

WYOMING JUDICIAL COUNCIL

TEAMS Meeting
March 20, 2023
9:00 A.M. – NOON

MINUTES

Members Present: Chief Justice Kate Fox (Chair), Justice Lynne Boomgaarden, Justice Kari Gray, Judge Catherine Wilking, Judge Catherine Rogers, Judge Joseph Bluemel, Judge John Prokos, Judge Wendy Bartlett

Others Present: Elisa Butler, Kristen Trebil-Halbersma, Mandy Allen

Welcome

Chief Justice Fox began the meeting at 9:00 a.m., she noted some major accomplishments including rebranding the BJPA to the Judicial Council and moving towards turning the Judicial Council into a true governing body for the Wyoming Judicial Branch. She thanked all members for their hard work and also thanked those on the JBI committee.

Draft WJC Rule Amendment

Draft amendment to Wyoming Judicial Council Rules (Appendix A)

The Judicial Council adopted Rule 14 of the Rules and Procedures Governing the Wyoming Judicial Council.

Judge Bluemel moved to adopt Rule 14 of the Rules and Procedures Governing the Wyoming Judicial Council. Judge Prokos seconded the motion. Chief Justice Fox asked for any discussion, hearing none, she called for a vote. All members voted in favor with none opposed.

Committee Reports

Legislative Relations Committee Purpose and Structure (Appendix B)

Behavioral Health Committee Purpose and Structure (Appendix C)

Technology Committee Purpose and Structure (Appendix D)

Human Resources Committee Purpose and Structure (Appendix E)

The Judicial Council adopted the Committee purpose and structure of the Legislative Relations Committee, the Behavioral Health

Chief Justice Fox reviewed the proposed purpose and memberships of the Legislative Relations, Behavioral Health, Technology, and Human Resources Committees with the Council members. She proposed to the Council a motion to adopt the proposed purpose, membership, and structure for each of the Committees. Justice Boomgaarden so moved. Judge Bluemel seconded the motion. All members voted in favor with none opposed.

Access to Justice Commission

The Judicial Council voted at its previous meeting in December to bring the Access to Justice Commission under the Judicial Council, what is left to do is a purpose a structure document and perhaps look at its membership. Justice Boomgaarden as the current chair of the Access to Justice Commission gave the members of the Judicial Council some background on the Commission and its current structure to date. A bylaw amendment was passed on March 6th to make it clear the Access to Justice Commission is a standing committee under the umbrella of the Wyoming Judicial Council and governed by the strategic plan of the Wyoming Judicial Council.

Chief Justice Fox asked for an explanation on the different roles of: Access to Justice, Access to Justice 2.0, and Equal Justice Wyoming. Justice Boomgaarden explained that

<p>Committee, the Technology Committee, and the Human Resources Committee.</p>	<p>when the Wyoming Civil Justice Act was passed the courts decided to create Equal Justice Wyoming (EJW) to utilize the court filing fees, and to serve as a hub to help support the civil legal service providers around the state. Over time, that has evolved into EJW's grant program. Equal Justice Wyoming was then set off from the Supreme Court with only general oversight. As a result, a separate governing body for EJW was created, which is the EJW Board. At some point EJW also took over the IOLTA funding, which resulted in the creation of the EJW Foundation. Access to Justice is a separate think-tank that generally feeds into EJW, when resources are available. Access to Justice 2.0 is the offshoot of the last Access to Justice Strategic planning effort to get more activity in the group.</p> <p>Chief Justice Fox asked the Council to consider the new structure of these programs as they may fall under the Council's oversight. Members of the Judicial Council discussed this and concerns with the difficulty of new oversight of these groups that have been well established and running independently of the Judicial Branch. Chief Justice Fox introduced the two representatives from the National Center for State Courts Mandy Allen and Kristen Trebil-Halbersma and asked for their input and suggestions during this transition. Kristen Trebil-Halbersma suggested discussions on how to streamline the structure of all the committees. Chief Justice Fox added part of the Judicial Council's mission over the last year and a half has been to look at everything and not just keep doing things because that is how it has been done in the past. The members discussed ideas to make the transition smooth for all the groups involved. Chief Justice Fox suggested this topic be added to the matrix for the JBI's consideration. All members agreed to add it to the matrix for the JBI to consider.</p> <p>Justice Boomgaarden also updated the Council on an item on the Judicial Branch strategic plan - the fee waiver rule, a statewide rule to provide consistency on how civil filing fee waivers are implemented. The Council materials included a memo that many members have seen before because this issue has been underway for quite some time. The latest version of the draft rule includes a set of discussion points to address some of the concerns brought up by the Judicial Council the last time it was presented. The fee waiver working group would like input from the conferences on the status of the draft rule with the goal of presenting an updated draft to the Council at its June meeting. There are still some issues or points of this rule that only the Council can address. May 15th is the deadline for the feedback from conferences on this.</p> <p><u>Court Navigator Subcommittee Update</u></p> <p>Justice Boomgaarden explained through Access to Justice 2.0 there are several subcommittees, the two most active subcommittees are the Court Navigator and Court Forms Subcommittees. The Court Navigator Subcommittee is meeting every other week and working hard to put together with multi-stake holder input, a court navigator program for the Judicial Council's consideration and forms will go hand in hand with that. It is the objective of these two separate subcommittees to have a combined proposal to the Judicial Council by the end of this calendar year.</p>
<p>Education Committee</p> <p>The Judicial Council approved making the Judicial Education Committee a committee of the</p>	<p>The Council discussed bringing the Education Committee under the umbrella of the Judicial Council. Judge Bartlett moved to add the Judicial Education Committee as a committee of the Wyoming Judicial Council. Judge Prokos seconded the motion. The members had some discussion. All members voted in favor with none opposed.</p>

Judicial Council.	
Strategic/Operational Plan Strategic Plan (Appendix F) Wyoming Strategic Plan Objectives: Timelines and Responsibility (Appendix G)	Mandy Allen from the NCSC explained that in December, the NCSC delivered its final report on phase one of the JBI task force. NCSC was asked by the Council to look at and prioritize the tasks found in the operational plan for the Judicial Branch. The NCSC developed a survey to send out to JBI members to get an idea of how they prioritized each task within the four objectives and to also gauge the level of effort that it would take to accomplish each task. The NCSC is in the process of collecting that data now, when those results are finalized, the list will be brought back to the Council for review. Kristen Trebil-Halbersma added the goal is to work with JBI to streamline and develop a timeline for all the tasks and then present it to the Council. Chief Justice Fox added the idea behind all of this is to be able to take the strategic plan and have it be a working document. We have already accomplished several of the objectives that were identified in the strategic plan which is a great accomplishment but there is more to do.
2023 Legislative Session	Elisa Butler gave the Council a summary of the Legislative Session results, she highlighted the areas that would have the most impact on the Judicial Branch. She noted this was a good session for the Branch.

FY2025-2026 Budget Potential Budget Items for Discussion (Appendix H)	Elisa Butler presented the potential budget items list to the Council for consideration. Chief Justice Fox added that the JBI had identified one of the most critical needs for the Judicial Branch is more staff in the AOC to provide a much more robust and across the board support for all Judicial Branch functions. Elisa Butler reviewed with the Council members the remaining items on the potential budget items request list. The Council members discussed the items. Chief Justice Fox asked the Council to give their responses as to priorities on this document by April 17 th , and the AOC staff will provide more concrete numbers for the June meeting.
Interim Topics Full List of Requested Interim Topics for JJC (Appendix I) Memo – Court Security Topics Interim Study (Appendix K)	Elisa Butler introduced the interim topic requests for JJC which include positions for the administrative office of the courts, behavioral health, and judicial and court security. There was an additional request from the state bar for rural attorneys in Wyoming. Management Council will meet later this week to decide which interim topics each committee will take up. JJC will be meeting on April 24-25 th in Sheridan. The AOC needs more staff to implement the strategic plan, as well as move forward with the projects we currently have underway. Elisa reviewed with the Council some of the high priority positions for the AOC. The Council members discussed the positions. Chief Justice Fox suggested the JBI take on the task of how to present these new position requests to the JJC. Another member requested an estimated salary for each of the positions and a brief description of how these new positions would help the Judicial Branch. Elisa Butler will work on putting those details together for the Council. JBI will work on this at their next two meetings and then present it to the Council for review.

	Chief Justice Fox introduced the topics of behavioral health and judicial and court security. Behavioral health will go along with the Governor's three branch initiative on mental health. We will be going later this week to look at a diversion project in Miami along with the Department of Health, Department of Family Services, Department of Corrections, and Jen Davis from the Governor's office as well as several judges to see if we can do some kind of pilot program here in Wyoming. We will be looking at this and possibly be presenting it to the JJC. On the topic of judicial and court security, we would like to have enhanced penalties given to those that threaten or are violent against judges. The members discussed this issue and agreed they would like this brought before the JJC.
ADA Policy Draft ADA Policy (Appendix L) Memo (Appendix M) The Judicial Council adopted the ADA Policy.	Elisa Butler presented the Draft ADA Policy and ADA Memo to the Council members and reviewed the changes based on the feedback received from the conferences. Chief Justice Fox called for a motion; Judge Prokos moved to approve the ADA policy as presented. Judge Bartlett seconded the motion. No discussion. All members voted in favor with none opposed.
Court Interpreter Policies Draft Spoken Language Interpreter Policy (Appendix N) The Judicial Council adopted the Spoken Language Interpreter Policy.	Elisa Butler presented the draft spoken language Interpreter Policy to the Council members. Judge Bluemel moved to approve the policy. Judge Prokos seconded. All members voted in favor with none opposed.
Policy Review Policies (Appendix O)	The Council members discussed the policies and decided they should be distributed to the appropriate Judicial Council Committees for their review and recommendation. All members agreed to this plan of action.
For the Good of the Order	Chief Justice Fox asked the Council if they have any additional topics of discussion for the good of the Order. There were none.
Adjourn Administration Newsletter	Chief Justice Fox thanked the Council members for their participation on the meeting and adjourned the meeting at noon.
Post Meeting Action Items	
<u>Owner</u>	<u>Item Description</u>
Access to Justice Commission	Create a structure and purpose document for review by the Judicial Council.
Court Administration	Add item to JBI Matrix – transition of ATJ, EJW, and related entities to the governance of the Judicial Council.
Court Conferences	Provide feedback to ATJ on draft fee waiver rule by May 15 th .

Court Conferences	Provide feedback on budget priorities to AOC by April 17 th .
Court Administration	Draft document indicating the salary ranges and the benefit to the Branch of priority AOC positions for review by Judicial Council.
Court Administration	Provide current policies to appropriate Judicial Council committees for review and recommendation to the Judicial Council.

Attachments are designated in blue text.

Judicial Council decisions are designated in green text.

Appendix A

Rules and Procedures Governing the Wyoming Judicial Council

Rule 1. Supreme Court.

In accordance with the Board of Judicial Policy and Administration's Order of November 1, 2022, the superintending authority vested in the Wyoming Supreme Court by Article 5, Section 2 of the Wyoming Constitution is delegated to the Wyoming Judicial Council.

Rule 2. District Courts.

In accordance with the resolution of the District Courts unanimously approved on April 24, 2000, and ratified on September 8, 2022 by the *Ratification of the District Judges' Conference April 24, 2000 Resolution Regarding the Board of Judicial Policy and Administration*, the Wyoming District Courts delegate their administrative authority as established by Article 5, Section 1 of the Wyoming Constitution and W.S. 5-3-102(b) and 9-2-1002(c), except for the submission of budgets, to the Wyoming Judicial Council.

Rule 3. Wyoming Judicial Council.

Pursuant to the Wyoming Constitution, the Order of the Wyoming Supreme Court and the resolution of the Wyoming District Courts, the Wyoming Judicial Council will exercise general superintending control over the Judicial Branch for administrative, policy making, and planning purposes.

Rule 4. Membership.

The Wyoming Judicial Council is composed of the following members:

- (a) the Chief Justice of the Wyoming Supreme Court and two justices of the Wyoming Supreme Court;
- (b) three district court judges; and
- (c) three circuit court judges.

All members enjoy voting rights. The Wyoming Judicial Council may appoint non-voting members to serve for specified terms to increase perspective of others in the judicial branch, including, but not limited to, judges, clerks of court, chief circuit clerks, court personnel, and Staff of the State Court Administrator.

Rule 5. Terms of Members and Vacancies.

The Chief Justice of the Wyoming Supreme Court shall serve on the Wyoming Judicial Council during tenure in that office. The other members of the Wyoming Judicial Council shall be elected by their respective judicial conferences, serving staggered terms of three years, with the exception of the Chief Justice of the Wyoming Supreme Court. Members may serve successive

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terms. Elections to fill vacancies shall be held in the spring. Vacancies may be declared by the Wyoming Judicial Council because of the death, retirement, resignation, or nonattendance of a member at three meetings during a calendar year. If necessary, a member may attend in person, by telephone, or by virtual means.

Rule 6. Responsibilities of Presiding Officer.

The Chief Justice is the presiding officer of the Wyoming Judicial Council. It is the responsibility of the presiding officer to preside at meetings and to serve as the chief spokesperson for the Wyoming Judicial Council.

Rule 7. Organization.

The presiding officer shall preside at any meeting. In the presiding officer's absence, the Executive Committee member with the most seniority on the Judicial Council shall act as the presiding officer. The presiding officer may appoint standing committees, and advisory committees at any time to assist the Wyoming Judicial Council in carrying out its responsibilities. Standing and advisory committees shall have a designated chairperson as determined by the presiding officer. Existing Supreme Court committees may be designated as standing or advisory committees by order of the Chief Justice.

Rule 8. Executive Committee.

There shall be an Executive Committee consisting of the Chief Justice of the Wyoming Supreme Court, one district court member of the Judicial Council, and one circuit court member of the Judicial Council. The district court and the circuit court member of the Executive Committee shall be designated by the other members of the Judicial Council from that judicial conference. The Executive Committee shall have the authority to act between Judicial Council meetings. All actions of the Executive Committee shall be reported at the next Judicial Council meeting to be voted on by the Judicial Council.

Rule 9. Meetings.

The Wyoming Judicial Council shall act only at a meeting, unless agreed upon unanimously by the Wyoming Judicial Council, in which case action may be taken or a vote by email or other means may be taken. The Wyoming Judicial Council shall meet at least quarterly as determined by the presiding officer. Standing or advisory committee meetings may be called at the discretion of the committee chairperson. The Wyoming Public Meetings Act, W.S. 16-4-401, et seq., by its terms, does not apply to the judiciary. Meetings of the Wyoming Judicial Council are open to all sitting Circuit and District Court Judges and Supreme Court Justices but are not public unless, in its discretion, the Judicial Council determines a particular meeting or agenda item should be open to the public.

Rule 10. Reporter for the Wyoming Judicial Council and Minutes.

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The State Court Administrator shall be the executive secretary and a non-voting member for the Wyoming Judicial Council. It shall be the duty of the executive secretary to prepare and keep the minutes of all meetings. In the absence of the executive secretary, the executive secretary shall choose another member of court administration to record the minutes. The executive secretary shall record the names of the members present, all actions taken, and any other matters that the Wyoming Judicial Council may deem appropriate. Copies of the minutes shall be distributed as deemed appropriate by the Wyoming Judicial Council and shall be filed in the office of the Clerk of the Supreme Court.

Rule 11. Actions and Voting.

Six members of the Wyoming Judicial Council shall constitute a quorum. Once a quorum has been established, that quorum shall carry throughout the duration of the meeting. Approval of a majority of those voting shall constitute an action. The presiding officer is a voting member of the Wyoming Judicial Council. A tie vote means that the matter voted on has failed adoption. A member may vote on specific issues by written proxy delivered to the presiding officer. A motion to reconsider can only be made by a member who voted on the prevailing side of an issue.

Rule 12. Staff.

Under the direction of the Chief Justice of the Wyoming Supreme Court, the State Court Administrator's Office shall provide staff for support for the Wyoming Judicial Council and any committees established by the Judicial Council.

Rule 13. Authorized Actions of the Wyoming Judicial Council.

The Wyoming Judicial Council shall be the administrative policy-making body of the Wyoming Judicial Branch. All administrative policies shall be binding on all judicial branch judges and employees. County employees and elected officials serving the Wyoming Judicial Branch, pursuant to law, shall also adhere to administrative policies which are relevant to them, and are adopted by the Wyoming Judicial Council. The administrative policy-making authority of the Wyoming Judicial Council shall continuously study the organization, rules, procedures, work accomplished, results, and uniformity of the state courts and methods for their improvement including, but is not limited to the following:

- a. Development and implementation of the mission statement and strategic plan of the Wyoming Judicial Branch;
- b. Determination of budget priorities;
- c. Develop and support legislative initiatives as permitted by the Code of Judicial Conduct;
- d. Human Resources functions;
- e. Technology and infrastructure for the effective operation of the Judicial Branch;
- f. Education and organizational development for judicial officers and staff;
- g. Programs including jury, guardian ad litem, interpreter, specialty courts; and

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h. Core services, court performance measures and accountability.

Rule 14. Review of Decisions by the Administrative Office of the Courts.

The Wyoming Judicial Council shall be the reviewing body of administrative decisions affecting the Wyoming Judicial Branch made by the Administrative Office of the Courts.

Requests for review of a decision made by the Administrative Office of the Courts shall be submitted to the Chairperson, in writing. The item shall be added to the next agenda of the Wyoming Judicial Council for discussion and decision.

Adopted this 1st day of November, 2022.

BY THE WYOMING JUDICIAL COUNCIL:

Kate M. Fox, Chief Justice
Chair, Wyoming Judicial Council

Appendix B

Legislative Relations Committee

Purpose

The purpose of the Legislative Relations Committee is to review and recommend legislative priorities to the Wyoming Judicial Council ensuring a coordinated approach to the Branch's message to the Legislature. The Committee members will act as representatives for the Branch in legislative meetings, and will assist in communicating legislation of interest to the Judiciary back to the Committee members' respective conferences to receive input and feedback.

Committee Membership, Meetings, and Voting

1. Membership. The Legislative Relations Committee membership will include two circuit judges; two district court judges; and the Chief Justice of the Supreme Court or a designee. The State Court Administrator and Communications Officer will staff the Committee.
 - a. Membership terms will be two years. Initial terms will be staggered for the circuit court judges and the district court judges to ensure continuity.
 - b. Members may serve consecutive terms.
 - c. A chairman will be elected at the first meeting and will serve for a two-year term. At the end of the term, a new chairman will be elected from the membership. A chairman may serve two consecutive terms.
2. Meetings. The Legislative Relations Committee will meet at least quarterly, but may meet more frequently as necessary upon the request of a member or upon suggestion of staff. No action of the Committee may be taken without a quorum of the Committee. Three members of the Committee shall constitute a quorum.
3. Voting. Voting shall take place in a meeting of the Committee or via email if necessary.

