

**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 **Thursday, November 5, 2015** beginning at **9:30 a.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  
K.C. Clark  
Chris Gibbs  
Drew John  
Barbara LaWall  
Frank Milstead

**II. Minutes of the October 8, 2014 Meeting** **P-F-T**

- Approval of Minutes

**III. Legislative Proposals** **Andy LeFevre**

- Review, discussion, consideration and possible action on support of proposed ACJC legislation. **P-F-T**

#### **IV. 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.

#### **V. Date, Time, and Location of Next Meeting**

- The next Legislative Committee meeting will be held on at the call of the Chairperson.

#### **VI. 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**

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<b>Action Requested:</b>	<b>Type of Action Requested:</b>	<b>Subject:</b>
November 5, 2015	<input checked="" type="checkbox"/> Formal Action/Motion <input type="checkbox"/> Information Only <input type="checkbox"/> Other	Minutes of the October 8, 2014 Meeting

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**TO:** Chairperson and Committee Members

**FROM:** Andy LeFevre, Public Information Officer

**RECOMMENDATION:**

The Committee approve the minutes of the Legislative Committee meeting held on October 8, 2014.

**DISCUSSION:**

N/A

**FISCAL IMPACT:**

N/A

**ALTERNATIVES:**

Not Approve - Modify - Table

**Legislative Committee  
Minutes  
October 8, 2014**

A public meeting of the Legislative Committee of the Arizona Criminal Justice Commission was convened on Wednesday, October 8, 2014 at the Arizona Criminal Justice Commission, 1110 W. Washington, Suite 250, Phoenix, AZ 85007.

Members Present:

David Sanders, Chairperson, Pima County Chief Probation Officer  
David Byers, Director, Administrative Office of the Courts  
Chris Gibbs, Mayor, City of Safford, by conference call  
Drew John, Graham County Supervisor  
Barbara LaWall, Pima County Attorney, Kathleen Mayer representing  
Bill Montgomery, Maricopa County Attorney, Mark Faull representing

Members Absent:

Robert Halliday, Director, Department of Public Safety  
Bill Pribil, Coconino County Sheriff  
Mark Spencer, Law Enforcement Officer

Staff Participating:

Andy LeFevre, Public Information Officer  
Wendy Boyle, Executive Secretary

Guests Participating:

Jerry Landau, Administrative Office of the Courts

**I. Call to Order and Roll Call**

The meeting was called to order by Chairperson David Sanders at 1:30 p.m. Roll was taken and a quorum was declared present.

**II. Minutes of the November 19, 2009 Meeting**

Chairperson Sanders called for a motion on the minutes. Designee Kathleen Mayer entered a motion to approve the minutes of the meeting on November 19, 2009. The motion was seconded by Commissioner Drew John and was unanimously approved by the Committee.

**III. Legislative Proposals**

Andy LeFevre, Public Information Officer presented proposed legislation for the 2015 legislative session. The Committee was asked to review, discuss and support the draft legislation for recommendation to the Commission.

Mr. LeFevre introduced the first three legislative proposals that are related to NICS.

The first item of legislation Section 1, Title 41, Chapter 12, Article 3 was amended to add Section 41-1757 creating the authorizing language: Case Information; Law Enforcement. The Department of Public Safety may provide a law enforcement agency access to the case information received from the Supreme Court pursuant to A.R.S. Section 13-609, 14-5305 and 36-540 in order to enforce a court order, assist in an investigation or for the purpose of returning property. Designee Mark Faull inquired about the reason it is permissive not mandatory for the Department of Public Safety (DPS) if a valid request was received from law enforcement. A suggestion was using the word "shall" instead of "may" to provide law enforcement agencies to the mental health ruling case information as reported to NICS. Jerry Landau, Administrative Office of the Courts gave an explanation of the statutory terms of the word "may" in the legislation. The first meaning is "discretionary" and the second meaning refers to "gives authority" which was meant for the draft legislation that was approved by the Commission last year.

