dave Byers, Director, Administrative Office of the Courts, Jerry Landau representing
Dan Hughes, Chief, Surprise Police Department
Roger Vanderpool, Department of Public Safety, Lynn Ideus representing
David Sanders, Pima County Chief Probation Officer, Carl Sheets representing
Barbara LaWall, Pima County Attorney, Kathleen Mayer representing

Members Absent:

Carl Taylor, Coconino County Supervisor

Staff Participating:

John A. Blackburn, Jr., Executive Director
Mary Marshall, Public Information Officer
Wendy Boyle, Executive Secretary

I. Call to Order and Roll Call

The meeting was called to order by Chairperson Designee Phil MacDonnell at 11:30 AM. Roll was taken and a quorum was declared present.

II. Minutes of the March 4, 2009 Meeting

Chairperson Designee MacDonnell called for a motion on the minutes. Commissioner John Armer entered a motion to approve the minutes of the March 4, 2009 meeting. The motion seconded by Designee Kathleen Mayer passed unanimously.

III. Legislative Proposals

Mary Marshall, Public Information Officer explained that stakeholders were asked to provide a summary of their agency's proposed legislation for the upcoming legislative session for consideration by the Legislative Committee. The committee is tasked to review and discuss the drafted legislation from stakeholders to determine if it supports "in concept" the proposed items.

Jennifer Brower, Department of Corrections (DOC) introduced five drafted legislative proposals.

The first item of legislation was written to clearly define DOC's authority under A.R.S. § 36-831 to bury the unclaimed remains of a deceased inmate.

The second piece of legislation consists of adding "wireless communication device" and "multimedia storage device" to the definition of prison contraband; thus, enhancing the safety of correctional facilities and the public through the suppression of unregulated communication and criminal activity. The affected statutes are A.R.S. § 13-2501 and A.R.S. § 13-2505. The third proposal concerned the Transition Program. This would offer eligible participants the services to aid during the transition between incarceration and release to the community. The services include: 1) mentoring; 2) assistance in employment, education, housing, food services, treatment services; and 3) coverage for health insurance or medical assistance. Qualified participants are also eligible to receive a 90 day early release and the proposal would expand to other non-violent, low-risk offenders; however, DUI offenders are excluded from eligibility for early release. The statutes affected would be A.R.S. § 31-254; 31-281; 31-282; 31-284; 31-285; 31-286 and 31-287.

The fourth potential legislative proposal covered Community Supervision Fees to help offset the costs to Community Correction for monitoring offenders. The pieces of this proposal include: 1) A.R.S. § 41-1604.08 requiring the offenders convicted of a Dangerous Crime Against Children to pay the costs of their GPS monitoring; 2) A.R.S. § 31-418 that increases the amount an offender pays as a condition of their Community Supervision; 3) A.R.S. § 31-466 that increases the amount an offender in Arizona under the interstate compact pays as a condition of their Community Supervision; and 4) A.R.S. § 31-1604.13 requiring those on Home Arrest to pay a portion of the costs associated with their monitoring.

The fifth possible legislation was presented in two segments under Sexually Violent Persons.

The first piece of the legislation imposed a change to language in A.R.S. § 36-3701. The proposal would allow DOC to screen all offenders originally charged with a sexually violent offense even if the offender entered into a plea agreement to a lesser offense. Other parts of the statute would remain unchanged. The second piece of the legislation modified the language in A.R.S. § 36-3702 that contributed to the notice of release, referral, and immunity in seeking discretion. Ms. Brower advised that this section of legislation is still a work in progress.

First, the Committee reviewed and discussed the second part of the DOC proposal for Sexually Violent Persons.

Chairperson Designee MacDonnell asked if any members of the public would like to address the Committee regarding this piece of legislation. Rebecca Baker, who is collaborating on the proposal, spoke on behalf of the Maricopa County Attorney's Office and explained the facts of the legislative item were accurate; however, the issue needed further consideration on how it should be addressed.

Upon further review and discussion, Designee Kathleen Mayer entered a motion to recommend to the Commission the concept of the language modification to A.R.S. § 36-3702 in dealing with potential sexual violent persons that are coming out of the DOC, facing prison sentences in other jurisdictions, and that new information be merged in the final proposal for further consideration by legislative liaisons. The motion was seconded by Commissioner Dan Hughes and passed unanimously.

Chairperson Designee MacDonnell asked if any members of the public would like to address the Committee regarding the other DOC legislative items.