Roles and Responsibilities

1. The Committee staff will be responsible for:
 - a. Facilitating Committee meetings;
 - b. Developing and distributing meetings agendas no later than one week prior to scheduled Committee meetings;
 - c. Compiling and distributing meeting minutes;
 - d. Monitoring legislative activities and reporting back to the Committee; and
 - e. Acting as liaison to the legislators.
2. The Committee members will be responsible for:
 - a. Reviewing information provided in preparation for Committee meetings;
 - b. Communicating Committee decisions to their respective conferences;
 - c. Receive information and concerns from conferences to help establish legislative priorities;
 - d. Presenting Committee recommendations to the Wyoming Judicial Council when necessary;
 - e. Create legislative talking points for the Judicial Branch based on Wyoming Judicial Council priorities;
 - f. Attending legislative meetings when necessary, and when possible; and
 - g. Contact with legislators as appropriate.

Appendix C

Behavioral Health Committee

Purpose

The purpose of the Behavioral Health Committee is to review and recommend priorities of the Wyoming Judicial Branch in the area of behavioral health to the Wyoming Judicial Council. The Committee will develop recommended strategies and programs to assist the courts in addressing the behavioral health issues they encounter. These include the use of treatment courts and diversion programs where possible.

Committee Membership, Meetings, and Voting

1. Membership. The Behavioral Health Committee membership will include two circuit judges; two district court judges; and two Supreme Court Justices. The State Court Administrator will staff the Committee.
 - a. Membership terms will be three years. Initial terms will be staggered for each of the conferences to ensure continuity.
 - b. Members may serve two consecutive terms.
 - c. A chairman will be elected at the first meeting and will serve for a three-year term. At the end of the term, a new chairman will be elected from the membership. A chairman may serve two consecutive terms.
2. Meetings. The Behavioral Health Committee will meet at least quarterly, but may meet more frequently as necessary upon the request of a member. No action of the Committee may be taken without a quorum of the Committee present. Four members of the Committee shall constitute a quorum.
3. Voting. Voting shall take place in a meeting of the Committee or via email if necessary.

Roles and Responsibilities

1. The Committee staff will be responsible for:
 - a. Facilitating Committee meetings;
 - b. Developing and distributing meetings agendas no later than one week prior to scheduled Committee meetings;
 - c. Compiling and distributing meeting minutes;
 - d. Monitoring behavioral health actions in Wyoming and nationwide and reporting back to the Committee; and
 - e. Acting as liaison to Executive Branch agencies and legislators in the area of behavioral health.
2. The Committee members will be responsible for the following:
 - a. Review of information provided in preparation for Committee meetings;
 - b. Communication of Committee decisions to their respective conferences;
 - c. Receive information and concerns from conferences to help establish behavioral health priorities; and
 - d. Presentation of Committee recommendations to the Wyoming Judicial Council when deemed necessary by the Wyoming Judicial Council.

Appendix D

Technology Committee (TC) Purpose and Structure

Purpose

The purpose of the Technology Committee is to make recommendations to the Wyoming Judicial Council concerning the Technology policies, needs, and vision of the Wyoming Judicial Branch. The Technology Committee will further the Wyoming Judicial Branch strategic plan and will consider the following areas as it makes recommendations to the Wyoming Judicial Council, though the exclusion of a topic area from the list does not preclude the Technology Committee from addressing a topic if it falls within the general purpose of the Committee as defined herein.

- Hardware/Software Standard
- Network Security
- Courtroom Technology
- Training
- Funding and Resources for Technology now and in the future, including:
 - Court Navigator Program
 - Self-represented litigant Forms
- Court Applications, including:
 - Case Management Systems
 - Filing Systems (including eCitations)
 - Public Access Systems
 - Jury Management Systems

Committee Membership, Meeting Frequency and Terms

1. The TC membership will include:
 - a. One Justice appointed by the Chief Justice;
 - b. One District Court Judge recommended by the District Court Conference;
 - c. One Circuit Court Judge recommended by the Circuit Court Conference;
 - d. One Clerk of District Court recommended by the President of the Clerk of District Courts' Association;
 - e. One Circuit Court Chief Clerk to be recommended by the President of the Wyoming Association of Circuit Court Clerks;
 - f. The Chief Technology Officer and Chief Applications Officer will staff the committee.
2. The TC will meet every 3 months or as needed, as determined by the chairman.
 - a. If decisions need to be made between meetings, voting may take place by electronic means.
3. Membership terms will be three years.
 - a. Initial terms will be staggered to ensure continuity.
 - i. Terms will be for one, two and three years for the initial Justices and Judges.
 - ii. Terms will be for two years and three years for the initial Clerk of District Court and Chief Circuit Court Clerk.
 - b. Members may serve no more than two consecutive terms.
 - c. A chairman will be elected at the first meeting and will serve for a two-year term. At the end of the term, a new chairman will be elected from the membership. A chairman may serve no more than two consecutive terms.

Roles and Responsibilities

1. The Chief Technology Officer and Chief Applications Officer will be responsible for the following:

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- a. Facilitation of meetings;
 - b. Compilation of potential topics in coordination with the committee chairman and the members of the committee;
 - c. Development and distribution of the agenda no later than two weeks prior to scheduled meetings; and
 - d. Compilation and distribution of meeting minutes.
- 2. The TC members will be responsible for the following:
 - a. Communicating with and gathering input from their respective conference or association
 - b. Providing guidance on topics to be addressed by the committee;
 - c. Making decisions and recommendations to the Wyoming Judicial Council concerning the technology provided to the Judicial Branch.

Appendix D

Technology Committee Membership Addendum

March 8, 2023

Members:

Chairman: Justice Lynne Boomgaarden, Wyoming Supreme Court, 2-year term

Judge Joshua Eames, Natrona County District Judge, 3-year term

Judge Shelley Cundiff, Sheridan and Johnson County Circuit Judge, 1-year term

Janet Montgomery, Sublette County Clerk of District Court, 2-year term

Nichole Lyman, Washakie County Chief Clerk, 3-year term

AOC Staff:

Elisa Butler, State Court Administrator

Nate Goddard, Chief Technology Officer

Heather Kenworthy, Chief Applications Officer

Appendix E

Human Resources Committee

Purpose

The purpose of the Human Resources Committee is to review the Human Resources needs of the Wyoming Judicial Branch and develop recommended strategies and policies for the Judicial Council to address those needs, including but not limited to employee compensation, job classification, recruitment and management, development, engagement, and retention.

Committee Membership, Meetings and Terms

1. The Human Resources Committee membership will include two district judges, two circuit judges, and the Chief Justice of the Supreme Court or a designee. The Deputy Administrator and Human Resources Manager will staff the committee.
2. The Human Resources Committee will meet quarterly or as needed to discuss HR issues.
 - a. If decisions need to be made between meetings, voting may take place by email.
3. Membership terms will be three years.
 - a. Initial terms will be staggered to ensure continuity, with one district judge and one circuit judge initially serving a two-year term.
 - b. Members may serve two consecutive terms.
4. Election of a chairman will take place during the first meeting in odd-numbered years.
 - a. The chairman will serve a two-year term.
 - b. If the chairman position is vacated, a new chairman will be elected at the next meeting and will complete the vacated term.
 - c. Members may serve as chairman for two consecutive terms.

Roles and Responsibilities

1. The Administrative Office of the Courts (AOC) staff will be responsible for the following:
 - a. Facilitation of meetings;
 - b. Compilation of discussion topics, including topics recommended by committee members;
 - c. Development and distribution of the agenda one week prior to scheduled meetings; and
 - d. Compilation and distribution of meeting minutes.
2. The Justice and Judges will be responsible for the following:
 - a. Decision making on HR issues that may not need to be forwarded to the Judicial Council;
 - b. Approval of recommendations on issues to be forwarded to the Judicial Council; and
 - c. Communicate committee decisions to their respective conferences and obtain feedback.

Wyoming Judicial Branch STRATEGIC PLAN

FY2023–2024



Mission Statement

As an independent branch of government, we provide access to justice through the timely, fair, and impartial resolution of legal disputes.

Vision Statement

The Wyoming Judiciary is a cohesive and collaborative court system, characterized by excellence, that provides justice for the individual and society through the rule of law.

The Wyoming Judicial Branch is committed to excellence in:

Delivering just and efficient resolution of people's disputes;

Promoting public confidence in the law and providing access to justice;

Faithfully discharging our duties as judges through adherence to the law;

Ensuring fairness and impartiality by providing quality service that continuously improves, that meets or exceeds the public expectations, and that ensures that all are treated with courtesy, dignity, and respect;

Fostering an expectation of excellence in the work of the Judiciary through recruitment, training and retention of all judicial officers and employees;

Acting as a cohesive system that speaks with a single voice and shares a common purpose; and

Ensuring the highest professional conduct, integrity and competence of the bench and bar.

1 *Access to Justice*

Advance the just and efficient resolution of people's disputes by:

Providing resources for self-represented litigants to assist in accessing and navigating the court system.

- Establish a court navigator program for the judicial branch.
- Create and maintain standardized forms that are fillable or take the litigant through a guided interview process.
- Make Access to Justice Commission a standing committee of the Wyoming Judicial Council.
- Ensure that indigent litigants have access to the courts through fee waiver or reduction for qualified applicants.

Ensuring that the members of the bar are well trained and accessible.

- Explore incentives to promote practice in rural areas of Wyoming.
- Facilitate a mentoring program for attorneys.
- Explore opportunities for collaboration with the University of Wyoming and the Wyoming State Bar to enhance the skills of lawyers.

Providing resources for the courts to efficiently move cases to resolution.

- Investigate the possibility of expanding the role commissioners and magistrates play in the courts.
- Evaluate alternative approaches to resolving domestic relations cases and cases that involve families by:
 - Exploring family courts.
 - Investigating the shift of child support cases to the Office of Administrative Hearings.
 - Exploring a position to screen and triage domestic relations cases.
- Improve the reports Judges can use to manage their dockets.
- Investigate positions for circuit courts – circuit court judicial assistant and circuit court law clerk.

2 Effective Operation of the Judicial Branch

Establish branch wide priorities through the Wyoming Judicial Council.

Promote a quality workplace for judicial officers and employees.

- Develop secondary trauma and well-being programs and services for judicial officers, staff, and jurors.
- Formalize and fund the use of retired Justices and Judges to provide assistance as needed.
- Create formalized education opportunities for employees.
- Create a mentorship program and expectations for new employees and Judges.
- Provide a more robust and effective judicial orientation for new Judges.
- Create a new employee onboarding program.
- Increase workplace flexibility where possible.
- Maintain adequate compensation for judicial officers and Judicial Branch employees.

Enhance consistent technological infrastructure and associated education to ensure our increased reliance on technology is supported while maintaining strong cybersecurity standards.

- Conduct training with judicial officers and court staff on remote interpretation software and Bizmerlin.
- Continue to provide routine security awareness training to all members of the branch.
- Upgrade or replace aging infrastructure hardware/software to ensure network security.
- Create uniform cybersecurity and technology standards for the branch.

Meet the needs of our courts by providing excellent branch wide administrative support.

- Centralize administrative functions of the circuit courts as appropriate.
- Create a court services office to better support the Judges and their staffs.

Enhance the use of problem-solving (drug) courts.

- Conduct training on problem-solving courts with judges, court staff and other stakeholders.

3 *Public Trust and Accountability*

Promote public confidence in the law, ensuring fairness and impartiality by providing quality service that continuously improves, that meets or exceeds public expectations, and that ensures that all are treated with dignity and respect.

- Assess public expectations and obtain feedback.
- Publish annual State of the Judiciary.

Provide proactive communication to and from the public about the Judiciary.

- Educate the public on the accessibility of the Judicial Learning Center and the courts.
- Plan and implement Law Day activities statewide.
- Secure funding for a public information office for the AOC.
- Ensure media coverage of the State of the Judiciary.
- Create an outreach strategy.

Establish internal criteria, policy, and procedures to ensure data quality and integrity.

- Train judicial officers and court staff on procedures for entering data and the importance of data quality and integrity.
- Perform annual audit on data integrity.
- Consider a data access policy for internal and external customers.
- Create a data governance policy for the Branch.

4 *Adequate, Stable and Predictable Funding for a Fully Functioning Branch*

Maintain sound budgeting principles and practices by application of data-driven information for forecasting, planning, and follow-up each biennium.

- Update 10-year budget need projection for IT support and hardware and long-term projection for other areas.
- Update the statistical workload model.

Establish and maintain relationships with legislative committees to promote understanding of the financial needs of the Judicial Branch.

- Develop informational resources to provide to legislators.
- Educate members of the Judicial Branch on operations of the Judicial Branch so they may convey a consistent message to members of the other branches of government.
- Provide civics for legislators course.
- Support court administration in its role as legislative liaison.

Appendix G

Wyoming Judicial Branch						
Wyoming Strategic Plan Objectives: Timelines and Responsibility						
Objective 1 - Access to Justice						
Access to Justice: Providing resources for self-represented litigants; ensuring members of the bar are well trained and accessible; and providing resources for the courts to efficiently move cases to resolution.						
Tasks	Timeline Short Term: 1-2 Years Medium Term: 2-3 Years Long Term: 3-4 Years Immediate/Ongoing	Lead/Responsible Entity	Priority High, Medium, Low	Effort High, Medium, Low	Status In Progress/Complete	Other Considerations
Establish a Court Navigator program for the judicial branch.						
Create standardized forms.						
Maintain standardized forms.						
Make Access to Justice Commission a standing committee of the Wyoming Judicial Council.						
Ensure that indigent litigants have access to the courts through fee waiver or reduction for qualified applicants.						
Explore incentives to promote practice of law in rural areas of Wyoming.						
Facilitate a mentoring program for attorneys.						
Explore opportunities for collaboration with the University of Wyoming and the Wyoming State Bar to enhance the skills of lawyers.						
Investigate the possibility of expanding the role commissioners and magistrates play in the courts.						
Evaluate alternative approaches to resolving domestic relations cases and other cases that involve families.						
Explore Family Courts.						
Investigate shift of child support cases to the Office of Administrative Hearings.						
Explore the possibility of hiring staff to screen and triage domestic relations cases.						
Improve the reports judges can use to manage their dockets.						



Wyoming Judicial Branch



Wyoming Strategic Plan Objectives: Timelines and Responsibility

Objective 2 - Operations

Effective Operation of the Judicial Branch: Establish branch-wide priorities through the Wyoming Judicial Council; promote a quality workplace for judicial officers and employees; enhance consistent technological infrastructure and associated education; meet the needs of our courts by providing excellent branch-wide administrative support; and enhance the use of problem-solving courts.

Tasks	Timeline	Lead/Responsible Entity	Priority High, Medium, Low	Effort High, Medium, Low	Status In Progress/Complete	Other Considerations
	Short Term: 1-2 Years Medium Term: 2-3 Years Long Term: 3-4 Years Immediate/Ongoing					
Develop secondary trauma and well-being programs and services for judicial officers, staff and jurors.						
Formalize and fund the use of retired justices and judges to provide assistance as needed.						
Create Formalized education opportunities for employees and judges.						
Provide a more robust and effective judicial orientation for new judges.						
Create a new employee onboarding program.						
Increase workplace flexibility where possible.						
Maintain adequate compensation for judicial officers and judicial branch employees.						
Conduct training with judicial officers and court staff on remote interpretation software.						
Continue to provide routine security awareness training to all members of the branch.						
Upgrade or replace aging infrastructure hardware/software to ensure network security.						
Create uniform cybersecurity and technology standards for the branch.						
Centralize administrative functions of the circuit courts as appropriate.						
Create a court services office to better support the judges and their staffs.						
Conduct training on problem-solving courts with judges, court staff and other stakeholders.						

Wyoming Judicial Branch



Wyoming Strategic Plan Objectives: Timelines and Responsibility

Objective 3 - Public Trust

Public Trust and Accountability: Promote public confidence in the law, ensuring fairness and impartiality by providing quality service that continuously improves, meets or exceeds public expectations and that ensures all are treated with dignity and respect' provide proactive communication to and from the public about the judiciary; and establish internal criteria, policy, and procedures to ensure data quality and integrity.

<u>Tasks</u>	<u>Timeline</u> Short Term: 1-2 Years Medium Term: 2-3 Years Long Term: 3-4 Years Immediate/Ongoing	<u>Lead/Responsible Entity</u>	<u>Priority</u> High, Medium, Low	<u>Effort</u> High, Medium, Low	<u>Status</u> In Progress/Complete	<u>Other Considerations</u>
Assess public expectations and obtain feedback.						
Public annual State of the Judiciary.						
Educate the public on the accessibility of the Judicial Learning Center and the courts.						
Plan and implement Law Day activities statewide.						
Secure funding for a public information office for the AOC.						
Ensure media coverage of the State of the Judiciary.						
Create an outreach strategy.						
Train judicial officers and court staff on procedures for entering data and the importance of data quality and integrity.						
Perform annual audit on data integrity.						
Consider a data access policy for internal and external customers.						
Create a data governance policy for the branch.						

Wyoming Judicial Branch



Wyoming Strategic Plan Objectives: Timelines and Responsibility

Objective 4 - Funding

Adequate, Stable and Predictable Funding for a Fully Functioning Branch: Maintain sound budgeting principles and practices by application of data-driven information for forecasting, planning and follow-up each biennium; and establish and maintain relationships with legislative committees to promote understanding of the financial needs of the Judicial Branch.

Tasks	Timeline	Lead/Responsible Entity	Priority High, Medium, Low	Effort High, Medium, Low	Status In Progress/Complete	Other Considerations
	Short Term: 1-2 Years Medium Term: 2-3 Years Long Term: 3-4 Years Immediate/Ongoing					
Update 10-year budget need projection for IT support and hardware and long-term projection for other areas.						
Update the statistical workload model.						
Develop informational resources to provide to legislators.						
Educate members of the judicial branch on operation of the branch so they may convey a consistent message to members of other branches of government.						
Provide civics for legislators course.						
Support court administration in its role as legislative liaison.						

