

# NOTICES OF SUPPLEMENTAL PROPOSED RULEMAKING

After an agency has filed a Notice of Proposed Rulemaking with the Secretary of State's Office for *Register* publication and the agency decides to make substantial changes to the rule after it is proposed, the agency must prepare a Notice of Supplemental Proposed Rulemaking for submission to the Office, and the Secretary of State shall publish the Notice under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.). Publication of the Notice of Supplemental Proposed Rulemaking shall appear in the *Register* before holding any oral proceedings (A.R.S. § 41-1022).

## NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING

### TITLE 10. LAW

#### CHAPTER 4. ARIZONA CRIMINAL JUSTICE COMMISSION

*Editor's Note: The following Notice of Supplemental Proposed Rulemaking was reviewed per Laws 2009, 3rd Special Session, Ch. 7, § 28. (See the text of § 28 at 15 A.A.R. 1942, November 20, 2009.) The Governor's Office authorized the notice to proceed through the rulemaking process on December 2, 2009.*

[R11-15]

#### PREAMBLE

**1. The Register citation and dates for the Notice of Rulemaking Docket Opening, the Notice of Proposed Rulemaking, and any Notices of Supplemental Proposed Rulemaking, if applicable:**

Notice of Rulemaking Docket Opening: 16 A.A.R. 1913, September 24, 2010

Notice of Proposed Rulemaking: 16 A.A.R. 1909, September 24, 2010

**2. Sections Affected**

**Rulemaking Action**

|           |             |
|-----------|-------------|
| Article 3 | New Article |
| R10-4-301 | New Section |
| R10-4-302 | New Section |
| R10-4-303 | New Section |
| R10-4-304 | New Section |
| R10-4-305 | New Section |

**3. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 41-2405(A)(8)

Implementing statute: A.R.S. § 41-2401(D)(6), (7), (8), and (9)

**4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: John A. Blackburn, Jr.

Address: Arizona Criminal Justice Commission  
1110 W. Washington St., Suite 230  
Phoenix, AZ 85007

Telephone: (602) 364-1171

Fax: (602) 364-1175

E-mail: jrblackburn@azcjc.gov

**5. An explanation of the rules, including the agency's reasons for initiating the rulemaking:**

During the third special legislative session of 2009, the legislature amended A.R.S. § 41-2401(D)(9) to require that monies in the Criminal Justice Enhancement Fund be distributed directly to county sheriffs rather than to the Arizona Department of Corrections for allocation to the county sheriffs. This change resulted in confusion regarding the agency responsible for making rules regarding the allocation of the monies. During its most recent session, the legislature eliminated this confusion by amending A.R.S. § 41-2405(A)(8). The law now clearly indicates that the Arizona Criminal Justice Commission is to make rules regarding allocation of monies in the Criminal Justice Enhancement Fund. This rulemaking makes the required rules.

**6. An explanation of the substantial change that resulted in this supplemental notice:**

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As a result of comments received, the Commission determined that the responsibilities of the Arizona Sheriffs' Association were not accurately described in the Notice of Proposed Rulemaking. Additionally, the Director of the Administrative Office of the Courts suggested some changes that the Commission decided to incorporate.

**7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

The rules will have minimal economic impact on the Arizona Departments of Public Safety and Law, the Supreme Court, and the county sheriffs. Each of these entities will incur the cost of preparing the guidelines required by the rules, maintaining records, and submitting necessary reports. However, the benefit from receiving substantial sums of money from the Criminal Justice Enhancement Fund will greatly exceed the costs.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: John A. Blackburn, Jr.  
Address: Arizona Criminal Justice Commission  
1110 W. Washington St., Suite 230  
Phoenix, AZ 85007  
Telephone: (602) 364-1171  
Fax: (602) 364-1175  
E-mail: jrblackburn@azcjc.gov

**10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rules or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:**

An oral proceeding regarding the proposed rules will be held as follows:

Date: Monday, April 11, 2011  
Time: 9:00 a.m.  
Location: 1110 W. Washington St., Suite 230  
Phoenix, AZ 85007

The rulemaking record will close at 5:00 p.m. on April 11, 2011.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**12. Incorporations by reference and their location in the rules:**

None

**13. The full text of the rules follows:**

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**CHAPTER 4. ARIZONA CRIMINAL JUSTICE COMMISSION**

**ARTICLE 3. ~~REPEALED~~ CRIMINAL JUSTICE ENHANCEMENT FUND**

Section

R10-4-301. ~~Repealed~~ Definitions  
R10-4-302. ~~Repealed~~ Agency Contact Information Required  
R10-4-303. ~~Repealed~~ Fund Guidelines Required  
R10-4-304. ~~Repealed~~ Records Required  
R10-4-305. ~~Repealed~~ Complaints

**ARTICLE 3. ~~REPEALED~~ CRIMINAL JUSTICE ENHANCEMENT FUND**

**R10-4-301. ~~Repealed~~ Definitions**

In this Article:

1. "Commission" means the Arizona Criminal Justice Commission.
2. "Contact" means the individual within a recipient or the Arizona Sheriffs' Association, on behalf of the various county Sheriffs' Offices, who communicates with the Commission regarding the Fund.