Paul Ahler, who spoke on behalf of the Arizona Prosecuting Attorneys' Advisory Council, had concerns on the Transition Program that included: 1) how inmates would be eligible for early release; 2) what efforts would ensure inmates are properly supervised; and 3) what would determine a low-risk offender.

The Committee decided to revisit the Transition Program legislative item and proceeded to the other proposed legislation.

The Committee then reviewed the DOC proposals for Inmate Burials, Prison Contraband and the first section of the Sexually Violent Persons legislation.

Designee Kathleen Mayer moved and Commissioner Dan Hughes seconded the motion to recommend that the Commission support the language change regarding Inmate Burials – A.R.S. § 36-831; Prison Contraband – A.R.S. § 13-2501, 13-2505 and; A.R.S. § 36-3701 for Sexually Violent Persons. The motion carried unanimously.

Next, the Committee reviewed the DOC Community Supervision Fees proposal.

After discussion, Commissioner Dan Hughes motioned to recommend that the Commission support the proposed concept of Community Supervision Fees. The motion was seconded by Designee Kathleen Mayer and passed unanimously.

Lastly, the Committee reviewed and discussed the Transition Program proposal by DOC.

Commissioner Dan Hughes moved and Commissioner John Armer seconded the motion to table this item until further details are available for this piece of legislation. The motion carried unanimously.

Mary Marshall, Public Information Officer reviewed the Mohave County Criminal Justice Services legislative item. Ms. Marshall explained Mohave County submitted draft language for a technical correction on one of the marijuana drug sections. A.R.S. § 13-3405 is covered under possession, use, production, sale or transportation of marijuana. Section B8 and B9 cover the penalties for producing certain quantities of marijuana; Section B8 covers "at least two pounds but not more than four pounds." Section B8 reads: Subsection A, paragraph 3 of this section involving an amount of marijuana having a weight of at least two pounds but not more than four pounds is guilty of a class 4 felony. Section B9 proposed language would read: Subsection A, paragraph 3 of this section involving an amount of marijuana having a weight of **MORE THAN** four pounds ~~or more~~ is guilty of a class 3 felony.

Jerry Landau entered a motion to recommend to the Commission the support of the legislative item change submitted by Mohave County Criminal Justice Services. The motion seconded by Designee Kathleen Mayer passed unanimously.

Next, Mary Marshall, Public Information Officer presented the legislative item from the City of Phoenix. Ms. Marshall summarized how Phoenix is evaluating a change to A.R.S. § 28-667 and that the city officials will make a decision in December on whether to pursue the legislation. Current law requires a full written police report to be prepared for car accidents where estimated property damage exceeds \$1,000. The modification would increase the amount from \$1,000 to \$2,500, resulting in savings of time and money. The Committee reviewed and discussed the item.

Designee Jerry Landau then moved and Commissioner John Armer seconded the motion to take no action on the City of Phoenix legislative item. The motion passed unanimously.

Kathleen Mayer, Pima County Attorney's Office provided three legislative items for review.

The first piece of legislation was grouped under Meth Offenses and Sentencing. The Meth Offenses section included changes to A.R.S. § 13-3407 Possession, use, administration, acquisition, sale manufacture or transportation of dangerous drugs; classification. The proposed language change to Section E would read: If the person is convicted of a violation of subsection A, paragraph 2, 3, 4, or 7 of this section and the drug involved is methamphetamine, **and the person has not more than one prior felony conviction**, the person shall be sentenced pursuant to section 13-709.03, subsections A or B.

The Meth Sentencing section included changes to A.R.S. § 13-709.03 Special sentencing provisions; drug offenses. The proposed language change to Section B would read: A person who is convicted of a violation of section 13-3407, subsection A, paragraph 2, 3, 4, or 7 involving methamphetamine and who has previously been convicted of ~~a violation of section 13-3407, subsection A, paragraph 2, 3, 4 or 7 involving methamphetamine or section 13-3407.01~~ any felony offense shall be sentenced as follows: Minimum-10 calendar years; Presumptive-15 calendar years; Maximum-20 calendar years.

After discussion, Designee Kathleen Mayer entered a motion to recommend that the Commission support the measures in meth offenses and sentencing in the language change as indicated in A.R.S. § 13-3407 and 13-709.03.B. The motion was seconded by Commissioner Dan Hughes and passed with one abstention by Designee Jerry Landau.