Appendix H

Preliminary List of Potential Budget Exception Requests for BFY25

- A. Administration
 - a. Staffing
 - i. AOC staff
 - ii. Court navigator
 - b. Education
 - i. Judicial College
 - ii. Staff enrichment
 - iii. Learning Management System and attendant applications
 - iv. Travel
 - c. Library
 - i. Materials
 - ii. Ongoing maintenance and updating of Judicial Learning Center exhibits
 - d. Employee Assistance Program – preliminary estimate \$24,000 for biennium
 - e. IT
 - f. Treatment courts
- B. Courts
 - a. Judicial Salaries
 - b. Staffing
 - i. Workload study recommendation for circuit court clerks
 - ii. Anticipated growth in Lincoln County
 - c. Court reporter transcript fees
- C. Branchwide
 - a. Inflation
 - i. Internet (plus addition of three new courts)
 - ii. Travel costs
 - iii. Supplies
 - b. Copiers – preliminary estimate \$84,000 – 3 District Courts and 9 Circuit Courts
 - c. Pooled funds for interpreters – pot of funds for court interpreters when court budget has been exhausted
 - d. Pooled funds for judicial reinforcements
 - i. Retired Judges/Justices
 - ii. Magistrates
 - iii. Commissioners
 - e. Court security

Appendix I

Judiciary Committee

2023 Interim Planning – Proposed Interim Topics

N/A-Topic requested by legislator

Proposed Interim Topic: Revisit removing exemption of schools and library from obscenity/pornography statutes

Contact Person:

Hugh Bennett
Family
hugbennett@vcn.com
3076600307

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

Revisit removing exemption of schools and library from obscenity/pornography statutes. The local library in Campbell County has provided obscene pornographic literature in the section of the library reserved for children and junior high age readers.

Expected goal or result:

Protection of minors from grooming and exposure to child pornography for the health of the community. The exemption laws in place were never intended to permit the bad actors in many libraries from doing what they have been doing, providing grooming literature about perverse sexual practices, to minors in violation of the intent of existing statutes. Common sense requires we protect the next generation from perverse material, especially children mentally and developmentally incapable of dealing with sexual content. The most valuable resource of any society is the next generation and we owe it to our posterity to provide them with the best chance at a healthy future we can provide. Perversion, pornography, and the attack on the nuclear family in America are weakening our culture and society and this is the front line of that battle.

Estimated Committee time for topic:

20 hours.

Resources for Committee review prior to topic consideration:

The books now available to children at the Campbell County Public library in the children and teen sections as well as case law of the US Supreme Court vx American Library Association circa 2003.

Proposed Interim Topic: Wyoming Supreme Court Issues

Contact Person:

Bill Landen
Wyoming Senate

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

Judiciary Committee

2023 Interim Planning – Proposed Interim Topics

Administrative Court Staffing and Expansion of Treatment Courts: The Wyoming Supreme Court will be requesting a significant increase in the Administrative Office of the Court staffing in an effort to provide additional support to judges. This will allow the Judicial Branch to provide more services to the state, like with expanded treatment courts. Use of Retired Judges, Magistrates, and Court Commissioners to Assist Judges

Expected goal or result:

Addressing the issues described above

Estimated Committee time for topic:

Resources for Committee review prior to topic consideration:

Proposed Interim Topic: Diversion Program for Low-Level Offenders and Abuse/Neglect Cases

Contact Person:

Bill Landen

Wyoming Senate

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

Creating a diversion program that would focus resources on offenders' mental health and substance abuse would decrease incarceration costs. This may require a change in the child support laws.

Expected goal or result:

Creation of a diversion program.

Estimated Committee time for topic:

Resources for Committee review prior to topic consideration:

Proposed Interim Topic: Rural Attorney Program

Contact Person:

Bill Landen

Wyoming Senate

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

Explore the possibility of creating a rural attorney program.

Expected goal or result:

Define the parameters and goals of a rural attorney program, including a review of similar programs in other states.

Estimated Committee time for topic:

Resources for Committee review prior to topic consideration:

Judiciary Committee

2023 Interim Planning – Proposed Interim Topics

Proposed Interim Topic: 2023 HB 272

Contact Person:

Affie Ellis

affie.ellis@wyoleg.gov

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

There is a loophole in current law which allows for certain sexual acts to be performed for money. Sexual intrusion is covered, but not "sexual contact." HB 272 would have closed this loophole, which, unfortunately, can encourage individuals to engage in other forms of prostitution and become victims of human trafficking. This bill would have support from anti-human trafficking groups and should not consume a great deal of time.

Expected goal or result:

Committee-sponsored legislation

Estimated Committee time for topic:

1-2 hours

Resources for Committee review prior to topic consideration:

Proposed Interim Topic: Protection Orders

Contact Person:

Bill Landen

Wyoming Senate

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

Protection orders, specifically stalking, sexual assault, and domestic violence protection orders must be viewed and treated like all valid orders of the court. SF0075 from 2021 General Session would have done two things: a. Allows the parties to protection orders to make knowing and voluntary stipulations to the order and allow the court to have jurisdiction i. This saves the court time ii. allows victims to not have to face their stalker/abuser at the height of a crisis iii. allows respondents to not have this impact other open criminal charges at the time of the stipulation b. Ensure that this order is valid and enforceable just like any other stipulated order in civil or criminal court. c. North Carolina faced the same problem and fixed it easily with similar language as was proposed in 2021's SF00075. There is no reason an order of the court should not be treated like all other orders of the court. Domestic violence is as serious as any other issue before a court.

Expected goal or result:

Consideration of this bill/topic

Estimated Committee time for topic:

Resources for Committee review prior to topic consideration:

Judiciary Committee

2023 Interim Planning – Proposed Interim Topics

Proposed Interim Topic: Strangulation

Contact Person:

Bill Landen

Wyoming Senate

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

Consider 2023 SF0183 - Strangulation of a household member-amendments, which was not considered for introduction in the Senate

Expected goal or result:

Consideration of the bill/topic

Estimated Committee time for topic:

Resources for Committee review prior to topic consideration:

Proposed Interim Topic: Sex Offender Registry

Contact Person:

Bill Landen

Wyoming Senate

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

- a. Education on sex offender registries b. Education on what really helps keep victims/potential victims stay safe (https://endsexualviolence.org/where_we_stand/community-management-of-sex-offenders/)
- i. Actuarial risk-assessments, Polygraphs, In-depth treatment provided by qualified practitioners, paid for in whole or in part by the offenders themselves ii. Intensive supervision and monitoring by specially trained probation and parole officers iii. Community prevention and education, including social messaging campaigns on respectful interaction iv. Advocacy on behalf of victims

Expected goal or result:

Education on this topic

Estimated Committee time for topic:

Resources for Committee review prior to topic consideration:

Proposed Interim Topic: Parental Rights in Family Law

Contact Person:

Bill Landen

Wyoming Senate

Related to 2023 legislation:

Judiciary Committee

2023 Interim Planning – Proposed Interim Topics

No

Recommended priorities Committee should consider:

The National Council of Juvenile and Family Court Judges has produced a new Families and Children Model Code on Domestic and Family Violence (<https://www.ncjfcj.org/publications/revised-chapter-four-families-and-children-model-code-on-domestic-and-family-violence/>): “The focus of this Revised Chapter is on an approach that requires a careful analysis and tailored response, which means that adequate information is obtained (safely and ethically) and provided to the court, allowing for a comprehensive assessment of the context, nature, and effects of domestic abuse on the parent who is abused and children who experienced domestic abuse.”

Expected goal or result:

Education on this topic

Estimated Committee time for topic:

Resources for Committee review prior to topic consideration:

Proposed Interim Topic: Federal Firearm Prohibitions

Contact Person:

Bill Landen

Wyoming Senate

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

Education on federal firearm prohibitions for those convicted of domestic violence or subject to a domestic violence protection order.

Expected goal or result:

Education on this topic

Estimated Committee time for topic:

Resources for Committee review prior to topic consideration:

Proposed Interim Topic: Enhanced Security for the Courts and Judiciary

Contact Person:

Bill Landen

Wyoming Senate

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

Judges are facing increasing threats and violence throughout the country, and Wyoming is no exception. There is a need for discussion and possible legislation that would help to curb the security issues experienced by Judges and court staff.

Expected goal or result:

Judiciary Committee

2023 Interim Planning – Proposed Interim Topics

Consider enhanced penalties for crimes against the judiciary and increasing security in courthouses across the state.

Estimated Committee time for topic:

Resources for Committee review prior to topic consideration:

Proposed Interim Topic: Project Rural Practice

Contact Person:

Ed Cooper

Wyoming Senate

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

Consider efforts to incentivize lawyers to establish practices in rural areas of Wyoming.

Expected goal or result:

Consideration of this topic.

Estimated Committee time for topic:

Resources for Committee review prior to topic consideration:

Proposed Interim Topic: Burglary

Contact Person:

Cale Case

Wyoming Senate

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

Creating a misdemeanor level of burglary for minor theft.

Expected goal or result:

Consideration of the topic and consider legislation to create a misdemeanor level of burglary.

Estimated Committee time for topic:

Resources for Committee review prior to topic consideration:

Proposed Interim Topic: Women and the legal system

Contact Person:

Cale Case, PhD

Wyoming Senate

Cale.Case@wyoleg.gov

Judiciary Committee

2023 Interim Planning – Proposed Interim Topics

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

Wyoming, and particularly the women of Wyoming, are confronted with a number of hardships that confront their gender and which cause women and their families to struggle on a daily basis. Some of these struggles arise under a number of circumstances rooted in their relationships and the manner in which their relationships end. These struggles arise from the court's application of the law to their circumstances based on the law as it presently exists. The point of this document is to identify for your consideration several matters that can resolve a number of these issues.

1. Domestic Violence: The Wyoming Domestic Violence Protection Act was created in 1982. That Act provides for a number of remedies in the event the court enters a protection order. The first issue is that a woman who is being abused has the ability to secure remedies which include temporary possession of a residence, temporary custody of her children, possession of a vehicle, temporary child support, and temporary support to meet the obligations of her family to include rent, utilities, vehicle payments and the like. The current statute creates a criminal penalty for the violation of a Domestic Violence Order of Protection which would seem to be an adequate incentive to comply with the court's order. What the Domestic Violence Act does not provide for are attorney's fees in the event she is successful. Literally, if a petitioner cannot afford an attorney, she must proceed without counsel. Many times, the respondent has substantial financial resources to resist the Petition and on many occasions retains services of counsel who have years of training and experience, knowledge of the Rules of Evidence, procedures, and dozens or more trials to assist the respondent in these proceedings. Adding a provision which would allow the court to award attorney's fees would provide a more level playing field for the petitioner in the event she is successful. The second aspect of the Domestic Violence Protection Act to consider is the possible sanctions for violation of a protective order. On its face, the criminal sanction ought to be sufficient. The difficulty is criminal cases are brought by the county attorney's office and not by the court. Even if a court believes that there has been a violation of the order, the court is resigned to referring the matter to the county attorney's office to determine whether that office will file criminal charges. The court has no civil mechanism to enforce its order because effectively the proceeding is a determination of whether there has been criminal contempt. If the court had the ability to require a bond to assure compliance, the court would have the ability to forfeit the bond in the event the respondent failed to comply with the terms of the order. If the respondent maintains the terms of the bond his money is returned to him. However, in the event the respondent failed to comply with the terms, the money could either go to the State or could be used by the court to provide the petitioner with some form of relief for the violation(s) of the order.

2. Stalking: The Stalking Statute was created in 1993. In many circumstances a respondent can commit an act of stalking without committing an act of domestic violence. Thus, the remedies available under the Domestic Violence Act are not available to a victim of stalking. The Stalking Statute provides a circuit court with the ability to restrain a respondent from engaging in a course of conduct which is intended to harass. Like the Domestic Violence Statute, the Stalking Statute has the potential to result in criminal charges for violation of the same. That however is where the similarities end. There is no provision for the temporary possession of a residence, temporary custody of children, visitation for the respondent with the children, child support, possession of vehicles, or the various other means in which a couple can be financially committed to one another. The respondent has the ability to shut off petitioner's electricity, natural gas, take possession of her vehicle, or a myriad of other circumstances which on its face can appear as a course of conduct intended to harass but which will be defended by the assertion that the account is in respondent's name, the

Judiciary Committee

2023 Interim Planning – Proposed Interim Topics

deed is in respondent's name, he has no obligation to pay child support nor has an order that requires the return of the children. The Stalking Statute makes no provision for attorney's fees to a successful petitioner and for all practical purposes, a successful petitioner in a stalking proceeding can continue to be tormented by their persecutor and she has little or no method to seek recourse nor to stop the torment. 3. Child Support: Presently, the Wyoming Child Support Statute §20-2-304(c) provides for apportioned child support based on the time the children are with each parent if the non-custodial parent has the children more than 25% of the time. On the one hand there is the argument that as much time as the children are spending with the non-custodial parent that there should be an adjustment and that parent should not be required to pay the full child support amount. On the other hand, what is not recognized is all the costs that are necessary to support the child while they are in the custodial parent's care are still incurred. What also is not taken into account is the disparity between the income of the mother and the father. The hardship created by the Child Support Statute fails to recognize the hardship imposed by the custodial parent because there is no assessment of the disparity between the mother and father's income. If each party made \$2,500.00 a month and the children are with father for more than 25% of the time, there would be parody in that adjustment. However, if the father's income is \$8,000.00 a month and the mother's income is \$2,500.00 a month, mother's income is 31% of father's and yet she is expected to support the parties' children who reside with her the majority of the time with an adjustment that reduces the child support because the children are effectively with father every other weekend, every other holiday, and half of the summer. The hardships imposed by the statute that establishes child support moves women to the edge of poverty, imposes on them an obligation to apply for food stamps, and other means of government support because as a practical matter, she cannot meet her bills based on the child support that is being paid because of the manner in which the Child Support Statute is applied to her case. 4. Common Law Marriage: The Wyoming Supreme Court has on many occasions stated that Wyoming does not recognize Common Law marriages. The net effect of that principle is that a man and woman could be together, raise children, utilize property owned by one or the other and should either party die, the surviving party will receive nothing under the Wyoming Probate Code. This strikes women particularly hard because it is now a common circumstance for parties to not marry and the surviving party is left to suffer. The second manner in which this circumstance creates a hardship is that should the parties separate, the parties' who name is not on the Deed of the property or on the title of the vehicle or on the signature card of the bank account has to walk away from the relationship with nothing. That circumstantial eventuality arises across our State and imposes a substantial hardship on our citizens on a daily basis. It is easy to say, "Don't be involved in those relationships" or that you should be married and avoid the hardship created by the status of a couple residing together. That however fails to address the reality of our society. On numerous occasions across our State, one partner will make promises of future commitments which never seem to happen, where a car wreck takes the partner, or any other number of maladies that result in death. The objective of addressing this is to address an injustice which befalls citizens across our great State and which befalls women specifically. Women are more than likely to be the stay-at-home partner in a relationship even if they work outside the home, they are less likely to earn a comparable wage to their male counterpart because they are not able to travel to the oil field for weeks at a time nor be on the road in a truck as they are committed to raising children. The net effect of this economic disparity is that when a relationship ends either by separation, divorce, or death, the surviving partner who has not been in a position to secure financial stability is left in a vulnerable position.

Expected goal or result:

Judiciary Committee

2023 Interim Planning – Proposed Interim Topics

A better understanding of the struggles faced by women in our legal system and possible statutory changes in the area of domestic violence, stalking, child support, and common law marriage.

Estimated Committee time for topic:

6 hours.

Resources for Committee review prior to topic consideration:

I am not sure, but think that a first meeting would here from practitioners providing an overview of the problem afterwards the committee could consider options to explore further.

Proposed Interim Topic: HB0087 Crimes of obscenity-revisions. Ward Promoting obscenity-educational exception amendment. Knapp SF0177 Promoting obscenity-educational exception repeal. Steinmetz

Contact Person:

Cheri Steinmetz

State Senate District 3

cheri.steinmetz@wyoleg.gov

3075345342

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

See above

Expected goal or result:

3 bills were introduced some in both houses on this topic

Estimated Committee time for topic:

Don't know

Resources for Committee review prior to topic consideration:

bills from 2023

Proposed Interim Topic: unconstitutional federal overreach via BATFE

Contact Person:

House Rep. Ken Pendergraft

kpendy62@gmail.com

3074612436

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

Examine rules promulgated by BATFE that infringe upon the US Constitution and the Constitution of the State of Wyoming.

Expected goal or result:

We should seek out multi-state nullification in cooperation with like-minded state legislators from other states.

Estimated Committee time for topic:

Resources for Committee review prior to topic consideration:

Judiciary Committee

2023 Interim Planning – Proposed Interim Topics

Proposed Interim Topic: prohibiting the release of mugshots and arrests unless convicted

Contact Person:

Tamara Trujillo

Tamara.Trujillo@wyoleg.gov

307-221-1127

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

AN ACT relating to criminal history records; limiting the dissemination of photographs and names of arrested individuals taken during the admitting process as specified

Expected goal or result:

keeping the privacy of those individuals who are considered innocent until proven guilty.

Estimated Committee time for topic:

1 sit down session during the interim.

Resources for Committee review prior to topic consideration:

A review of failed bill HB51 which is a baseline

Proposed Interim Topic: female genital and body mutilation

Contact Person:

Tamara Trujillo

Tamara.Trujillo@wyoleg.gov

307-221-1127

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

relating to crimes and offenses; defining sexual intrusion to include female genital mutilation; specifying that transporting a minor for the purpose of female genital mutilation is a crime; and providing for an effective date.

Expected goal or result:

protecting young women from the dangers of genital mutilation and body mutilation

Estimated Committee time for topic:

1-2 session visits

Resources for Committee review prior to topic consideration:

hb0160 from 2019 and I will provide more information prior to the interim meeting.

Representative Chestek

Proposed Interim Topic: Medical Cannabis, reciprocity

Contact Person:

Judiciary Committee

2023 Interim Planning – Proposed Interim Topics

Carrie Satterwhite
Wyoming NORML
satterwhite3@msn.com
307-754-5311

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

Medical Cannabis program along with reciprocity

Expected goal or result:

Provide medical patients the safety and security of a medical cannabis program to use/grow Cannabis as a medication with established physicians recommendations. To stop prosecuting visitors who come to our state with their states legal medications but find they are illegal in Wyoming.

Estimated Committee time for topic:

2-4 hours

Resources for Committee review prior to topic consideration:

Clinical Applications for Cannabis and Cannabinoids

Proposed Interim Topic: Board of equalization-questions before the board

Contact Person:

Rep. Ken Chestek
HD 13
Ken.Chestek@wyoleg.gov
307-703-0380

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

SF0039 passed the Senate by a unanimous 31-0 vote. In the Committee of the Whole on the House side, it sparked considerable debate as to the role of the Board of Tax Equalization, specifically whether the proper role of the Board was to act as a judicial body or a policy body. As a result of the debate, the bill failed the CoW by a vote of 19-43. As a result, a Wyoming Supreme Court decision which limits the type of evidence the Board is allowed to consider in rendering its decisions remains in effect, upending long-standing practice in the BoTE. An interim discussion of this topic could bring clarity to the proper role of the board,

Expected goal or result:

Re-introduction of a bill similar to SF0039 in order to restore the BoTE's ability to consider a wider range of evidence in rendering its decision.