Commissioner David Byers entered a motion to recommend to the Commission the support of the Case Information; Law Enforcement legislation and authorizing the language change of "shall" instead of "may". The motion was seconded by Designee Mark Faull and was unanimously approved by the Committee.

The second piece of legislation Prohibited Possessor; Mental Health consists of adding 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. Commissioner David Byers suggested making the language more explicit so the conditions of release are specifically spelled out.

Designee Kathleen Mayer entered a motion to recommend to the Commission the support of the Prohibited Possessor; Mental Health legislation. The motion was seconded by Commissioner Drew John and was unanimously approved by the Committee.

The third item of legislation NICS; Prohibited Possessor; Criminal Offenses adds to the definition of prohibited possessor in Arizona as someone who is under indictment or information for an offense listed in Section 13-706, subsection F. These offenses include the most serious crimes or where a judicial officer imposes a condition of release that the person not possess a firearm. It also authorizes the transmission of the information from the Supreme Court to DPS, and from DPS to NICS.

Mr. LeFevre discussed the conversation he had last year with several groups who objected to some of the language in the draft legislation; namely, that someone could lose their right to possess a firearm even though they had not been convicted of a crime. If the groups hold the same position this year, perhaps the best course of action would be to not move forward with this particular provision.

The Committee discussed how certain rights are denied until a conviction, the handling of indictments or information for an offense, and the conditions of release of the person not possessing a firearm. This information is not at the court level and there would have to be modification of the multiple case management systems in order to capture the data as conditions of release.

After review and discussion, Designee Kathleen Mayer entered a motion to recommend to the Commission the support of the NICS; Prohibited Possessor; Criminal Offenses legislation striking out line (i) "is subject to a condition of release that the person not possess a firearm" and to keep line (h) "is under indictment or information for an offense listed in Section 13-706, Subsection F." on page three of the proposal. The motion was seconded by Designee Mark Faull and was unanimously approved by the Committee.

Mr. LeFevre provided items 4, 5 and 6 as possible legislation for consideration.

The fourth piece of legislation removes language from Section 1. 41-1750 Central state repository; department of public safety; duties, funds, accounts, definitions that involves fingerprint requirements and creates a new section of statute 41-1757; specifically with fingerprinting for clarity. There were no other changes to the statute language.

Commissioner Drew John entered a motion to recommend to the Commission the support of the Law Enforcement; Courts; Fingerprinting legislation amendment. The motion was seconded by Designee Kathleen Mayer and was unanimously approved by the Committee.

The fifth piece of legislation Judgment of guilt; document; would at the time of sentencing for certain offenses, require the court to place a defendant's fingerprint to the sentencing document/minute order, or record the defendant's two-fingerprint biometric-based identifier in the criminal case file. Also, if the booking agency cannot determine whether a legible ten-print fingerprint was taken from the arrestee, the booking agency shall take the ten-print. A comment was made that in line 7 of the draft legislation, the spelling of the word violation needs to be corrected.

Designee Kathleen Mayer entered a motion to recommend to the Commission the support of the Judgment of guilt; document legislation. Designee Mark Faull asked the Chairperson if a friendly amendment could be accepted to include the two housekeeping changes discussed. Designee Kathleen Mayer accepted the amendment. Chairperson Sanders stated the motion on the floor is to support the legislation with the corrected amendments. The motion was seconded by Commissioner Drew John and was unanimously approved by the Committee.

The sixth legislative proposal was the Failure to Appear/Notice to Appear that amends statute language from "shall" to "may" giving courts the discretion to file a failure to appear complaint. It would create a one year timeline for the prosecutor to notify the court of an intent to prosecute the complaint. If the prosecutor provides no intent, the complaint is dismissed.

Commissioner David Byers entered a motion to recommend to the Commission the support of the Failure to Appear/Notice to Appear legislation. The motion was seconded by Designee Mark Faull and was unanimously approved by the Committee.

