

Hon. Patti Noland, President
Arizona Association of Superior Court Clerks
110 W. Congress, 1st Floor
Tucson, Arizona 85701
520-740-3201
nasha@COSC.maricopa.gov

IN THE ARIZONA SUPREME COURT

In the matter of) R- 08-0005
)
PETITION TO AMEND ARIZONA) COMMENT TO PROPOSED RULES
RULES OF CRIMINAL) RELATED TO AMENDING ARIZONA
PROCEDURE RULE 4.1) RULES OF CRIMINAL LAW
) PROCEDURE RULE 4.1
_____)

The Arizona Association of Superior Court Clerks (AASCC) submits the following comment on the petition to amend the Arizona Rules of Criminal Procedure as they pertain to indigent defense representation at the Initial Appearance (IA) courts:

The AASCC takes no position on the Constitutional and policy implications of the proposed rule and limits its comments to the impact the proposed changes would have on court management and keeping the court record in superior court.

In Maricopa County, IA court operates 24 hours a day, 7 days per week. In IA courts, no charges have been filed in superior court at the time of the initial appearance, meaning there is no superior court case number attached, and therefore, no court record at the initial appearance stage of proceedings. Because there is no superior court case created until the prosecuting agency files charges in superior court, the Clerks do not have a method for issuing minute entries from IA court.

If proposed Rule 4.1 is adopted, additional rules will be in order to specify when a superior court case number is created and whether hearings in IA court require clerk staffing, electronic recording where available, or other methods for creating the court record. While ensuring a clerk's presence at IA court is a matter of internal court operations, the particulars of court processing and policy will require further development of the requirements envisioned in proposed Rule 4.1.

Adopting proposed Rule 4.1 in effect creates a new court of record in superior court and the staffing, timeframes, resources, rules and appellate rules of procedure that go with it. From a management and resources perspective, this would create a substantial hardship on the Clerks of this state. If the Court chooses to pursue this option, the Clerks recommend that a committee be appointed first to study the full impact of the proposed changes before implementation.

DATED this 16th day of May, 2008.

/s/ Patti Noland
Hon. Patti Noland, President
Arizona Association of Superior Court Clerks

A copy of this comment has been mailed or delivered this 16th day of May, 2008, to:

Dana P. Hlavac
Arizona Public Defender Association
PO Box 7000
Kingman, AZ 86402-7000
Fax No.: 928-753-0793
E-mail: dana.hlavac@co.mohave.az.us
Via electronic filing of comment

Supreme Court R- 08-0005