Estimated Committee time for topic:

An hour or two.

Resources for Committee review prior to topic consideration:

Existing statutes creating the Board of Tax Equalization and defining its role in deciding tax assessment appeals.

Representative Crago

Judiciary Committee

2023 Interim Planning – Proposed Interim Topics

Proposed Interim Topic: Public Defender Funding

Contact Person:

Barry Crago

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

Federal grant funding for public defender office.

Expected goal or result:

See above.

Estimated Committee time for topic:

Resources for Committee review prior to topic consideration: HB0231

Proposed Interim Topic: Removal of Trespasser

Contact Person:

Barry Crago

barry.crago@wyoleg.gov

3072679789

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

Study area of law regarding the removal of trespassers from churches, businesses, schools, etc.

Expected goal or result:

See above.

Estimated Committee time for topic:

Resources for Committee review prior to topic consideration: HB0126

Proposed Interim Topic: Enhanced Penalties for the selling of drugs when it causes a death, for adults

Contact Person:

Rep. Tom Walters

tom.walters@wyoleg.gov

307-277-0397

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

To review the opportunity of an enhanced penalty for the seller of illegal drugs when the drugs cause the death of an adult.

Expected goal or result:

Judiciary Committee

2023 Interim Planning – Proposed Interim Topics

Potential bill for the 2024 session to include an enhanced penalty for the seller of illegal drugs when the drugs result in the death of an adult.

Estimated Committee time for topic:

1 hour at each meeting

Resources for Committee review prior to topic consideration:

Proposed Interim Topic: Requirement to report the death of an individual.

Contact Person:

Rep. Tom Walters

tom.walters@wyoleg.gov

307-277-0397

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

Currently Wyoming does not require a person to report a death when someone dies. Example: If a spouse were to die at home, from natural causes, the surviving spouse or any other individual is not required to report the death. that deceased individual could remain at the location for extended periods.

Expected goal or result:

Potential bill for 2024 session.

Estimated Committee time for topic:

2 hours total

Resources for Committee review prior to topic consideration:

Representative Haroldson

Proposed Interim Topic: Promoting Obscenity-educational exception amendments

Contact Person:

John Bear

House of Representatives

john.bear@wyoleg.gov

307-670-1130

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

Repeal of exemptions in 6-4-302(c)(ii)

Expected goal or result:

To repeal the exemptions in 6-4-302(c)(ii) and determine any consequences for this action

Estimated Committee time for topic:

1/2 day

Judiciary Committee

2023 Interim Planning – Proposed Interim Topics

Resources for Committee review prior to topic consideration:
HB0283 and LSO attorneys.

Representative Provenza

Proposed Interim Topic: Juvenile Justice Data Collection

Contact Person:

Lindsey Schilling
Department of Family Services
Lindsey.Schilling1@wyo.gov
307-777-6203

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

Review of Title 14 juvenile justice confidentiality provisions along with the language in HB0037 for the purposes of ensuring adequate permissions are in place to meet the legislative intent of the data collection system. Also, review related Community Juvenile Services Board (CJSB) language for data sharing provisions.

Expected goal or result:

-Discussion on the Department of Family Services (DFS) statutory authority to collect and store juvenile justice data or juvenile data from Community Juvenile Services Boards or participating CJSBs utilizing state funding. The agency has the authority to collect data from the CJSBs but the goal and purpose of that data are not the same as Juvenile Justice Data System (JJDS) data; -Discuss potential development of statutory amendments, as needed, to allow data sharing to the extent that data collected can be used to meet reporting requirements; and -Potentially expand the statutory language to ease restrictions to better consolidate juvenile justice data across federal, state, or local governmental entities (or programs participating in the collection of those entities' data).

Estimated Committee time for topic:

2-3 hours for education and potential drafting/review of legislation

Resources for Committee review prior to topic consideration:

-HB0037, 2022 (Enrolled Act. No. 4), Title 14, Article 2 - Juvenile Justice Act -14-9-101 -14-9-108 Title 14, Article 6, Chapter 9 - Community Juvenile Services

Proposed Interim Topic: Child Support/Foster Care Referrals

Contact Person:

Korin A. Schmidt
Department of Family Services
korin.schmidt@wyo.gov
307-777-3798

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

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The current statutes require the Department of Family Services child welfare program to refer every out-of-home placement case to the child support program for establishment of a child support order. The purpose of this topic is to discuss amending the current states to be more permissive, and implement the best practice of allowing the department discretion in which cases should and should be referred.

Expected goal or result:

Draft legislation amending all of the relevant statutes to allow the Department of Family Services the discretion in out-of-home placement cases with regard to child support referrals.

Estimated Committee time for topic:

4 hours

Resources for Committee review prior to topic consideration:

Please reference the federal Office of Child Support and the Children's Bureau's joint letter released in July 2022.

https://www.acf.hhs.gov/sites/default/files/documents/cb/letter_regarding_assignment_rights_child_support_for_children_foster_care.pdf

Proposed Interim Topic: Examine prevalence of juveniles charged in municipal courts and consequences.

Contact Person:

Donna Sheen

Wyoming Children's Law Center & Wyoming Youth Justice Coalition

donnasheen@wyoclc.org

307-632-3614

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

Examine the use of municipal courts for juvenile offenses and whether to modify jurisdiction of municipal courts to increase uniformity across the State. Invite the participation of County Attorneys who can provide the single-point of entry "objective criteria, screening and assessment procedures for determining the court for appropriate disposition" (W.S. 14-6-203(f) used in each county to learn more about variations in municipal court prosecutions and whether there are significant differences between the counties in these required criteria and its impact on the number of youth prosecuted in municipal courts, the typical offenses, and the various sentences that are imposed.

Expected goal or result:

Wyoming's juvenile justice system gives broad jurisdictional authority for youth to be charged in both juvenile and adult courts, including adult municipal courts. The legislature passed legislation to gather data on the juvenile justice system. However, the data collection could not require data about youth prosecuted in municipal courts (unless the municipal court is part of a Community Juvenile Services Board (CJSB) that reports data to the Department of Family Services). Some jurisdictions use municipal courts for the majority of juvenile prosecutions in that community, others rarely, or never use municipal courts. Understanding how this fact impacts the consequences, depending on where a youth lives, will be critical information to consider before the juvenile justice data system information becomes available. It will allow the Committee to discuss the appropriate role of a municipal court for juvenile offenses and ask whether the juvenile jurisdiction granted to municipal courts in W.S. 14-6-203(f) should

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be modified to improve uniformity across the state and ensure youth have appropriate access to evidence-based interventions. To make these decisions, the Interim Judiciary Committee could ask County Attorneys to provide more information about their various processes pursuant to W.S. 14-6-203(f) and take testimony from them and other juvenile justice and municipal court stakeholders. This will allow the Committee to hear more about the problems in our current system and the particular problems posed by the use of this court particularly.

Estimated Committee time for topic:

I estimate 6-8 hours of testimony would be needed to fully understand the various stakeholders and their roles.

Resources for Committee review prior to topic consideration:

We will provide a number of articles and studies that have been conducted on Wyoming's juvenile justice system to give committee members background on the issue of multiple court jurisdictions and why it has been heavily criticized as a major flaw in our system that must be addressed.

Representative Rodriguez-Williams

Proposed Interim Topic: Law Enforcement K-9 Narcotic/Detection Grants

Contact Person:

Rachel Rodriguez-Williams

Rachel.Rodriguez-Williams@wyoleg.gov

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

Fentanyl- Take a look a whether or not we are able to tackle this epidemic from all angles.

Expected goal or result:

Illicit Fentanyl is a potentially lethal drug that needs to be combatted Statewide in a comprehensive way. The data shared to Judiciary by DCI confirmed the up and coming prevalence.

Estimated Committee time for topic:

2 hours

Resources for Committee review prior to topic consideration:

Proposed Interim Topic: Parental abduction

Contact Person:

Julie Snelson

julie@codyhomeandranch.com

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

Wyoming does not have a parental abduction law.

Expected goal or result:

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When a child is not returned by a custodial parent, it requires an attorney to request an emergency hearing. The courts are backed up with hearings, and an emergency hearing can take weeks or months. During this time of abduction, the "educational neglect" law only pertains to children under the age of seven.

Estimated Committee time for topic:

2 hours

Resources for Committee review prior to topic consideration:

Representative Washut, Chairman

Proposed Interim Topic: Forms of Controlled Substances in W.S. § 35-7-1031

Contact Person:

Bridget Hill

Attorney General's Office

bridget.hill@wyo.gov

307-777-7841

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

Wyoming Statute 35-7-1031 include violations for the possession of, manufacture of, delivery of, and possession with the intent to manufacture controlled substances. Section 1031 distinguishes between violations based on schedule, form, type, and weight of the substance (i.e. plant form, liquid form, powder or crystalline form, pill or capsule form, etc.). Over time it has become apparent that some controlled substances don't fit well into one of the categories listed in the statute. As a result, these forms have caused problems for the State Crime Lab in testing the controlled substance and testifying as trial regarding the substance, which in turn causes problems with prosecuting drug offenses.

Expected goal or result:

The goal would be to consider ways to determine alternatives to classifying controlled substances by form to assure that seized and dangerous controlled substances in the State may be properly prosecuted.

Estimated Committee time for topic:

Uncertain, but don't believe it would be extremely significant.

Resources for Committee review prior to topic consideration:

Other jurisdictions define controlled substances in various ways, but good examples to look at may be the federal government and the State of Nebraska. Thus, we recommend the committee review:

Wyoming Statute - W.S. § 35-7-1031; Federal Government Statute - 21 U.S.C § 841; Nebraska Statute - Neb. Rev. State. § 28-416; and other state controlled substance statutes.

Proposed Interim Topic: Western Interstate Corrections Compact

Contact Person:

Daniel Shannon

Judiciary Committee

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Wyoming Department of Corrections
dan.shannon@wyo.gov
307.777.7208

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

o Wyoming joined the Western Interstate Corrections Compact (WICC) in 1959. This compact allows the transfer of inmates within those states who are members. Most states within our Union also belong to the Interstate Corrections Compact (ICC) which permits the transfer of inmates nationally. o Almost all the WICC Members also belong to ICC. WY Stat § 7-3-401 (2020) deals with how it enters into force and would require legislative action. The Department of Corrections is not limited to interacting and transferring inmates outside of the compact. We may do so contractually which requires an exorbitant amount of time and expenses. o The main reason the correctional departments outside of the WICC are utilized, is a direct result of reducing required expensive inmate care. For example: we have had inmates who are paraplegics, those that require full time nursing home accommodations, specialty medical needs, etc... o Historically the WDOC has exchanged inmates with states such as Ohio, Delaware, etc... which provide these needed services. We have accepted their inmates in trade so their individual may live a life outside of restrictive housing and is able to interact better within Wyoming Corrections vs. their home state. These exchanges are at no cost to our Agency and allow for the inmates involved to have a better a safer, better and ultimately more cost effective incarceration. o Lastly, this will not require a fiscal note.

Expected goal or result:

This would increase efficiency, safety and save staff time which would in turn save the State of Wyoming revenue. Additionally, this would bring the WDOC in line with the best correctional practices in terms of interstate compact.

Estimated Committee time for topic:

Minimal time.

Resources for Committee review prior to topic consideration:

WY Stat § 7-3-401 (2020)

Proposed Interim Topic: Wyoming Public Records Act (WPRA)

Contact Person:

Daniel Shannon
Wyoming Department of Corrections
dan.shannon@wyo.gov
307.777.7208

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

o Members of the Wyoming public often request sensitive investigative materials. Additionally, in 2022 approximately 25% of public record requests received by the WDOC are made those who are confined. These inmates often ask for thousands of documents including investigative materials, which contain sensitive documents that if disclosed will lead to threats against staff and/or other inmates, escape attempts, lives lost of informants and other general threats to safety, security, and good public order.

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The WDOC denies as much dangerous material requested by the public as allowed by law while maintaining the spirit of government transparency but this is extremely time consuming for staff, uses up limited resources and often leads to litigation. This information when present has a high probability of leading to someone's injury or death. o Under its current iteration what we do under WPRA leads to extreme risk for our inmates and the public. For example, in the past a record with an informant name was found at the Wyoming State Penitentiary (WSP). It was discovered later at WSP in another inmate's cell who was a known member of a notorious Hispanic street gang controlled by Mexican Drug Cartels. As a result, our staff had to search every cell at WSP and found dozens of copies of this record mostly in the cells of known gang members. This led to having to move the inmate informant who was listed in the record to another state and that individual had a professional hit contract put on them by the gang. o To correct this issue, the WDOC would recommend inserting the Wyoming Department of Corrections (WDOC) under Wyo. Stat. § 16-4-203 (b), (i). This section of the statute includes entities like a police department, county attorney, city attorney, county jail and even investigations by the State Auditor but not the WDOC. However, our correctional officers, agents and investigators are certified peace officers under Wyoming Statute. By including the WDOC into the definition of this statute we would protect the WDOC's most confidential and important investigations. These investigations we wish to exclude from the WPRA are Internal Affairs only, looking into crimes committed in prisons, in our community, contraband smuggled into prison, reviews of weak points in prison security and activities by organized crime. It is important to note that while we wish to exclude these reports the WDOC has and will always provide a summary of non-confidential facts upon request once the investigation is finalized. o This is a narrow exemption we are requesting only to protect the most sensitive investigations which most other law enforcement agencies in Wyoming can already exempt from the WPRA. We have no objection to any other documents being released for public records requests. Lastly this would bring us in-line with Wyo. Stat. §7-13-409 which already exempts records of Wyoming Probation & Parole (Probation and Parole is part of the WDOC) but not the prisons which arguably has even greater risks. If an investigation is written by a Probation Agent then it is exempt from the WPRA but if the same investigation is written by a Prison Investigator or Internal Investigative Unit we must release the investigation with only some portions of the investigation redacted and the requestor can challenge the redactions we do make. Furthermore, we only have one investigative unit for the whole Department, and they are not considered Probation and Parole Agents even though they conduct investigations in the community for Probation and Parole Agents. The Statutory language of Wyo. Stat. §7-13-409 is below for reference: ¶ All information and data obtained in the discharge of official duties by probation and parole agents is privileged information and shall not be disclosed directly or indirectly to anyone other than to the judge, the department or to others entitled to receive reports unless and until otherwise ordered by the judge, board or department

Expected goal or result:

This would increase efficiency, safety and potentially save lives. Additionally, this would save the State of Wyoming revenue with staff time and potential litigation costs.

Estimated Committee time for topic:

Minimal time. Additionally this would require no fiscal note.

Resources for Committee review prior to topic consideration:

Wyo. Stat. § 16-4-203

Proposed Interim Topic: Child Sexual Abuse Material

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Contact Person:

Cara Chambers
Attorney General's Office, Division of Victim Services
cara.chambers@wyo.gov
(307) 777-8954

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

This topic was presented to the Attorney General's Human Trafficking Task Force by DCI's Internet Crimes Against Children Commander, Chris McDonald. The term "Child Sexual Abuse Material" (CSAM) is the preferred term by law enforcement and prosecutors associations to describe what is currently listed as "Child Pornography" in Wyoming State Statutes. The change in terminology more accurately reflects the criminal sexual abuse that is depicted in the imagery currently described as "child pornography." "Pornography" is a term used to describe adults engaging in erotic behavior in pictures, video, and/or writing, intended to cause sexual excitement. This term does not accurately reflect the criminal behavior involved when it depicts children. These explicit images of children are the materials documenting the child's sexual abuse- hence the term CSAM is more appropriate. The proposed change is a simple strike-through and replace of the term "child pornography" for "child sexual abuse material" the four times it is referenced in Wyo. Stats. Ann. § 6-4-303.

Expected goal or result:

To bring Wyoming statute into conformance with the terminology widely used by law enforcement and victim services to describe images related to child sexual abuse. The Human Trafficking Task Force feels it is important to use proper terminology to reflect what the material actually is; evidence of a crime against a child.

Estimated Committee time for topic:

This topic should take nominal amount of time from the Committee. Perhaps one hour total to present the topic, why this change is sought, and to provide any additional information for individual committee members based on their questions or concerns. Any bill draft would simply require a strike-through and replace of the term "child pornography" the four times it is referenced in Wyo. Stat. Ann. § 6-4-303.

Resources for Committee review prior to topic consideration:

Wyo. Stat. Ann. § 6-4-303-Sexual exploitation of children; penalties; definitions.

Proposed Interim Topic: Security of Justices, Judges, and the courts.**Contact Person:**

Elisa Butler
Wyoming Judicial Branch
ebutler@courts.state.wy.us
307-777-7238

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

Providing enhanced security for courts and the judiciary.

Expected goal or result:

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Judges are facing increasing threats and violence throughout the country, and Wyoming is no exception. There is a need for discussion and possible legislation that would help to curb the security issues experienced by Judges and court staff, including enhanced penalties for crimes against the Judiciary, and increasing the security in courthouses across the state.

Estimated Committee time for topic:

Resources for Committee review prior to topic consideration:

Proposed Interim Topic: Wyoming's Unsolved Murders

Contact Person:

Art Washut

Legislature

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

Murder was once among the most likely crimes to be solved. The percentage of murder cases that are solved nationally has been declining and national statistics appear to be underreporting the number of murders committed. I believe it is appropriate that we look at the murder statistics and the number of unsolved homicides. An obviously related discussion will focus on how cold case homicides are presently being investigated or neglected.

Expected goal or result:

Depending on what we learn, there may be a justification for 1) enhancing the cold case investigative resources within the state, 2) correcting under-reporting issues, and/or 3) augmenting training for cold case investigators.

Estimated Committee time for topic:

2 hours of testimony

Resources for Committee review prior to topic consideration:

<https://www.murderdata.org/> The Murder Accountability Project

<https://www.themarshallproject.org/2022/06/14/what-did-fbi-data-say-about-crime-in-2021-it-s-too-unreliable-to-tell> Ron Franscell's book "Alice & Gerald: A Homicidal Love Story" This is a true crime book written by a Wyoming native and award winning author. It details the cold case investigation of related murders in our state.

Proposed Interim Topic: A Medical Examiner's Office for Wyoming?

