

**Committee on Juvenile Courts**

*Committee Minutes*

Meeting Date: 09/20/2019 (telephonic)

The meeting was called to order by Judge Quigley at 11:48 a.m.

Minutes taken by: Inna Lower-Bilichenko

**Call to Order**

**Present by phone:**

Honorable C. Allen Perkins (Apache), Honorable Terry Bannon (Cochise), Honorable Monica Stauffer (Greenlee), Honorable Rick Williams (Mohave), Honorable Robert Higgins (Navajo), Honorable Kathleen Quigley (Pima), Honorable Anna Young (Yavapai), Honorable Kathryn Stocking-Tate (Yuma), Honorable Sam Thumma (COA, Div. 1), Honorable Christopher Staring (COA, Div. 2), Valerie VanAuker (FCRB), Joannie Collins (public member; Arizona Bar Foundation), Janet Garcia (public member; Casey Family Programs), Eric Meaux (Maricopa County Juvenile Probation Department), Jennifer Torchia (Pima County Juvenile Court).

**Excused/Absent:**

Honorable Kami Hart (Gila River Indian Community Court), Honorable Thomas Fink (Santa Cruz), Honorable Joseph Kreamer (Maricopa), Honorable Daniel Washburn (Pinal), Honorable Bryan Chambers (Gila), Tim Hardy (Yuma County Juvenile Court), Honorable Jessica Quickle (La Paz), Honorable Travis Ragland (Graham), Honorable Ted Reed (Coconino).

**Guests/Staff Present in person:**

Joe Kelroy (JJSD, AOC), Kathy Gillmore (JJSD, AOC), Inna Lower-Bilichenko (DCSD, AOC), Amy Love (Legislative Liaison, AOC), Nina Preston (Legal Services, AOC), Beth Broeker (ADJC), Kate Howard (ADJC), Magdalena Jorquez (DCS), Chanetta Curtis (DCS), Carey Turner (AG Office), Beth Rosenberg (CAA) – by phone.

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Introductions were made around the room and on the telephone.

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**Topic:** Legislative Voting Proposals

Speaker: Amy Love, *Legislative Liaison; AOC*

Summary of Discussion (Handouts):

There are three proposals for the COJC Committee’s consideration:

- 1) 2020-01: juvenile; restoration of rights; set aside; destruction of records

This bill is a follow up to HB 2055 which gives the juvenile court a right to modify, for good cause, any monetary obligations imposed by the court, except for victim restitution, including after the person’s 18<sup>th</sup> birthday. There will be a further discussion as to which fines and fees should be imposed on a parent, versus a juvenile.

Since a “gun” is not a statutory defined term, only a “firearm” is, this proposal removes references to a “gun” in the juvenile restoration of rights statute. Those people, who have been adjudicated delinquent for a felony, do not have to go back to the judge or the judge’s successor, instead go to the court where the person is on probation or was adjudicated. This proposal also directs a clerk of the superior court, instead of an applicant or applicant’s attorney, to forward the application to the county attorney. There would not be a fee for an application to restore the right to possess a firearm. In addition, a clerk is responsible of notifying the DPS if the court orders destruction of the juvenile’s record.

Moreover, this proposal removes an offense for which there was a finding of “sexual motivation” from the list of exclusions for setting aside an adjudication.

### 2) 2020-11: juvenile disposition; probation

This proposal is a continuation of an effort that Eric Meaux brought to the last session, which passed out of the House Judiciary Committee and would allow the court to not impose intensive probation on a juvenile who has been adjudicated in the second felony, considering the severity of the offense and a risk assessment during which the court determines that intensive probation services are not required. It also modifies the definition of a “repeat felony juvenile offender” to clarify that the juvenile must be adjudicated for an offense that would be a felony if committed by an adult after previously having had a prior and separate adjudication and disposition for conduct that would constitute a historical prior felony adjudication if tried as an adult.

Moreover, this proposal removes language mandating the court to hold a hearing for certain drug/alcohol probation violations, thereby giving juvenile probation departments discretion to provide individualized supervision for a substance abuse treatment.

Even though this proposal was approved by COJC and the Counselor last year, it met some resistance. Therefore, this year this proposal is a little bit “watered down” with hope to secure a hearing in the Senate Judiciary Committee.

### 3) 2020-14: juvenile court; retention of jurisdiction

It would be helpful to have a unified process through the state for handling the notice of intent to extend juvenile court’s jurisdiction. Right now, the statute says that a prosecutor must file a notice with the petition, and petitions are being withdrawn in some counties and then resubmitted as amending petitions, which causes a lot of confusion. Therefore, this proposal would allow a prosecutor to file a notice of intent to extend jurisdiction at any time prior to an adjudication hearing or proceeding with the juvenile as admitting an allegation in a petition for delinquency.

The Speaker of the House, Russell Bowers, ran the bill initially extending juvenile’s court jurisdiction, and the bill was amended. COJC has previously talked about allowing the court to also have that discretion, but that did not appear in our proposal at that time to allow a prosecutor to file that notice of intent to extend jurisdiction prior to the adjudication hearing. Once that notice is filed, then juvenile court’s jurisdiction is automatically extended.

**Motion:** To move forward with the legislative proposal 2020-01: juvenile; restoration of rights; set aside; destruction of records as presented.

**Moved by:** Hon. Anna Young; **Seconded by:** Jennifer Torchia.

No discussion.

**Action:** Motion passed unanimously.

**Motion:** To move forward with the legislative proposal 2020-11: juvenile disposition; probation as presented.

**Moved by:** Hon. Anna Young; **Seconded by:** Jennifer Torchia.

No discussion.

**Action:** Motion passed unanimously.

**Motion:** To move forward with the legislative proposal 2020-14: juvenile court; retention of jurisdiction as presented.

**Moved by:** Eric Meaux; **Seconded by:** Jennifer Torchia.

No discussion.

**Action:** Motion passed unanimously.

**Motion:** To support provision of discretion to the court to extend juvenile court jurisdiction.

**Moved by:** Hon. Sam Thumma; **Seconded by:** Hon. Terry Bannon

Discussion took place:

While supporting the idea that this statute would be beneficial for children, especially with sexual maladaptive behavior or substance abuse issues, transferring from the juvenile to adult criminal court, some judges shared their concern that extension of judicial discretion might result in a loop hole for defense counselors to file a motion for a court to extend jurisdiction. Even though the court would have a right to deny this motion, some judges felt like it might cause a delay because of possible appeals and special actions.

**Action:** Motion passed with an objection made by Hon. Kathryn Stocking-Tate.

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### **Call to the Public:**

None.

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### **Adjournment:**

**Motion:** To adjourn the meeting.

**Moved by:** Jennifer Torchia; **Seconded by:** Hon. Monica Stauffer

**Action:** Meeting adjourned at 12:14 p.m.

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### **Next COJC Meetings:**

The next COJC meeting is scheduled for Thursday, October 31<sup>st</sup>, at the Arizona Courts Building, Room 345A/B.