The second piece of legislation covered Aggravated Domestic Violence classification and sentencing. Ms. Mayer explained in A.R.S. § 13-3601.02 Aggravated domestic violence; classification; definition that the Pima County Attorney's Office was seeking proposed language change to Sections B, C and E of the statute to read: B. A person who is convicted under this section and who within a period of eighty-four months has **committed or** been convicted of two prior violations of a domestic violence offense or acts in another state, a court of the United States or a tribal court that if committed in this state would be a domestic violence offense is not eligible for probation, pardon, commutation or suspension of sentence or release on any other basis until the person has served not less than four months in jail; C. A person who is convicted under this section and who within a period of eighty-four months has **committed or** been convicted of three or more prior violations of a domestic violence offense or acts in another state, a court of the United States or a tribal court that if committed in this state would be a domestic violence offense is not eligible for probation, pardon, commutation or suspension of sentence or release on any other basis until the person has served not less than eight months in jail; E. For the purposes of this section, prior convictions for or commissions of, misdemeanor domestic violence offenses apply only to ~~convictions for~~ offenses that were committed on or after January 1, 1999.

Upon initial review and discussion, Designee Kathleen Mayer moved and Designee Carl Sheets seconded the motion to recommend that the Commission support the concept of the language modifications to A.R.S. § 13-3601.02 on pages 11 and 12 of the agenda. The motion passed with one abstention by Designee Jerry Landau.

The third item of legislation pertained to Public Records Laws under A.R.S. § 39-121.01 Definitions; maintenance of records; copies, printouts or photographs of public records; examination by mail; index. The language drafted on page 12 of the agenda included the wording of D. Subject to section 39-121.03: 1. Any person may request to examine or be furnished copies, printouts or photographs of any public record during regular office hours or may request that the custodian mail a copy of any public record not otherwise available on the public body's web site to the requesting person. The custodian may require any person requesting that the custodian mail a copy

of any public record to pay in advance for any ~~allowable copying and postage charges, including postage.~~ The custodian of such records shall promptly furnish such copies, printouts or photographs. ~~and may charge a fee if the facilities are available, except that~~ 2. After the first 50 pages the ~~The~~ custodian may charge a fee equal to the actual costs incurred by the custodian in locating, redacting, and reproducing such records, ~~except that no reproduction charge shall be assessed for the first ten photocopies of a record.~~ A person who requests access to inspect or copy a public record under this article has thirty days to inspect, retrieve or pay for the public record. A person who fails to do so, or who has made previous requests for the same public record, shall pay a charge equal to the actual costs incurred by the custodian in locating, redacting and reproducing such records including the first 50 pages.

Chairperson Designee MacDonnell asked if anyone from the public would like to address the Committee regarding the Public Records legislative item. John Garcia spoke on behalf of the Maricopa County Attorney's Office and asked that the Committee recommend the piece of legislation for consideration by the Commission.

Upon review and discussion, Designee Kathleen Mayer moved to recommend that the Commission support the stakeholders to explore the manner in which the agencies can make it economically feasible to fully comply with the public record law by making amendments that will protect the public's interest in full disclosure and using less cost effective measures. The motion was seconded by Commissioner John Armer and passed unanimously.

Mike Durham, former member of the Cold Case Task Force, presented legislation that would address changes in civil law, allowing families to file suit in wrongful death suits beyond the statute of limitations. Mr. Durham explained there is a two year statute of limitation on civil action making it impossible for families who have loved ones that are victims of cold case homicides to file a wrongful death suit that falls under A.R.S. § 12-511 Civil action arising from criminal conduct; definitions. No action was taken by the Committee on this item.

Rebecca Baker, Maricopa County Attorney's Office presented two items of possible legislation for consideration.

The first piece of legislation was classified under assault, serious physical injury; suspension of sentence ineligibility. A person convicted of aggravated assault pursuant to A.R.S. § 13-1204(A)(3) would be ineligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence has been served or the sentence is commuted. A.R.S. § 13-1204(A)(3) involves temporary but substantial disfigurement, temporary but substantial loss or impairment of any body organ or a fracture of any body part. This would also amend the definition of serious physical injury in A.R.S. § 13-105 to include physical injury that, without invasive medical treatment, creates a reasonable risk of death, or that causes serious and permanent disfigurement, serious impairment of health or loss or protracted impairment of the function of any bodily organ or limb.