Contact Person:

Art Washut

Legislature

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

Would it be fiscally prudent to have a state medical examiner to support our county coroners and perform autopsies.

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Expected goal or result:

Evaluate whether or not a Medical Examiner system similar to that used in Montana is viable in our state.

Estimated Committee time for topic:

2 hours of testimony

Resources for Committee review prior to topic consideration:

Montana Medical Examiner System statutes <https://fox4kc.com/news/problem-solvers/troubling-mistakes-in-death-investigations-prompt-calls-for-change-for-missouri-coroners/> Natrona County Coroner James Whipps has information on this topic

Senator Case

Proposed Interim Topic: Residential Rental Property - Regulation and Licensing

Contact Person:

Brett Glass

Self

brett@lariat.net

307-761-2895

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

Municipalities, including Casper and now Laramie, are seeking to impose regulations, licensing regimes, and “license fees” (which are in fact taxes) upon residential rental properties. These ordinances conflict with state statutes regarding both landlord/tenant relations and real estate licensing. They threaten to create or worsen shortages of worker and affordable housing and bloat municipal government. They also violate the equal protection clauses of the state Constitution, violate tenants’ and landlords’ due process rights, and have carve-outs for certain favored landlords. Some are even discussing banning natural gas appliances in rental properties. The Legislature should establish uniform rules and safety requirements for all residential rentals throughout the state. HB0216, not heard this session for lack of time, addressed this and should be an interim topic.

Expected goal or result:

Establish that the Legislature reserves to itself the right to create uniform rules for residential rental housing.

Estimated Committee time for topic:

3 hours

Resources for Committee review prior to topic consideration:

Laramie rental ordinance and relevant case law

Senator Landen, Chairman

Proposed Interim Topic: Behavioral health issues encountered by the Judiciary.

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Contact Person:

Elisa Butler
Wyoming Judicial Branch
ebutler@courts.state.wy.us
307-777-7238

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

Adapting the judiciary to the increasing number of justice-involved individuals with mental health and substance abuse issues.

Expected goal or result:

In addition to the task of preparing to take over treatment courts as set forth in SF0023, the Judicial Branch is looking into piloting an even more comprehensive diversion model that puts resources toward lifting people out of mental illness, rather than locking them up, sometimes waiting for a competency evaluation, and then releasing them in the exact same condition that brought them to the court in the first place. This could be offered to qualified misdemeanants, non-violent felons, parents in abuse & neglect cases, and children in CHINS and delinquency cases.

Estimated Committee time for topic:**Resources for Committee review prior to topic consideration:**

Wyoming Department of Health Legislative Report to Joint Labor, Health & Social Services Committee in 2022 interim on Behavioral Health Redesign - <https://wyoleg.gov/InterimCommittee/2022/10-2022100610-02WDHLegislativeReportBehavioralHealthRedesign.pdf>

Proposed Interim Topic: Staffing for the Administrative Office of the Courts**Contact Person:**

Elisa Butler
Wyoming Judicial Branch
ebutler@courts.state.wy.us
307-777-7238

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

Evaluation and consideration of the need for increased staffing in the Administrative Office of the Courts.

Expected goal or result:

The goal of this topic would be legislative action to increase staffing within the Administrative Office of the Courts due to the increased need of administrative professionals to support the mission and goals of the Wyoming Judicial Branch.

Estimated Committee time for topic:**Resources for Committee review prior to topic consideration:**

Wyoming Judicial Branch Strategic Plan - <https://www.courts.state.wy.us/wp-content/uploads/2023/01/2022-Judicial-Branch-Strategic-Plan.pdf> National Center for State Courts

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Report for Wyoming Judicial Branch - <https://www.courts.state.wy.us/wp-content/uploads/2023/01/2022-NCSC-Final-Report.pdf>

Proposed Interim Topic: Sex Offenses Inadvertently Excluded from the Sex Offender Registry

Contact Person:

Bridget Hill
Attorney General's Office
bridget.hill@wyo.gov
307-777-7841

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

It appears that certain criminal offenses against minors are not included as registerable offenses under W.S. § 7-19-302. As a result, offenders convicted of felonious restraint, false imprisonment, human trafficking, and sexual servitude are not required to register in Wyoming (W.S. 7-19-302(g)-(j)). However, it appears to us that the Legislature did intend to include those crimes as registerable offenses because these offenses are included in the definition of "criminal offense against a minor" in the definition section of the act. We would also like to suggest a comprehensive look at the registry statutes to assure the offenses the legislature intends to include as registerable offenses are all included.

Expected goal or result:

The goal should be to assure that no offenses that the Legislature intends to include have been inadvertently excluded as registerable offenses.

Estimated Committee time for topic:

Uncertain - but we believe the problem and solution could be examined in a relatively short time.

Resources for Committee review prior to topic consideration:

The legislative history of the statutes governing the sex offender registry, in particular the 2007 amendments (2007 Wyo. Sess. Laws, Ch. 160).

Proposed Interim Topic: Veterans Legal Assistance and the issues Veterans Face

Contact Person:

Bill Winney
Wy Veterans Legal Assistance
bill.winney@hotmail.com
307-413-1506

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

What issues veterans are dealing with as they integrate into the civilian world and what legal support is available.

Expected goal or result:

Some legislation may be sparked by this. The core is to convey information to legislators so they are aware of the existing veterans support network.

Estimated Committee time for topic:

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One hour.

Resources for Committee review prior to topic consideration:

Proposed Interim Topic: Parental Rights-Repeal Conflicting Statute

Contact Person:

Senator Bo Biteman

Wyoming Senate

bo.biteman@wyoleg.gov

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

Continue the discussion on fixing the problem of grandparents visitation rights trumping parental rights of fit parents.

Expected goal or result:

Bill draft for 2024

Estimated Committee time for topic:

Resources for Committee review prior to topic consideration:

Proposed Interim Topic: Review of the use of Prescription Digital Therapeutics treatments for the prison population regarding substance abuse and opioid use disorders

Contact Person:

Shane Schulz

Brownstein representing Pear Therapeutics

sschulz@bhfs.com

719-480-9004

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

According to the National Institute on Drug Abuse (NIDA), 85% of the prison population in the United States has an active substance use disorder or were incarcerated for a crime involving drugs or drug use. Further, inmates with opioid use disorder are at a higher risk for overdose following release from incarceration. A recent study showed in the first two weeks after being released from prison former inmates were 40 times more likely to die of an opioid overdose than someone in the general population. Pear would provide an update of the work they are doing in other states corrections departments and the success they are seeing from the use of Prescription Digital Therapies.

Expected goal or result:

The goal would be to hear an update for informational purposes as well as if there is support to proceed with a pilot with the Wyoming Department of Corrections in conjunction with the providers (Wyoming Association of Mental Health and Substance Abuse Centers). The overall goal is to help provide the tools to DOC to help with recidivism of criminals with substance abuse disorders.

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Estimated Committee time for topic:

One to two hours.

Resources for Committee review prior to topic consideration:

Proposed Interim Topic: Bias Motivated Crime Law

Contact Person:

Shelly Duncan

dvsstrategies@gmail.com

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

Wyoming is one of only 4 states in the country without a bias motivated crime law. A coalition of over 35 national companies that work in Wyoming are asking for legislation to come forward to address this critical issue. Congress passed the Matthew Shepard & James Byrd Jr. Hate Crimes Prevention act in 2009 as a rider to the National Defense Authorization Act for the fiscal year of 2010 that provides funding for states to implement. 13 years later, Wyoming has yet to act and it will hurt our economy; especially with the cancel culture that exists in America today. It is imperative that Wyoming remains economically competitive and is a preferred location for business investment and development. To continue to encourage prospective companies to locate here, workers to live here, tourists to visit here and families to thrive here, we must be in the business of advancing meaningful policies that support the positive change and social impact our communities need in order to build a more just and inclusive state and nation.

Expected goal or result:

To introduce, approve, and submit to the Governor to sign into law a comprehensive, specific and clear bill against bias motivated crimes.

Estimated Committee time for topic:

There are many examples from other states that WY can use to create this legislation. There is no need to spend a significant amount of time or resources. 1 hour at first meeting and then ½ hour thereafter.

Resources for Committee review prior to topic consideration:

There are Federal Funds available for us to pass this legislation.

Proposed Interim Topic: Non-Discrimination Bill

Contact Person:

Shelly Duncan

dvsstrategies@gmail.com

Related to 2023 legislation:

No

Recommended priorities Committee should consider:

Freedom and equality are fundamental American values. But today, millions of Americans lack basic non-discrimination protections just because of who they are or whom they love. The seventh amendment of the Civil Rights Act of 1964, Title VII, outlines five major protected classes: race, color, religion, sex and national origin. There are now also protections for physical or mental disability, reprisal

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and, most recently added, sexual orientation. Through the Civil Rights Act of 1964, employers are prohibited from discriminating against employees based on any of those protected classes. Wyoming is one of the states that does not have a state law addressing discrimination. Wyoming needs to have a state specific law that addresses non-discrimination in our state. Eighty-nine percent of Americans mistakenly believe it is illegal under federal law to be fired because you are gay or transgender, but this type of discrimination is perfectly legal in a majority of states. Municipalities in Wyoming have created their own non-discrimination ordinances because the state is silent on the subject. We should be leading the direction with these laws, not being reactive, which is what will happen soon if we don't have one.

Expected goal or result:

Governor to sign into law a comprehensive, specific and clear bill stating that we do not tolerate discrimination in Wyoming.

Estimated Committee time for topic:

There are many examples from other states that WY can use to create this legislation. 1 hr the first meeting, then ½ hour each thereafter.

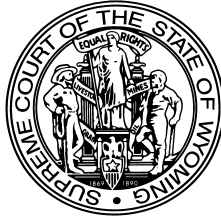
Resources for Committee review prior to topic consideration:

Wyoming organizations, trade unions, and cities that have already implemented this policy

Task Force Officers

- Funding issues

SUPREME COURT OF WYOMING



MEMORANDUM

February 24, 2023

TO: Chief Justice Fox
FROM: Justice Fenn
CC: Elisa Butler
RE: Court Security Interim Study

Having been asked to assemble a list of court security topics for a potential Interim Study, I offer the below list of items:

- 1) Legislative clarification of Sheriff security responsibilities
 - a) W.S. Sec. 18-2-103 County Authorities responsible for courthouse facilities
 - b) W.S. Sec. 18-3-604 Sheriff shall attend all courts of record
 - c) Uniform Rule of District Courts Rule 107, Uniform Rules of Circuit Courts Rule 1.07, and Uniform Rules of Chancery Court Rule 106 – The sheriff shall provide a sufficient number of deputies to maintain order in the courtroom at all times.
- 2) Legislative criminal activities threatening Court personnel (See attached memo Appendix A)
- 3) Updated security assessments of statewide Courtrooms/Courthouses
- 4) Legislative enactment of Court personnel privacy protections (See attached email Appendix B)
- 5) Parking, home, and other security concerns and protections outside of the Courthouse
- 6) Ongoing training for court personnel
- 7) Ongoing training for court security personnel
- 8) Staffing of Courtroom/Courthouse security – bailiffs, entry security screening, presence of security personnel

Memo on Wyoming Statutes that Could Apply to Threatening or Intimidating a Judge

Whether Wyoming has a statute that specifically punishes threatening or intimidating a judge, is a matter of statutory interpretation. W.S. § 6-5-305(a) states:

A person commits a felony punishable by imprisonment for not more than ten (10) years, a fine of not more than five thousand dollars (\$5,000.00), or both, if, by force or threats, he attempts to influence, intimidate or impede a juror, witness or **officer** in the discharge of his duty.

While the statute does not define “officer,” there are definitions for “peace officer” and “public officer” in other sections of Title 6. The lengthy definition of “peace officer” is set forth in the general definitions section of Title 6, and it includes law enforcement and corrections officers. W.S. § 6-1-104(a)(vi). The definitions section in Chapter 5 of Title 6, which is called “Offenses Against Public Administration,” defines “public officer” as “a person who holds an office which is created or granted authority by the constitution or the legislature and who exercises a portion of the sovereign power of the state.” W.S. § 6-5-101(a)(1). This would include judges because the courts were created and granted authority by Article 5 of the Wyoming Constitution and the legislature in Title 5 of the Wyoming Statutes. Therefore, “officer” in § 6-5-305(a) could be interpreted as applying to both “peace officers” and “public officers” or just to “public officers.” If this statute was interpreted as applying to “public officers,” it would be a felony to threaten a judge “in the discharge of his duty.”

Unfortunately, there is not much legislative history for W.S. § 6-5-305. However, the Use Note for the Pattern Jury Instruction No. 53.05A, which is the instruction for cases involving W.S. § 6-5-305, states:

This statute is hopelessly vague in that it does not state the kind of proceedings which it applies to, nor does it provide any definition of “officer.” Limitation of the section to judicial proceedings, and to officers of the Court, would be appropriate. *See Smith v. State*, 902 P.2d 1271 (Wyo. 1995).

In *Smith*, the Court was asked to determine the meaning of “witness” as used in W.S. § 6-5-305. The appellant argued that the word should not apply to witnesses who had already testified and been released from their subpoenas. 902 P.2d at 1276. The *Smith* court rejected that contention and gave the term the definition set forth in Black’s Law Dictionary. *Id.* at 1277. The *Smith* case did not discuss the definition of “officer.”

In its analysis, the *Smith* Court relied heavily on Ohio case law, because Ohio’s statute was very similar to Wyoming’s. *Id.* at 1276. Ohio’s statute was amended the year after the *Smith* case came out. It now states:

No person, knowingly and by force, by unlawful threat of harm to any person or property, or by filing, recording, or otherwise using a materially false or fraudulent writing with malicious purpose, in bad faith, or in a wanton or reckless manner, shall attempt to influence, intimidate, or hinder a public servant, a party official, or an attorney or witness involved in a civil action or proceeding in the discharge of the person’s the duties of the public servant, party official, attorney, or witness.

Ohio Rev. Code Ann. § 2921.03 (West). The definition of “public servant” includes “public officials,” which in turn includes judges. Ohio Rev. Code Ann. § 2921.01 (West). While this amendment clarified the ambiguity of the word “officer” that had been used in Ohio’s version of the statute, Wyoming has not amended its statute to clarify this definition. However, interpreting W.S. § 6-5-305 to apply to judges and other “public officers” would be consistent with federal law and the law in several other states.

Federal law makes it a felony to threaten a “any grand or petit juror, or officer in or of any court of the United States, or officer who may be serving at any examination or other proceeding before any United State magistrate judge or other committing magistrate, in the discharged of his duty” 18 U.S.C. § 1503. While it may not be clear from the text of the statute, federal courts have held judges fall under the definition of “officer” in this statute. *United States v. Margoles*, 294 F.2d 371, 373 (7th Cir. 1961) (“a district judge is a judicial officer of the United States and as such an officer indispensable to the court’s performance of its judicial functions. We are of the opinion that the judge is an ‘officer in or of’ the court within the meaning of § 1503.”) This supports the argument that “officer” in W.S. § 6-5-305 should be interpreted to including “public officers” like judges.

Twenty-nine (29) other states and one U.S. territory have enacted statutes that make it unlawful to intimidate, threaten, influence, make terroristic threats against, retaliate against, or publish personal identifying information about a judge. While a few of those statutes specifically use the word “judge” in the text of the statute, the vast majority of the statutes use the words public officer, public official, or public servant, and then define those terms to include judges in a separate definitions section. Some states also extend protection to judges’ immediate family members or staff. The punishments for violations of those statutes vary drastically, with some offenses being misdemeanors and others being varying degrees of felonies. Those statutes and penalties are summarized in a table at the end of this memo. Interpreting Wyoming’s intimidation statute to apply to “public officers,” including judges would be consistent with these statutes.

The intimidation statute should be interpreted to applies to judges. If it is not, there are several other Wyoming statutes that might apply to a threat made against a judge, including:

- 1) W.S. § 6-2-501(a), Simple Assault, if the threat was accompanied by an attempt to cause bodily injury;
- 2) W.S. § 6-2-505(a), Terroristic Threat, if the threat was made to cause the evacuation of a building (like a courthouse) or to “cause serious public inconvenience.”
- 3) W.S. § 6-2-506, Stalking, if the party making the threat engaged in a “course of conduct” over “any period of time” with the intent to harass the judge (this might require more than one threat);
- 4) W.S. § 6-3-303, Criminal Trespass, if the person did not leave the judge’s property when asked to do so;
- 5) W.S. § 6-6-102, Breach of Peace, if the litigant used “threatening, abusive or obscene language or violent actions” with knowledge or probable cause to believe he will disturb the peace;
- 6) W.S. § 6-6-103, Telephone Calls, Unlawful Acts, penalties, Communicating a threat of bodily injury or death, if the threat was made by phone; and
- 7) W.S. § 6-8-103, Possession of deadly weapon with unlawful intent, if the person possessed a deadly weapon with the intent to threaten the judge’s life, or to commit assault, or inflict bodily injury.