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3. “Enhance or enhancing.” as used in A.R.S. § 41-2401(D), means to supplement rather than supplant monies from other sources.
4. “Fund” means the Criminal Justice Enhancement Fund established by A.R.S. § 41-2401(A).
5. “Head” means:
  - a. The Director of the Arizona Department of Public Safety.
  - b. The Arizona Attorney General.
  - c. The Director of the Administrative Office of the Courts, and
  - d. The sheriff in each Arizona County.
6. “Recipient” means the Arizona Departments of Public Safety and Law, the Supreme Court, and each Arizona County Sheriff’s Office.

**R10-4-302. ~~Repealed~~ Contact Information Required**

- A.** Within 60 days after this Article takes effect, each Head and the President of the Arizona Sheriffs’ Association shall submit to the Commission the name, address, telephone and fax numbers, and e-mail of the contact.
- B.** If any of the information submitted under subsection (A) changes, the Head or the President of the Arizona Sheriffs’ Association shall provide immediate notice of the change to the Commission.

**R10-4-303. ~~Repealed~~ Fund Guidelines Required**

- A.** Within 60 days after this Article takes effect, the contact within the Arizona Departments of Public Safety and Law and the Administrative Office of the Courts shall submit to the Commission the recipient’s guidelines regarding the following:
  1. The procedure for handling Fund monies until they are allocated for expenditure.
  2. The procedure used to allocate Fund monies.
  3. The procedure used to ensure that Fund monies are expended as specified in A.R.S. § 41-2401(D), and
  4. The procedure used to assess the impact of the Fund monies on enhancing criminal justice.
- B.** Within 60 days after this Article takes effect, the contact for each county Sheriff’s Office or the Arizona Sheriffs’ Association shall submit to the Commission guidelines that meet the standard described in subsections (A)(3) and (4);
- C.** Within 60 days after the guidelines submitted under subsections (A) and (B) are received, the Commission shall review the guidelines and assist the contact to make any changes necessary to protect Fund monies and ensure that Fund monies are expended as specified in A.R.S. § 41-2401.
- D.** A recipient or the Arizona Sheriffs’ Association shall review and, if necessary, update the guidelines. By October 1 of each year, the contact within each recipient or the Arizona Sheriffs’ Association shall provide to the Commission the guidelines as revised or inform the Commission that no revision is necessary. Within 60 days after revised guidelines submitted under this subsection are received, the Commission shall review the revised guidelines and assist the contact to make any changes necessary to protect Fund monies and ensure that Fund monies are expended as specified in A.R.S. § 41-2401.

**R10-4-304. ~~Repealed~~ Records Required**

- A.** A Head shall ensure that the following records are maintained for the recipient:
  1. The amount of Fund monies available to the recipient.
  2. To whom and the amount of Fund monies disbursed.
  3. A detailed description of the manner in which the Fund monies are expended, and
  4. An assessment of the impact of the Fund monies on enhancing criminal justice.
- B.** A Head shall ensure that the records required under subsection (A) are:
  1. Maintained for three years, and
  2. Made available for review by the Commission and the Arizona Auditor General.
- C.** All reports required by statute are subject to review and verification by the Commission.

**R10-4-305. ~~Repealed~~ Complaints**

- A.** An individual who believes that Fund monies are being expended in a manner that is inconsistent with A.R.S. § 41-2401(D) may:
  1. Submit a written complaint to the Commission; and
  2. If the complaint relates to an expenditure by a court, shall submit the complaint to the Director of the Administrative Office of the Courts.
- B.** An individual who submits a complaint shall ensure that the complaint includes sufficient information to enable the Commission to investigate the expenditure alleged to be inconsistent with A.R.S. § 41-2401(D).
- C.** Except as specified in subsection (E), if the Commission determines that an expenditure about which a complaint is submitted appears to be inconsistent with A.R.S. § 41-2401(D), the Commission shall ask the Head to explain the expenditure.
- D.** If the Commission determines that the expenditure is inconsistent with A.R.S. § 41-2401(D), the Commission shall take action allowed by law to remedy the expenditure.
- E.** The Director of the Administrative of the Courts shall:
  1. Investigate an expenditure about which a complaint is submitted under subsection (A)(2).

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2. Determine whether the expenditure is inconsistent with A.R.S. § 41-2401(D), and
3. Notify the Commission of the determination and any action taken to remedy the expenditure.