Upon review and discussion, a motion was made by Designee Kathleen Mayer, seconded by Designee Carl Sheets to recommend the Commission support the concept to sub-divide the population of temporary, substantial defendants so that the persons who have committed the offenses face more severe penalties. The motion carried with one abstention by Designee Jerry Landau.

The next proposal pertained to theft from an incapacitated or vulnerable adult pursuant to A.R.S. § 13-1802(B) in the amount of \$100,000 or greater as a mandatory DOC offense.

Upon review and discussion, Designee Kathleen Mayer moved and Commissioner Dan Hughes seconded the motion to recommend the Commission support conforming theft over \$100,000 for all incapacitated adults as proposed legislation. The motion carried with one abstention by Designee Jerry Landau.

IV. Call to the Public

Chairperson Designee MacDonnell made a call to the public. No other members of the public addressed the Committee.

V. Date, Time, and Location of Next Meeting

The next Legislative Committee Meeting will be held at the call of the Chairperson.

VI. Adjournment

The meeting was adjourned at 1:05 PM.

Respectfully submitted,



John A. Blackburn, Jr.
Executive Director

Audio recording is available upon request.



**LEGISLATIVE COMMITTEE
OF THE
ARIZONA CRIMINAL JUSTICE COMMISSION**

Request for Committee Action

Action Requested:	Type of Action Requested:	Subject:
October 8, 2014	<input checked="" type="checkbox"/> Formal Action/Motion <input type="checkbox"/> Information Only <input type="checkbox"/> Other	Legislative Proposals

TO: Chairperson and Committee Members

FROM: Andy LeFevre, Public Information Officer/Legislative Liaison

RECOMMENDATION:

The Legislative Committee recommend to the Commission the support of proposed legislation.

DISCUSSION:

The following ACJC proposed legislation for the upcoming 2015 legislative session will be presented in an effort to gain support from the Commission.

FISCAL IMPACT:

N/A

ALTERNATIVES:

Not Approve - Modify - Table

2015 ACJC Proposed Legislation Summaries

#1 - Case information; law enforcement

Creates the authorizing language necessary for DPS to provide law enforcement agencies with mental health ruling case information as reported to NICS to enforce a court order, assist in an investigation or for the purpose of returning property.

#2 - Prohibited possessor; mental health

Adds to the definition of prohibited possessor in Arizona those individuals under court appointed guardianship except if the appointment is due solely to a physical incapacity.

#3 - NICS; prohibited possessor; criminal offenses

Adds to the definition of prohibited possessor in Arizona someone who is under indictment or information for an offense listed in Section 13-706, Subsection F (these offenses include the most serious crimes such as: murder, manslaughter, aggregated assault, kidnapping, armed robbery, sexual assault, etc.) or where a judicial officer imposes as a condition of release that the person not possess a firearm. Authorizes the automatic transmission of this information from the Supreme Court to DPS and from DPS into the National Instant Criminal Background Check System.

#4 - Law enforcement; courts; fingerprinting

This bill removes language from §41-1750 dealing with fingerprinting requirements and creates a new section of statute 41-1757 that deals specifically with fingerprinting. No other changes are made to statute language.

#5 - Judgment of guilt; document

Requires the court at the time of sentencing to for certain offenses to permanently affix a defendant's fingerprint to the sentence document or minute order, or record the defendant's two-fingerprint biometric-based identifier in the case file. It also states that if the booking agency cannot determine whether legible ten-print fingerprints were taken from the arrestee, the booking agency shall take the ten-print fingerprints.

#6 - Failure to appear/ Notice to Appear

Amends statute from shall to may to give courts discretion in filing a failure to appear complaint. Also creates a one year timeframe for a prosecutor to notify the court of an intent to prosecute the complaint. If no intent is provided by the prosecutor the complaint shall be dismissed.

LEGISLATIVE COMMITTEE
OF THE
ARIZONA CRIMINAL JUSTICE COMMISSION

Request for Committee Action

Action Requested:	Type of Action Requested:	Subject:
October 8, 2014	<input type="checkbox"/> Formal Action/Motion <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	Update on Other Legislative Discussions

TO: Chairperson and Committee Members

FROM: Andy LeFevre, Public Information Officer/Legislative Liaison

RECOMMENDATION:

Information Only

DISCUSSION:

Updates will be provided on other legislative discussions that have occurred since the close of the 2014 legislative session.

FISCAL IMPACT:

N/A

ALTERNATIVES:

N/A