Table of State Statutes on Threatening or Intimidating a Judge

State/ Territory	Statute No.	Summary	Penalty
AZ	Ariz. Rev. Stat. Ann. § 13-2401	Unlawful to post a judge's personal information on the internet if the personal information poses an imminent and serious threat to the judge or judge's immediate family member	Class 5 felony, First Offense punishable by imprisonment for 6 months to 2 ½ years; Subsequent offenses, punishable by imprisonment up to 7 ½ years
CA	Ca. Penal Code § 76	Unlawful to knowingly and willingly threaten the life of, or threaten bodily harm to a judge, staff, immediate family of the judge, or immediate family member of judge's staff, with the intent that the statement be taken as a threat and with apparent ability to carry out the threat	1 st conviction: \$5,000 fine or jail for up to 1 year or both; Subsequent Offense: 16 months to 3 years in jail
CO	Colo. Rev. Stat. Ann. § 18-8-615 (West)	Person commits "retaliation" against a judge if he makes a credible threat or commits an act of harassment or an act of harm or injury upon a person or property as retaliation or retribution against a judge, upon a judge who is serving in a legal matter involving the individual or a family member, a member of the judge's family, a person in a "close relationship" with the judge, or a person residing in the judge's household	Class 4 felony, punishable by imprisonment for 2-6 years and fines from \$2,000-\$500,000
DE	Del. Code Ann. tit. 11, § 1207 (West)	Unlawful to threaten unlawful harm to any person with the intent to influence the latter's decision, opinion, recommendation, vote or other exercise of discretion as a public servant or to threaten harm to public servant to influence him to violate a known legal duty. Definition of "public servant" includes any judge or judicial officer.	Class A misdemeanor, punishable by up to a year in jail and a fine of \$2,300
DE	Del. Code Ann. tit. 11, § 1240 (West)	Person commits "terroristic threatening of public official or public servant" if he threatens to commit any crime likely to result in death or serious injury to the public official or servant in the exercise of his official functions. Definition of "public servant" includes any judge or judicial officer	Class G felony, punishable by up to two years in prison
FL	Fla. Stat. Ann. § 843.0855 (West)	Unlawful for a person to "falsely under color of law" attempt to influence, intimidate, harass, retaliate against, or hinder a public officer or employee in the discharge of his duties through threats of or actual physical abuse or harassment, or through the use of	3 rd Degree felony, punishable by imprisonment up to 5 years, a fine of \$5,000, and 5 years of probation

		simulated legal process. Definition of public officer includes judges.	
GA	Ga. Code Ann. § 16-11-37(e)(1) (West)	Unlawful to make “terroristic threats” to retaliate against or intimidate or threaten any person from attending a judicial or administrative proceeding as a judge	Punishable by imprisonment of 5 to 20 years and a fine of up to \$50,000
ID	Idaho Code Ann. § 18-1353 (West)	Unlawful to threaten harm to any person with purpose to influence his decision, opinion, recommendation, vote, or other exercise of discretion as a public servant or to threaten harm to public servant to influence him to violate a known legal duty. Definition of Public Servant includes judges. Felony if the actor threatened to commit a crime or made a threat with the purpose of influencing a judicial or administrative proceeding	Punishable by imprisonment up to 5 years and a fine of up to \$50,000
ID	Idaho Code Ann. § 18-1353A (West)	Unlawful to use the mail to send a letter or other writing containing a threat to take the life of or inflict bodily injury on any judge, justice, or magistrate	First Offense, misdemeanor punishable by up to 1 year in jail and fine of not more than \$1,000; Subsequent Offense, felony, punishable by up to 5 years in prison
IL	720 Ill. Comp. Stat. Ann. 5/12-9	Unlawful to knowingly deliver or convey, directly or indirectly, a communication containing a threat that would put a “public official” or his immediate family member in reasonable apprehension of bodily harm, sexual assault, confinement or restraint or in apprehension of damage to his or his family’s property. Public official is defined as a person who is elected to office in accordance with a statute or appointed to office. This includes judges	First Offense is Class 3 felony, punishable by imprisonment for 5-10 years and a fine of up to \$25,000; Subsequent Offense is Class 2 felony, punishable by imprisonment for 3-7 years and fines of up to \$25,000
LA	La. Stat. Ann. § 14:122.2	Unlawful to threaten a public official through any verbal or written communication that communicates a true threat to the public official. Definition of public official includes judicial officers.	Punishable by imprisonment of up to 6 months and a fine of \$500
MA	Mass. Gen. Laws Ann. ch. 268, § 13B(b) (West)	Unlawful to directly or indirectly threaten, attempt or cause physical, emotional or economic injury or property damage, convey gifts or anything of value, or mislead, intimidate, harass a judge or family member with the intent to impede, obstruct, delay, prevent or interfere with a trial or court proceeding or to retaliate against the person for his participation in the proceedings	Punishable by imprisonment for 2½ to 10 years and a fine of \$1,000 to \$5,000, or in cases involving life imprisonment, imprisonment for 2½ to 20 years and a fine up to \$10,000

ME	Me. Rev. Stat. tit. 17-A, § 603	Person commits “improper influence” if he threatens harm to any public servant for the purpose of influencing his action, decision, opinion, recommendation, nomination, vote, or other exercise of discretion. Definition of public servant includes any officer or employee of any branch of government.	Class D Crime, up to 364 days in jail and a fine up to \$2,000
MI	Mich. Comp. Laws Ann. § 750.478a (West)	Unlawful to attempt to intimidate, hinder, or obstruct a public officer or public employee in the discharge of his official duties by use of “unauthorized process” (simulated legal process). Public officer includes person elected or appointed to any court	First Conviction, misdemeanor punishable by imprisonment up to 2 years and fine of up to \$1,000; Subsequent offense, felony punishable by imprisonment for up to 4 years and fine of not more than \$2,000
MS	Miss. Code. Ann. § 97-9-55 (West)	Unlawful to use threats, force or abuse, to attempt to intimidate or influence a judge in the discharge of his duties	Imprisonment for not less than 1 month nor more than 2 years
MS	Miss. Code Ann. § 97-9-127	Person commits “retaliation” if he intentionally or knowingly harms or threatens to harm another in retaliation for anything lawfully done by a “public servant” Public servant is defined as any elected or appointed official of the government, which would include judges	Class 2 felony, punishable by up to 10 years in prison and fine of up to \$3,000
MO	Mo. Ann. Stat. § 575.095 (West)	Unlawful to “tamper” with a “judicial officer” with the purpose to harass, intimidate, or influence the judicial officer in the performance of the “officer’s” official duties	Class D felony punishable by up to 7 years in prison and a fine of up to \$10,000 or twice the amount of financial gain to the offender
MT	Mont. Code Ann. § 45-7-102 (West)	Unlawful to threaten to harm a person (or their immediate family) with the purpose of influencing the person’s decision, opinion, recommendation, vote or other exercise of discretion of a public servant or in a judicial or administrative proceeding. Definition of public servant includes judges	Felony punishable by imprisonment up to 10 years and a fine of up to \$50,000
NH	N.H. Rev. Stat. Ann. § 640:3	Unlawful to threaten harm to any public servant for the purpose of influencing his action, decision, opinion, recommendation, nomination, vote, or other exercise of discretion. Definition of public servant includes judge.	Class B Felony, punishable by imprisonment for 3 ½ to 7 years, fine up to \$4,000, and 5 years of probation
NJ	N.J. Stat. Ann. §	Unlawful to directly or indirectly threaten	Third Degree

	2C:27-3 (West)	unlawful harm to any person with the purpose to influence a decision, opinion, recommendation, vote, or exercise of discretion of a public servant, or to threaten to a public servant with the purpose to influence him to violate his official duty. Definition of public servant includes judges	Offense, punishable by imprisonment for 3-5 years and a fine of more than \$15,000
OH	Ohio Rev. Code Ann. § 2921.03 (West)	Unlawful to knowingly and by force, by unlawful threat of harm to any person or property or by filing materially false or frivolous writing to attempt to influence, intimidate, or hinder a public servant in the discharge of the person's duties as a public servant. Definition of public servant includes judges	Third Degree Felony punishable by 9-60 months in prison and a fine up to \$10,000
OK	Okla. Stat. Ann. tit. 21, § 1176 (West)	Unlawful to use electronic communication device to publish, post, or make publicly available personally identifiable information of a "public official" with the intent to threaten, intimidate, or harass, that places a public official in reasonable fear of death or serious bodily injury. "Public Official" includes any person elected or appointed to the judicial branch	First Conviction, misdemeanor punishable by jail for up to 6 months and fine up to \$1,000; Subsequent Offense, punishable by up to a year in jail and fine of up to \$2,000
Puerto Rico	33 L.P.R.A. § 4918	Unlawful to conspire, threaten, attempt, or commit a crime against a judge or other public officer arising "during or as a consequence of any investigation, procedure, hearing, or issues which such officers are conducting in the exercise of his/her official duties"	4 th Degree felony punishable by imprisonment for less than 6 months nor more than 3 years
RI	11 R.I. Gen. Laws Ann. § 11-42-4(West)	Unlawful to deliver or convey, directly or indirectly, a verbal or written threat to take the life of, or to inflict bodily harm upon a public official or his immediate family member because of the performance or nonperformance of some public duty. The definition of public official includes a judge or magistrate	Felony punishable by imprisonment for up to 5 years and a fine up to \$5,000
SC	S.C. Code Ann. § 16-9-340	Unlawful for a person by threat or force to: intimidate or impede a judge, magistrate, or "any other official of any court, in the discharge of his duty	Felony punishable by imprisonment for not more than 10 years, a fine of not more than \$10,000 or both
TN	Tenn. Code Ann. § 39-16-510 (West)	Person commits "retaliation" if he harms or threatens to harm a judge or family member of judge, by any act in retaliation for anything the judge did in his official capacity	Class E felony punishable by 1-6 years in prison and a fine of up to \$3,000
TX	Tex. Penal Code Ann. § 36.06 (West)	Unlawful to intentionally and knowingly harm or threaten to harm another individual by an unlawful act in retaliation for he service or	Third Degree Felony punishable by up imprisonment for 2-

		<p>status of another as a public servant or to prevent or delay the service of another as a public servant.</p> <p>Unlawful to post on the internet the address or phone number of a public servant (or family member) in retaliation for or on account of his status as a public service.</p> <p>Third Degree felony, or Second Degree felony if the actor's conduct results in the bodily injury of a public servant or family member.</p> <p>Definition of public servant includes judges.</p>	10 years; Second Degree Felony, punishable by imprisonment for 2-20 years and a fine of up to \$10,000
UT	Utah Code Ann. § 76-8-104 (West)	Unlawful to threaten any harm to a public servant with the purpose of influencing his action, decision, opinion, recommendation, nomination, vote, or other exercise of discretion. Definition of Public Servant includes judges	Class A misdemeanor, punishable by up to 364 days in jail and fine up to \$2,500
UT	Utah Code Ann. § 76-8-316 (West)	<p>Third Degree Felony to Unlawful to threaten to assault, kidnap, or murder a judge or a family member of a judge with the intent to impede, intimidate, or interfere with the judge with the intent to retaliate against the judge on account of the performance of his official duties</p> <p>Second Degree Felony to commit an assault on Judge or Family member</p> <p>First Degree Felony to commit aggravated assault on judge or family member</p> <p>First Degree Felony to attempt to murder on family member of judge with the intent to impede, intimidate, or interfere with the Judge's performance of official duties</p>	<p>Third Degree Felony punishable by up to 5 years in prison and fine up to \$5000;</p> <p>Second Degree Felony punishable by up to 15 years in prison and fine up to \$15,000;</p> <p>First Degree Felony up to life in prison and fine of up to \$10,000</p>
VA	Va. Code Ann. § 18.2-460 (West)	Class 1 Misdemeanor to knowingly obstruct a judge in the performance of his duties or to use threats of force to attempt to intimidate or impede a judge lawfully engaged in his duties. Class 5 Felony to use threats of bodily harm or force to intimidate a judge lawfully engaged in his duties	Class 1 Misdemeanor, punishable by up to a year in jail and a fine of \$2,500; Class 5 Felony up to 10 years in prison
VT	Vt. Stat. Ann. tit. 13, § 3001 (West)	Unlawful to "hinder" a judicial officer	Punishable by up to 3 years in prison and a fine of not more than \$500
WA	Wash. Rev. Code Ann. § 9A.72.160 (West)	Unlawful to intimidate a judge by directing a threat to a judge because of a ruling or decision of the judge in an official proceeding or directing a threat to a judge to attempt to influence a ruling or decision	Class B Felony, up to 10 years in prison and a fine up to \$20,000
WV	W. Va. Code Ann. § 61-5-27 (West)	(intimidation) Unlawful to use intimidation, physical force, harassment, or fraudulent legal process or threaten to do so where the	Felony punishable by imprisonment up to 10 years and a fine of

		<p>threat is directed at inciting or producing imminent lawless action of a violent nature that could cause bodily harm, with the intent to impede or obstruct a public official or employee from performing his official duties. (retaliation) Unlawful to cause injury or loss to person or property, or threaten to do so, with the intent to retaliate against a public official for the performance or nonperformance of an official duty. Definition of “public official or employee” includes any elected or appointed official of employee of any state or federal court.</p>	not more than \$2,000
WI	Wis. Stat. Ann. § 940.203 (West)	<p>Unlawful to intentionally cause bodily harm or threaten to cause bodily harm to the person or family member of a judge, if at the time of the act or threat the actor knows/should know the victim is a judge or family member and the act or threat is in response to an action taken by the judge in his official capacity, without the consent of the person harmed</p>	Class H felony, up to 6 years in prison and fine of up to \$10,000

Dear CCJ and COSCA Members,

At the CCJ Midyear meeting in Austin this week, several members inquired about statutes to block disclosure of judges' private information contained in government databases and/or social media platforms. In addition to enacted and proposed state legislation, Congress recently passed the Daniel Aderl Judicial Security Act covering the federal judiciary. We provide the following links and summaries of recently enacted statutes, including the federal bill, as examples of approaches to protecting such information from public disclosure.

Legislation	Date Enacted	Court Officials Protected	Scope
Daniel Aderl Judicial Security and Privacy Act (Federal)	12/23/2022 (as part of national defense appropriations)	Federal judges (inc. senior and retired) and their immediate family and household members.	Allows protected persons to redact personal information displayed on federal government web sites. Prevents publication of personal information where there is no legitimate news media or other public interest. Protects personally identifiable information (PII) from resale by data brokers.
Delaware HB230	9/30/2021 (eff. 9/30/2022 to allow for AOC implantation study)	Active or retired state judicial officers and their families.	Allows judicial officers to make a written request that their or their families' personal information not be posted, displayed, or communicated to the public. Prohibits sharing of personal information with intent to pose a threat to the health and safety of the judicial officer or their family.
South Dakota HB1106	2/15/2022	Magistrate judge, circuit court judge, or justice of the Supreme Court.	PII contained in judicial candidate or financial disclosure forms is not open to public inspection. Home address information in judicial officers' voter registration records is not open to public inspection.
Nebraska LB1178	4/18/2022	All federal, state, and local judges.	Adds judges to law enforcement and National Guard personnel who may request the county assessor to withhold his or her residential address from public disclosure. Application must be renewed every five years.

In addition to these recent bills, states with previous privacy laws covering the judiciary, some of which have evolved over a number of years, include: [California](#) , [Illinois](#), [New Jersey](#), and [Texas](#). New Jersey's statute (the original "Daniel's Law") provides for a [secure state registration portal](#) for protected persons.

Finally, NCSC is tracking a growing (24 at the time of this writing) number of pending state bills related to judicial security. Links to those bills are available on [NCSC's Gavel to Gavel web page](#) (click on "Security").

We hope this information is helpful to state court leaders interested in the latest developments in judicial privacy policy. Please contact me with any questions.

Chris



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WYOMING JUDICIAL BRANCH

Americans with Disabilities Act Public Access Policy

I. PURPOSE

The purpose of this Policy is to ensure all individuals have equal access to and full participation in judicial programs, court services, and court activities and to prohibit discrimination against any individual on the basis of physical or mental Disability.

II. APPLICABILITY

This Policy (ADA Policy) shall apply to the Wyoming Judicial Branch, including the Wyoming Supreme Court, District Courts, Chancery Court, Circuit Courts, their employees and any county or elected officials supporting the Wyoming Judicial Branch, pursuant to law.

III. AUTHORITY

- A. Pursuant to the Wyoming Constitution, the Order of the Wyoming Supreme Court and the resolution of the Wyoming District Courts, the Wyoming Judicial Council exercises general superintending control over the Judicial Branch for administrative policy-making and planning purposes.
- B. All administrative policies shall be binding on all judicial branch judges and employees. County employees and elected officials serving the Wyoming Judicial Branch, pursuant to law, shall also adhere to administrative policies which are relevant to them, and are adopted by the Wyoming Judicial Council. *Rules and Procedures Governing the Wyoming Judicial Council Rule 13.*

IV. DEFINITIONS

- A. **Applicant** – An individual who submits a Request for Modification either in writing or orally.
- B. **Auxiliary Aids** – Services or devices enabling persons with impaired sensory, manual or speaking skills to have an equal opportunity to participate in a Judicial Proceeding. Auxiliary Aids may (but do not necessarily) include such services or devices as qualified interpreters (See Appendix D, *Sign Language Interpreters*), assistive listening headsets, television captioning and decoders, telecommunications devices including artificial intelligence captioning for deaf persons (TDDs), videotext displays, readers, taped texts, brailled materials, and large print materials. Examples of Auxiliary Aids or services of a personal nature not covered by this Policy include, without limitation, the following: prescription eyeglasses, hearing aids, wheelchairs, and/or personal medical or attendant care.

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- C. Disability** - With respect to an individual, a physical or mental impairment that substantially limits one or more of the Major Life Activities of such individual; a record of such an impairment; or being regarded as having such an impairment.
- D. Facility** - All or any portion of buildings housing Judicial Branch employees or courthouses, which includes structures, sites, complexes, equipment, roads, walks, passageways, parking lots, or other real or personal property, including the site where the building, property, structure, or equipment is located. County courthouses are provided and maintained by each individual county pursuant to Wyo. Stat. Ann. § 18-2-103.
- E. Individual with a Disability** – A person who has a “Disability,” as that term is defined herein.
- F. Court Proceeding** - Any hearing, trial, or other appearance before the Circuit Courts, Chancery Court, District Courts and the Wyoming Supreme Court in an action, appeal, or other proceeding, including any matter conducted by a Judicial Officer.
- G. Judicial Officer** – A justice, judge, commissioner, or magistrate authorized to preside over a Court Proceeding.
- H. Major Life Activities** - Includes functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.
- I. Qualified Individual with a Disability** - An Individual with a Disability who, with or without Reasonable Modification to rules, policies, or practices, the removal of architectural, or communication barriers, or the provision of Auxiliary Aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the Wyoming Judicial Branch.
- J. Reasonable Modification** - Modifications to court rules, policies, practices or procedures, or the removal of architectural, or communication barriers to make court services and programs readily accessible to and useable by, Individuals with Disabilities so long as the modification would not result in a fundamental alteration of the nature of a service, program, or activity or cause undue financial or administrative burden.
- K. Request for Modification** - A request provided to the Statewide ADA Coordinator by an Applicant requesting a modification to court rules, policies, practices or procedures, or the removal of architectural, or communication barriers to make court services and programs readily accessible to, and useable by, the Applicant.
- L. Service Animals** – Service Animals include:
- i. Dogs that are individually trained to do work or perform tasks for Individuals with Disabilities. Service Animals are working animals, not pets. The work or task a dog has been trained to provide must be directly related to the person’s Disability. Dogs whose sole function is to provide comfort or emotional support do not qualify as Service Animals.

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- ii. Miniature horses pursuant to Wyo. Stat. Ann. § 35-13-205, that have been individually trained to do work or perform tasks for Individuals with Disabilities.

M. Statewide ADA Coordinator – An employee of the Wyoming Administrative Office of the Courts (AOC) responsible for addressing Requests for Modification to access judicial programs, activities, and services under the Americans with Disabilities Act within the Judicial Branch, overseeing the administration, compliance, training and any complaints associated with issues raised by this Policy. When the Statewide ADA Coordinator is unavailable, a designee within the AOC shall act as the Statewide ADA Coordinator.