#### **IV. Update on Other Legislative Discussions**

Andy LeFevre, Public Information Officer gave an update on legislative items that were discussed at the close of the 2014 legislative session.

Mr. LeFevre addressed the first item. The Commission had approved the proposal in concept to implement a drug fine structure and making the fines and fees more consistent with the sentencing code across all the categories for drug convictions. Staff met with various criminal justice stakeholders in August 2014 and identified some ideas to improve the current fine structure of drug crime sentences. The recommendation was to not move forward at this time because of the current climate of the legislature and the challenges the state of Arizona is going to face with the budget deficit.

The second item was a request to have more flexibility for the use of funds for the Statistical Analysis Center. The current language within the statute limits spending for the Arizona Youth Survey (AYS). ACJC does not spend the full amount and with the residual amount left in the fund, the monies could be used to do other research. Mr. LeFevre noted that ACJC may seek remedy within the legislative appropriation process.

The third item is to draft language amending a segment of the statute for the Victim Compensation and Assistance Fund; Payments for Services; Section 41-2407 to require a medical provider to accept payment from the Victim Compensation Program as payment in full and not attempt any further collection from the

victim or claimant for the same services. Mr. LeFevre will meet with the Arizona Health Care Cost Containment System (AHCCS) to gain understanding of how they have been able to negotiate this agreement with medical providers.

The last item is regarding victim monies that are residing in the Industrial Commission fund. Mr. LeFevre stated the statute indicates criminals cannot profit off of crimes. If merchandise is sold, the proceeds from the sales go directly into a fund where victims of the crime can apply for restitution. The statute maintains that after five years the remaining amount in the fund reverts back to the general fund. Discussions are to rewrite the statute to have the funds placed in the victim compensation fund for use by ACJC. Mr. LeFevre has reached out to the Industrial Commission to discuss the fund; however, there has not been a response.

This agenda item was presented for informational purposes and did not require Committee action.

**V. Call to the Public**

Chairperson Sanders made a call to the public. No members of the public addressed the Committee.

**VI. Date, Time, and Location of Next Meeting**

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

**VII. Adjournment**

The meeting was adjourned at 2:20 p.m.

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**

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November 5, 2015	<input checked="" type="checkbox"/> Formal Action/Motion <input type="checkbox"/> Information Only <input type="checkbox"/> Other	Legislative Proposals

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**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 2016 legislative session will be presented in an effort to gain support from the Commission.

**FISCAL IMPACT:**

N/A

**ALTERNATIVES:**

Not Approve - Modify - Table

## 2016 ACJC Proposed Legislation Summaries

### **Prohibited possessor; mental health**

Amends ARS 13-3101 to add 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 and authorizes the courts to share information with law enforcement or prosecuting agencies.

### **Law Enforcement; Courts; Fingerprinting**

Amends ARS 41-1750 to define the county sheriff as the "booking agency" (except if the person is booked into a municipal jail then it means municipal law enforcement) and requires the booking agency to take a legible ten-print fingerprint for all persons arrested for certain crimes. Also requires courts to send individuals summoned into court for certain offenses to the booking agency to obtain a legible ten-print fingerprint.

### **Failure to Appear Classification**

Amends the definition of failure to appear in the second degree and sets appropriate penalties.

### **Arizona Prevention Resource Center Fund Spending Flexibility**

Amends ARS 41-2402, paragraph G to allow greater flexibility in how the Arizona Criminal Justice Commission's Statistical Analysis Center can utilize Arizona Prevention Resource Center funds. Currently statute only allows for funds to be used to support the Arizona Youth Survey. Language change would allow unused funds to be spent to conduct research identified by the Commission as important to Arizona's criminal justice community.

### **Victim Compensation and Assistance Fund Spending Flexibility**

Amends ARS 41-2407 to allow greater flexibility in how the Victim Compensation and Assistance Fund can expend funds across both program areas to meet the needs of Arizona's victims of crime and those agencies that provide direct services to victims.