V. THE AMERICANS WITH DISABILITIES ACT OF 1990

- A. The Americans with Disabilities Act of 1990 (ADA) was enacted to prohibit discrimination against people with disabilities. Under Title II of the Act, no Qualified Individual with a Disability shall, by reason of such Disability, be excluded from participation in or be denied the benefits of services, programs or activities of a public entity. This Policy aims to give Individuals with Disabilities an equal opportunity to access, use, and fully participate in Court Proceedings, and court services and programs
- B. Whenever reasonable, policies, practices or procedures must be modified to make court services and programs readily accessible to, and useable by, Individuals with Disabilities. This includes removing architectural barriers by altering existing facilities where feasible or relocating services to an accessible site. It also includes removing communication barriers by providing Auxiliary Aids and services which would allow an Individual with a Disability to effectively work in the courts, represent a client, be a party in a lawsuit, testify as a witness, serve on a jury, or observe a hearing or trial.
- C. In providing Reasonable Modifications, the Wyoming Judicial Branch will give primary consideration to the modification requested by the Applicant. However, an alternative modification may be implemented if equally effective. Every effort shall be made to meet the specific needs of the Applicant; However, the Wyoming Judicial Branch is not required to make modifications that would fundamentally alter the service or program or cause undue financial or administrative burden.

VI. REQUESTS FOR MODIFICATION

- A. A person requiring a modification to obtain access to Court Proceedings, programs, services, court records, or activities at the Wyoming Supreme Court, Chancery Court, any District Court or any Circuit Court should contact the Statewide ADA Coordinator.
- B. A written Request for Modification is preferred. However, the request may be made by telephone to the Statewide ADA Coordinator. In such instances the Statewide ADA Coordinator shall commit such request to writing.
 - i. The Statewide ADA Coordinator shall maintain a record of all Requests for Modification and the actions taken thereon for three (3) years.

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- ii. The *ADA Modification Request Form*, which is attached hereto as Appendix A, and can be found on the Wyoming Judicial Branch website, may be obtained from the Statewide ADA Coordinator, the Supreme Court Clerk's Office, the Chancery Court Clerk's Office, any District Court judicial assistant, and any Circuit Court Clerk's Office.
 - iii. If appropriate, or upon request, the Statewide ADA Coordinator will provide assistance with writing and submitting the written Request for Modification.
 - 1. Large print or other accessible formats of the *Request for Modification Form* are available upon request.
 - 2. If appropriate, other personnel associated with the judicial program, service or activity may assist the Applicant in the submission of a completed Request for Modification to the Statewide ADA Coordinator.
- C. A Request for Modification shall include:
- i. A description of the person's Disability;
 - ii. The role of the person in the Court Proceeding;
 - iii. The modification sought;
 - iv. The date and time of the modification requested; and
 - v. The Court Proceeding, program, service, or activity for which the modification is sought.
- D. A Request for Modification may be submitted by any lawyer, party, witness, juror, or other individual interested in attending any Court Proceeding, program, activity or service or another person on behalf of such interested person.
- E. The Request for Modification should be submitted to the Statewide ADA Coordinator with as much advance notice as possible, but in any event should be made no less than five (5) business days prior to the date for which the modification is sought. If a Request for Modification is not received five (5) business days prior to the date for which the modification is sought, it will be deemed untimely and addressed as set forth in Section VII of this Policy.

VII. UNTIMELY REQUESTS FOR MODIFICATION

- A. If an untimely Request for Modification is made by a participant (party, witness, etc.), and a Reasonable Modification cannot be made without delay, the court shall postpone, reschedule, or otherwise delay the Court Proceeding, judicial program, service, or activity affected until a Reasonable Modification can be achieved. The court must ensure the delay will not infringe on other protected rights. Under such circumstances, the Applicant shall be required to immediately submit a written request. If appropriate or upon request, court personnel will provide assistance with writing and submitting the Request for Modification.

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- B.** If an untimely Request for Modification is made by a non-participant (public, media, family member, etc.), and a Reasonable Modification cannot be made without delay, the court shall not be required to postpone, reschedule, or otherwise delay the Court Proceeding, judicial program, service, or activity affected. Under such circumstances, the Applicant should immediately submit a written request. If appropriate or upon request, court personnel will provide assistance with writing and submitting the Request for Modification.
- C.** If an untimely Request for Modification is made, and a Reasonable Modification can be made without delay, the court shall immediately grant such modification without requiring an advance written request. In such a case, a *Request for Modification Form* shall be completed by either the person requesting the modification or court personnel. The *Request for Modification Form* and the action taken shall be provided to the Statewide ADA Coordinator to maintain in accordance with this Policy.

VIII. DECISIONS ON REQUESTS FOR MODIFICATION

- A.** Once a Request for Modification has been received, the Statewide ADA Coordinator will, as soon as practicable, notify the Applicant of the decision on the request and, if granted, of the modification to be provided. An alternate modification may be offered instead of the requested modification if the Statewide ADA Coordinator or the court determines another equally effective modification is available.

 - i.** If necessary, the Statewide ADA Coordinator may require the Applicant to provide additional information about the Disability to determine the appropriate modification to meet the Applicant's needs.
 - ii.** Under no circumstances will the Statewide ADA Coordinator be permitted to request information regarding the Applicant's Disability that is not necessary for the evaluation of the modification requested.
- B.** If the Statewide ADA Coordinator determines additional time may be necessary to make a modification, the Statewide ADA Coordinator shall notify the judge presiding over the matter, who will determine an appropriate course of action.
- C.** A Request for Modification may be denied only if the Statewide ADA Coordinator finds that:

 - i.** The person making the request is not a Qualified Individual with a Disability; or
 - ii.** The requested modification would create an undue financial or administrative burden; or
 - iii.** The requested modification would fundamentally alter the nature of the Court Proceeding, judicial program, service or activity; or
 - iv.** The Applicant has refused to comply with this Policy after being notified of its terms; or

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- v. The Applicant's failure to comply with this Policy makes it impossible or impracticable the ability to provide the requested modification.
- D. The Applicant shall be notified of the decision to grant, deny, or provide an alternative modification when a Request for Modification is received as soon as possible. Such notification shall be made in writing by the Statewide ADA Coordinator. The notice may also be provided orally, by the court, if necessary to avoid delay.
- E. No employee of the Judicial Branch shall retaliate against any person who exercises their rights under the ADA or who requests modification pursuant to this Policy.

IX. APPEAL PROCEDURE

- A. If a Request for Modification is denied or the offered alternate modification is unsatisfactory to the Applicant, the Applicant may appeal the decision of the Statewide ADA Coordinator to the Wyoming State Court Administrator within ten (10) days of receiving a written notification of the decision made.
- B. A written appeal on a modification decision is preferred. However, the appeal may be made orally to the State Court Administrator. In such instances the State Court Administrator shall commit the appeal to writing.
 - i. An *Appeal from a Modification Decision Form*, which is attached hereto as Appendix B, and can be found on the Wyoming Judicial Branch website, may be obtained from the Statewide ADA Coordinator, the Supreme Court Clerk's office, the Chancery Court Clerk's office, any District Court judicial assistant, or any Circuit Court Clerk's office.
 - ii. If appropriate, or upon request, the State Court Administrator shall assist in writing and submitting the written appeal.
 - 1. Large print or other accessible formats of the *Appeal from a Modification Decision Form* are available upon request.
 - 2. If appropriate, other personnel associated with the judicial program, service, or activity may assist the Applicant in the submission of a completed *Appeal from a Modification Decision Form* to the State Court Administrator.
- C. A submitted *Appeal from a Modification Decision Form* shall include:
 - i. The reason for disagreement with the previous determinations; and
 - ii. The remedy sought.
- D. The State Court Administrator shall provide a decision on the appeal in writing as expeditiously as possible, but in no event, no more than sixty (60) days from the date of appeal. In resolving appeals, the State Court Administrator is authorized to independently investigate the facts surrounding the appeal and has the discretion to utilize appropriate dispute resolution processes or other methods, including but not

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limited to, designating an appropriate neutral to assist in resolving the issues in controversy.

- E. All appeals received by the State Court Administrator and the corresponding responses to the appeals shall be maintained by the Administrative Office of the Courts for three (3) years.

X. SERVICE ANIMALS

- A. Reasonable Modifications shall be made to the court's policies, practices, and procedures to permit the use of Service Animals by Individuals with Disabilities. Service Animals are permitted to accompany Individuals with Disabilities in all areas of the Facility where the public is normally permitted. Service Animals must be under the control of their handlers at all times. Service Animals must be harnessed, leashed, or tethered, unless these devices interfere with the Service Animal's work or the handler's Disability prevents using these devices. In that case, the handler must maintain control of the animal through voice, signal, or other effective controls. Service Animals must be housebroken.
- B. Individuals with Service Animals may be asked if the animal is a Service Animal and inquire into the service the animal provides and into the training the animal has received. However, an individual shall not be required to show identification or certification of the Service Animal's status or of the individual's Disability.
- C. Animals whose sole function is to provide comfort or emotional support do not qualify as Service Animals. The use of an emotional support animal will be reviewed on a case-by-case basis and at the discretion of the presiding judge.

XI. PUBLIC NOTICE

- A. A public notice in the same form as Appendix C, which is attached to this Policy, shall be posted in visible places at each Facility where Court Proceedings, programs, services, or activities are held. The public notice shall be posted, at a minimum, in the following locations: the Supreme Court Clerk's office, the Chancery Court Clerk's office, each District Court, and each Circuit Court Clerk's office. The public notice shall identify the Statewide ADA Coordinator, the Chief Legal Officer, and the State Court Administrator. Such public notice shall also provide a website address where a copy of this Policy, implementation guidance, and forms may be obtained electronically.
- B. If the courthouse Facility within which Court Proceedings, programs, services, or activities are provided are inaccessible, a public notice shall be posted on the outside of the building or at another such location at or near the building that is readily accessible.

XII. RESERVATION OF RIGHTS

- A. The Wyoming Judicial Branch reserves the right to interpret, change, or rescind this Policy in whole or in part, at any time without prior notice.

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- B.** The Wyoming Judicial Branch expressly reserves sovereign immunity and specifically retains all immunities and defenses available to it as a sovereign.

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Appendix A

WYOMING JUDICIAL BRANCH

ADA Modification Request Form

Please fill out this form to request a modification under the Americans with Disabilities Act (ADA). Submit your completed form with as much advance notice as possible, but in any event the request should be made no less than five (5) business days before the date for which the modification is sought. You may submit a paper copy or email this form. All requests for modifications will be given due consideration and if necessary, may require an interactive process between the requester and the Statewide ADA Coordinator to determine the best course of action.

Enter the first Date the modification is needed: _____

Enter the final date the modification is needed: _____

Court location where the modification is needed (required): _____

Case name or court case number (if known): _____

The information below is required unless otherwise stated.

Name of person requesting accommodation, (first, middle and last names): _____

Address: _____

City: _____ State: _____ ZIP code: _____

Phone number: _____ Cell number (if any): _____

Email address: _____

The person requesting accommodation(s) is a: ☐ Plaintiff ☐ Defendant ☐ Juror ☐ Witness

☐ Other: _____ in this case.

What specific accommodation(s) are you requesting?

Please provide any additional information that might be useful in reviewing your accommodation request.

This form is being completed by: ☐ the person requesting the accommodation(s).
☐ someone other than the person requesting accommodation(s).

Name: _____

Address: _____

City/State/Zip: _____

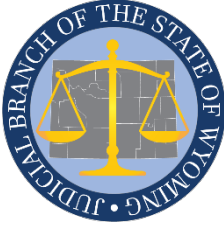
Phone number: _____

Email address: _____

Please provide your relationship to the person requesting the accommodation: _____

Note: If you DO NOT have an EMAIL ADDRESS you can print a copy of this ADA request form.
Please copy and send the completed request form to the Statewide ADA Coordinator.

Wyoming Judicial Branch Statewide ADA Coordinator
NAME:
Contact Info:



Appendix B

WYOMING JUDICIAL BRANCH

ADA Appeal from a Request for Modification

State Court Administrator Review requested. (Specify reason and the remedy you want):

DATE: _____

(Signature of Person Requesting Review)

STATE COURT ADMINISTRATOR REVIEW

I have reviewed the original request for modification, the offer of alternate modification OR the denial of modification and the reason for the denial, and the reason that this review has been requested and find as follows:

DATE: _____

STATE COURT ADMINISTRATOR



PUBLIC NOTICE

The Americans with Disabilities Act prohibits discrimination against any qualified individual with a disability. The Wyoming Judicial Branch does not permit discrimination against any individual on the basis of physical or mental disability in accessing its judicial programs. In accordance with the Americans with Disabilities Act, the Wyoming Judicial Branch will provide reasonable accommodations to allow qualified individuals with disabilities to access all of its programs, services and activities.

If you need assistance, have questions or need additional information, please contact your Statewide ADA Coordinator:

Wyoming Judicial Branch Statewide ADA Coordinator

Wyoming Supreme Court
c/o ADA Coordinator
2301 Capitol Ave.
Cheyenne, WY 82002
(307) 777-7678
ada@courts.state.wy.us

If you need assistance, have questions or need additional information, you may also contact the Administrative Office of the Courts, State Court Administrator by mail, telephone, or email as follows:

Elisa Butler, State Court Administrator

2301 Capitol Ave
Cheyenne, WY 82001
(307) 777-7238
ebutler@courts.state.wy.us

The Wyoming Judicial Branch Americans with Disabilities Act Policy Regarding Access to Judicial Programs, and relevant forms may be found online at www.courts.state.wy.us.

APPENDIX D

Sign Language Interpreters

This Appendix governs sign language interpretation in the courts in accordance with the ADA Policy. For spoken language interpretation please refer to the Spoken Language Interpreter Policy.

I. DEFINITIONS

The definitions in the ADA Policy shall apply to this Appendix. In addition, the following terms have the meanings set forth below:

- A. **Auditory Device** – Any device that can be used to create a sound that can be heard by Hard-of-Hearing Persons, such as a hearing aid or FM system.
- B. **Deaf Person** – A person who has hearing loss so severe there is little or no functional hearing.
- C. **Hard-of-Hearing Person** – A person who has hearing loss but has enough residual hearing that an Auditory Device enables the person to process speech.
- D. **Mute Person** – A person who is unable to speak.
- E. **Professionally Certified Sign Language Interpreter** – A Sign Language Interpreter who has achieved the Professionally Certified designation on the Roster by completing the steps set forth in Section II(B).
- F. **Qualified Sign Language Interpreter** – A Sign Language Interpreter who is not Professionally Certified or Registered, as defined herein, but has been qualified by the local judge.
- G. **Real Time Captioning** – A method in which captions are simultaneously prepared and transmitted at the time of origination by a software application or a court reporter using a software application.
- H. **Registered Sign Language Interpreter** – A Sign Language Interpreter who has not achieved certification but has met minimum professional competency standards as outlined in Section II(C) of this Appendix.
- I. **Sign Language Interpreter** – An independent contractor as defined by IRS Revenue ruling 87-41 who is authorized to provide sign language interpreter services for the Wyoming Judicial Branch as set forth in this Appendix. A Sign Language Interpreter may be Professionally Certified, Registered, or Qualified as defined herein.
- J. **Wyoming Interpreter Roster (Roster)** – A list of language interpreters as described in Section II of this Appendix.

II. WYOMING INTERPRETER ROSTER

- A. There shall be a Wyoming Interpreter Roster (Roster) maintained by the Wyoming Administrative Office of the Courts (AOC) and posted on the Wyoming Judicial Branch website. Professionally Certified Sign Language Interpreters and Registered

Sign Language Interpreters shall be included on the Roster. Qualified Sign Language Interpreters shall not be included on the Roster.

- B.** To receive the designation of a Professionally Certified Sign Language Interpreter in the State of Wyoming, the Sign Language Interpreter shall:
 - 1. Attend the two (2) day Wyoming interpreter orientation with a minimum of eighty percent (80%) attendance of the entire orientation, and one hundred percent (100%) attendance of the Wyoming specific component;
 - 2. Complete and return the *Wyoming Interpreter Service Provider Interest Form*, which is attached hereto as Attachment A, and can be found on the Wyoming Judicial Branch website;
 - 3. Pass the Wyoming interpreter written exam with a score of eighty percent (80%) or higher. A score lower than eighty percent (80%) requires the Sign Language Interpreter to complete the two (2) day Wyoming interpreter orientation again;
 - 4. Provide evidence of holding at least one of the following sign language interpreter credentials from the Registry of Interpreters for the Deaf (RID): SC:L, NIC, NIC-A, NIC-M, CI, CT, NAD V, and /or CDI or a similar credential deemed appropriate by the Statewide ADA Coordinator; and
 - 5. Take the *Wyoming Sign Language Interpreter Oath*, which is attached to this Appendix as Attachment B, and can be found on the Wyoming Judicial Branch website.
- C.** To receive the designation of a Registered Interpreter in the State of Wyoming, the Language Interpreter shall:
 - 1. Attend the two (2) day Wyoming interpreter orientation with a minimum of eighty percent (80%) attendance of the entire orientation, and one hundred percent (100%) attendance of the Wyoming specific component;
 - 2. Complete and return the *Wyoming Interpreter Service Provider Interest Form*, which is attached hereto as Attachment A;
 - 3. Pass the Wyoming interpreter written exam with a score of eighty percent (80%) or higher. A score lower than eighty percent (80%) requires the Sign Language Interpreter to complete the two (2) day Wyoming interpreter orientation again;
 - 4. Provide evidence of holding at least one of the following sign language interpreter credentials from RID: NAD III, NAD IV, or a similar credential deemed appropriate by the Statewide ADA Coordinator; and
 - 5. Take the *Wyoming Sign Language Interpreter Oath* (Attachment B).

III. APPOINTMENT OF SIGN LANGUAGE INTERPRETERS

- A.** The court shall appoint, and pay for, a Sign Language Interpreter when a Request for Modification is submitted, and it is determined by the court or the Statewide ADA Coordinator that a Sign Language Interpreter is the appropriate modification for the Applicant in accordance with the ADA Policy.
- B.** If the court or the Statewide ADA Coordinator determines, in consultation with the Deaf, Mute, or Hard-of Hearing Person, that an alternate form of communication will

effectively translate Court Proceedings, the court may utilize an alternate modification such as an Auditory Device or Real-Time Captioning to communicate the Court Proceedings to a Deaf, Mute, or Hard-of Hearing Person.

IV. QUALIFICATIONS OF SIGN LANGUAGE INTERPRETERS

- A. All Sign Language Interpreters provided by the courts shall sign an oath to abide by the *Interpreter's Code of Ethics*, which is attached to this Appendix as Attachment C, and can be found on the Wyoming Judicial Branch website.
- B. To ensure that Court Proceedings are interpreted as accurately as possible, courts are strongly encouraged to appoint a Sign Language Interpreter according to the following preference list: (1) Professionally Certified Sign Language Interpreters; (2) Registered Sign Language Interpreters; and (3) Qualified Sign Language Interpreters.
- C. When a Sign Language Interpreter is not listed on the Roster, the court shall conduct a *voir dire* inquiry of the Sign Language Interpreter to determine the Sign Language Interpreter's credentials prior to utilizing the services of the Sign Language Interpreter in a Court Proceeding. The *voir dire* inquiry applies to family members and friends of parties involved in the case used as Sign Language Interpreters. The court shall make the following findings in open court on the record:
 - 1. A summary of the unsuccessful efforts made to obtain a Professionally Certified Sign Language Interpreter or Registered Sign Language Interpreter; and
 - 2. A finding that the proposed Sign Language Interpreter appears to have adequate language skills, knowledge of sign language interpreting techniques, and familiarity with interpreting in a court setting; and
 - 3. A finding that the proposed Sign Language Interpreter has read, understands, and will abide by the *Interpreter's Code of Ethics* (Attachment C).

V. COURT RESPONSIBILITIES WHEN APPOINTING SIGN LANGUAGE INTERPRETERS

- A. Absent exigent circumstances, the court should arrange, provide, and pay for two (2) or more Sign Language Interpreters during Court Proceedings scheduled to last more than one (1) hour to prevent interpreter fatigue and the concomitant loss of accuracy in interpretation.
- B. When two (2) Sign Language Interpreters are used, one Sign Language Interpreter will act as the proceedings interpreter and the other a support interpreter. The proceedings interpreter provides language interpretation services for all Deaf, Mute, or Hard-of Hearing Persons, while the support interpreter is available to assist with research, vocabulary, equipment, or other issues. The proceedings interpreter and the support interpreter should, when possible, alternate roles every thirty (30) minutes.
- C. If two (2) Sign Language Interpreters are not reasonably available as set forth in Section V(A), the Sign Language Interpreter should be given no less than a ten (10) minute break for every fifty (50) minutes of interpreting, when possible.

VI. UTILIZATION OF SIGN LANGUAGE INTERPRETERS

- A. The following guidelines and limitations apply to the utilization of Sign Language Interpreters:
 - 1. Sign Language Interpreters are bound by an oath of confidentiality and impartiality, and serve as officers of the court; therefore, the use of one Sign Language Interpreter by more than one individual in a case is permitted.
 - 2. The court is not obligated to appoint a different Sign Language Interpreter when a Sign Language Interpreter has previously provided interpretation services during a Court Proceeding for another individual in the same case or in a different case.
 - 3. Any individual may provide and arrange for interpretation services to facilitate attorney-client communication if interpretation services exceeding those provided by the court are desired.

VII. USE OF COURT PERSONNEL AS SIGN LANGUAGE INTERPRETERS

- A. A court employee may not interpret Court Proceedings except as follows:
 - 1. Prior to using a court employee as a Sign Language Interpreter, the court shall make findings in open court on the record summarizing the unsuccessful efforts made to obtain a Sign Language Interpreter who is not a court employee; and
 - 2. The court employee will not be paid wages or benefits in addition to the employee's regular compensation as a court employee. The court employee will not receive any interpreter service fees established in this Appendix or its Attachments.

VIII. INVESTIGATION OF COMPLAINTS AND IMPOSITION OF SANCTIONS

- A. An interpreter should be one whose record of conduct justifies the trust of the courts, witnesses, jurors, attorneys, parties, and the public.
- B. Sign Language Interpreters are not entitled to interpret on behalf of the courts or in Court Proceedings. Instead, the provision of interpretation services by Sign Language Interpreters rests within the discretion of each Judicial Officer and the Statewide ADA Coordinator.
- C. Professionally Certified Sign Language Interpreters and Registered Sign Language Interpreters are not entitled to have their names included on the Roster. The Roster is maintained at the discretion of the Wyoming Judicial Branch.
- D. The AOC shall investigate complaints and impose sanctions against Sign Language Interpreters to protect the integrity of Court Proceedings and the safety of the public.
- E. Sanctions may be imposed upon a Sign Language Interpreter when:
 - 1. The Sign Language Interpreter is unable to adequately interpret the Court Proceedings;
 - 2. The Sign Language Interpreter knowingly makes a false interpretation;

3. The Sign Language Interpreter knowingly discloses confidential or privileged information obtained while serving as a Sign Language Interpreter;
4. The Sign Language Interpreter knowingly fails to disclose a conflict of interest;
5. The Sign Language Interpreter fails to appear as scheduled without good cause; or
6. An alternate sanction is deemed appropriate in the interest of justice.

F. Complaints.

1. A complaint against a Sign Language Interpreter must be in writing, signed by the complainant, and delivered via mail or email to the Statewide ADA Coordinator at:

Wyoming Supreme Court
c/o ADA Coordinator
2301 Capitol Ave.
Cheyenne, WY 82002
(307) 777-7679
ada@courts.state.wy.us

2. The complaint shall state the date, time, place, and nature of the alleged improper conduct. The complaint shall include the names, titles, and telephone numbers of possible witnesses. If the complainant is unable to communicate in written English, the complainant may submit the complaint in his/her primary language.
3. The Statewide ADA Coordinator may take immediate action, upon receipt and review of the complaint, if deemed necessary to protect the integrity of the courts, including immediately removing the Professionally Certified Sign Language Interpreter or Registered Sign Language Interpreter from the Roster for the pendency of the investigation. In any case where the Statewide ADA Coordinator deems it necessary to remove the Professionally Certified Sign Language Interpreter or Registered Sign Language Interpreter from the Roster, notice shall be sent by certified mail to the Sign Language Interpreter.

G. Investigation and Report.

1. Upon receipt by the Statewide ADA Coordinator of a written complaint against a Sign Language Interpreter, or upon its own initiative based on suspicion of misconduct, the Statewide ADA Coordinator shall investigate the alleged improper conduct of the Sign Language Interpreter.
2. The Statewide ADA Coordinator shall seek and receive such information and documentation as is necessary for the investigation.
3. The rules of evidence do not apply, and the Sign Language Interpreter is not entitled to representation by counsel.
4. The Statewide ADA Coordinator shall provide a written report of the investigation results, along with a recommendation on any action to be taken, to the State Court Administrator within sixty (60) days of the complaint or start of the investigation.
5. The report and recommendation shall be provided to the Sign Language Interpreter by certified mail at the same time it is provided to the State Court

Administrator. The Sign Language Interpreter shall have fifteen (15) days from receipt to respond to the report and recommendation of the Statewide ADA Coordinator.

H. Findings and Possible Sanctions.

1. Upon receipt of the report and recommendations of the Statewide ADA Coordinator and the Sign Language Interpreter's response, if any, the State Court Administrator may take any of the following actions to protect the integrity of the courts and the safety of the public:
 - a) Dismiss the complaint;
 - b) Issue a written reprimand against the Sign Language Interpreter;
 - c) Specify corrective action with which the Sign Language Interpreter must fully comply in order to remain on the Roster, including, but not limited to, the completion of educational courses and/or retaking one or more parts of the of the Wyoming interpreter orientation or written exam;
 - d) Suspend the Sign Language Interpreter from the Roster for a specified period of time, or until corrective action is completed; or
 - e) Remove the Sign Language Interpreter from the Roster indefinitely.
2. Written notice of any action taken by the State Court Administrator will be sent via certified mail to the Sign Language Interpreter and the complainant. Written notice will also be provided to Judicial Officers and court staff if sanctions are imposed against the Sign Language Interpreter.

IX. REMOTE INTERPRETING

- A.** Remote interpretation may be utilized to facilitate access to the courts by Deaf, Mute, and Hard-of-Hearing Persons as may be determined by the court.

X. PAYMENT

Guidance for payment of Sign Language Interpreters is contained in Attachment D of this Appendix. Attachment D may be amended from time to time as necessary. Amendments to Attachment D may be made without requiring the reissuance of this Appendix or the ADA Policy.



Attachment A

WYOMING JUDICIAL BRANCH COURT SIGN LANGUAGE INTERPRETER INTEREST FORM

SECTION 1: PERSONAL INFORMATION

Last Name	First Name	M.I.	Date
Home Phone Number	Cell Phone Number	Other Phone Number	
Personal E-mail Address			
List locations you are available to provide interpreter services		or <input type="checkbox"/>	Check for Statewide

SECTION 2: INTERPRETING EXPERIENCE

Native Language	Languages for which you interpret
List any courts where you are currently providing sign language interpreting services	

SECTION 3: ACKNOWLEDGEMENT

I hereby certify that the information in this document is accurate. I understand that any false statements, omissions, or misrepresentations that I indicate on this form may be grounds for immediate suspension of interpreting services within the Wyoming Court System as well as removal from the roster of registered court interpreters in Wyoming.

Signature of Sign Language Interpreter	Date
Printed Name	

ATTACHMENT B

Wyoming Sign Language Interpreter Oath

STATE OF WYOMING) IN THE CIRCUIT/DISTRICT COURT
) ss
COUNTY OF _____) _____ JUDICIAL DISTRICT

Wyoming Sign Language Interpreter Oath

I, _____, do solemnly swear or affirm under penalty of law that I will interpret accurately, completely and impartially, using my best skill and judgment from the English language into Sign Language, and from the Sign Language into the English language, all statements made, oaths administered, and all questions and answers, in accordance with the standards prescribed by law, the Interpreter's Code of Ethics, and any guidelines for court interpreting set by this Court or the Wyoming Judicial Branch.

Printed Name

Signature

Subscribed and affirmed before me this

_____ day of _____, 20____.

Name and title of person administering oath

ATTACHMENT C

Sign Language Interpreter's Code of Ethics

Canon 1: Accuracy and Completeness

Sign Language Interpreters shall render a complete and accurate interpretation or sight translation, without altering, omitting, or adding anything to what is stated or written, and without explanation.

Canon 2: Representation of Qualifications

Sign Language Interpreters shall accurately and completely represent their certifications, training, and pertinent experience.

Canon 3: Impartiality and Avoidance of Conflict of Interest

Sign Language Interpreters shall be impartial, unbiased and shall refrain from conduct that may give an appearance of bias. Sign Language Interpreters shall disclose any real or perceived conflict of interest.

Canon 4: Professional Demeanor

Sign Language Interpreters shall conduct themselves in a manner consistent with the dignity of the court and shall be as unobtrusive as possible.

Canon 5: Confidentiality

Sign Language Interpreters shall keep confidential all matters interpreted and all conversations overheard between counsel and client. Interpreters should not discuss a case pending before the court.

Canon 6: Restriction of Public Comment

Sign Language Interpreters shall not publicly discuss, report, or offer an opinion concerning a matter in which they are or have been engaged, even when that information is not privileged or required by law to be confidential.

Canon 7: Scope of Practice

Sign Language Interpreters shall limit themselves to interpreting and translating, and shall not give legal advice, express personal opinions to individuals for whom they are interpreting, or engage in any other activities which may be construed to constitute a service other than interpreting or translating while serving as an interpreter.

Canon 8: Assessing and Reporting Impediments to Performance

Sign Language Interpreters shall assess their ability to deliver services for which they are contracted at all times. When Sign Language Interpreters have any reservation about their ability to satisfy an assignment competently, they shall immediately convey that reservation to the appropriate Judicial Officer.

Canon 9: Duty to Report Ethical Violations

Sign Language Interpreters shall report to the proper authority any effort to impede their compliance with any law, any provision of this Code, or any other official policy governing court interpreting and legal translating.

Canon 10: Professional Development

Sign Language Interpreters shall continually improve their skills and knowledge and advance the profession through activities such as professional training and education and interaction with colleagues and specialist in related fields.

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ATTACHMENT D

I. PAYMENT OF SIGN LANGUAGE INTERPRETERS AND OTHER RELATED SERVICES

A. Compensation Rate for Sign Language Interpreters. Sign Language Interpreters should be compensated at the following rate, where possible:

1. Professionally Certified: \$55/hr.
2. Registered: \$40/hr.
3. Qualified: \$25/hr.

The Sign Language Interpreter's certification status and availability in the judicial district and the state may require a higher compensation rate.

B. Minimum Time Compensation. Unless otherwise agreed to, Sign Language Interpreters shall be paid a thirty (30) minute minimum. Sign Language Interpreters shall be paid by the hour in thirty (30) minute increments. Time shall be determined by using the next highest thirty (30) minute increment (i.e., 2 hours 4 minutes equals 2 hours 30 minutes). This time shall include any pre-assignment prep time (i.e., remote interpretation) in which the court has requested of the Sign Language Interpreter.

C. Payment for Travel Time. At the discretion of the court, a Sign Language Interpreter may be paid the State of Wyoming's allowable mileage reimbursement rates or half the hourly Sign Language Interpreter rate for travel time. In extraordinary circumstances, the Sign Language Interpreter may be paid the full hourly Sign Language Interpreter rate for travel when round-trip travel exceeds one hundred fifty (150) miles.

D. Overnight Travel. In the case of trials or hearings exceeding one (1) day duration, Sign Language Interpreters may be compensated for food and lodging at the state rate when round-trip travel of one hundred twenty (120) miles or greater is required to secure the best qualified Sign Language Interpreter. To receive reimbursement for food or lodging expenses, the Sign Language Interpreter must receive written authorization from the court for the expenses. Reimbursement of allowed food and lodging expenses will be made only if itemized receipts are provided and expenses are within the allowable ranges as defined by the State of Wyoming fiscal procedures.

E. Cancellation Policy. A Sign Language Interpreter whose assignment is cancelled within seventy-two (72) hours of the assigned start time shall be paid for the scheduled time up to a maximum of sixteen (16) hours as determined by the presiding judge in the cancelled matter. If the assignment is cancelled with more than seventy-two (72) hours' notice, the scheduling court shall not pay a cancellation fee.

Appendix M

Memorandum

To: Judicial Council
From: Victor Payne, Staff Attorney
Date: February 27, 2023
Re: ADA Public Access Policy

This memo addresses substantive comments on the proposed ADA Public Access Policy. These comments can be distilled down to one question: Must courts reschedule or delay proceedings when a reasonable modification cannot be made due to an untimely request for modification? Take, for example, the extreme—but not unthinkable—scenario of a participant or observer who requests a sign language interpreter at the start of a previously scheduled hearing for which appropriate notice is not provided. Must the court postpone if no immediate modification can be made?

The answer depends on the individual's status in the proceeding. If the individual is a participant (party, witness, etc.) the answer is yes, however if the individual is a non-participant (public, media, family member, etc.) the answer is no.

The proposed policy requires postponement for participants for two reasons. First, failure to postpone a proceeding violates the ADA as enforced by the DOJ. Second, failure to postpone a proceeding runs afoul of basic constitutional protections.

Lessons from USDOJ's ADA enforcement

Title II of the ADA¹ prohibits excluding an individual with a disability from services, programs, or activities of a public entity, thus requiring those with disabilities to be afforded equal opportunity.² USDOJ enforcement confirms a court violates the ADA when it fails to postpone proceedings to allow reasonable modifications for a participant.³ Four settlement agreements are illustrative.

- **Virginia Circuit Court.** On the day of an initial hearing, a Virginia court learned a defendant was deaf and would need a sign language interpreter or auxiliary services.⁴ The court did not provide an interpreter or auxiliary services.⁵ The USDOJ investigated and reached a settlement requiring Virginia to appoint an ADA coordinator, provide interpreters, and pay the defendant \$55,000.⁶
- **Mississippi Municipal Court.** A municipal court entered into a settlement to resolve a complaint that the court refused to secure a qualified sign language interpreter on two separate

¹ For a detailed analysis of Title II requirements please see Memo from Victor Payne to BJPA re Proposed ADA Public Access Policy (Sept. 9, 2022).

² 42 U.S.C. § 12101.

³ For a detailed analysis of the Department of Justice's enforcement powers please see Memo from Victor Payne to BJPA re Proposed ADA Public Access Policy (Sept. 9, 2022).

⁴ Stlmt. Agmt.,

USDOJ and Entities of the Commonwealth of Virginia. (March 1, 2019), available at https://www.ada.gov/entities_commonwealth_va_sa.html (last visited Aug. 23, 2022).

⁵ *Id.*

⁶ *Id.*

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occasions.⁷ Taking the position modifications must be made even if a request is untimely, the USDOJ obtained a settlement provision requiring the court to provide interpreter services on one hour's notice.⁸

- **Tennessee Small Claims.** A small claims court did not provide a deaf defendant with a sign language interpreter and did not provide a real-time transcription service until the defendant's third appearance before the court in the case.⁹ The court agreed to a settlement requiring it to continue proceedings until it obtained qualified interpreters.¹⁰ The USDOJ has inserted similar settlement provisions in criminal matters, reinforcing USDOJ's position that proceedings must be continued until effective communication is achieved for a participant regardless of the nature of the case.¹¹
- **Utah Court System.** A parent, who was deaf, attended court proceedings involving her adult son.¹² As an observer, she received neither sign language interpreter services nor auxiliary aids.¹³ To resolve the matter, Utah's court system was required to provide public notice of compliance in a newspaper.¹⁴ Utah also agreed to amend its policies providing that if an observer fails to provide reasonable notice for modifications, the court may, but need not, continue the proceedings to accommodate the request.¹⁵ This settlement reinforces USDOJ position that a distinction exists between a participant and a non-participant as it relates to postponing proceedings.

Three key points emerging from these settlements:

- Lack of notice does not excuse courts from providing ADA required services, including sign language interpreters;
- If an individual is a participant to a proceeding and a reasonable modification cannot be achieved, then the proceeding must be postponed; and

⁷Stlmt. Agmt., USUSDOJ and Gulfport Municipal Court. (n.d.), available at <https://www.justice.gov/crt/settlement-agreement-between-united-states-america-and-gulfport-municipal-court-gulfport> (last visited Aug. 23, 2022).

⁸ *Id.*

⁹ Stlmt. Agmt., USUSDOJ and Shelby Co., TN Court of General Sessions. (n.d.), available at <https://www.justice.gov/crt/settlement-agreement-between-united-states-america-and-shelby-county-tennessee-court-general> (last visited Aug. 23, 2022).

¹⁰ *Id.*

¹¹ Stlmt. Agmt., USUSDOJ and The Judiciary of the Sixth Judicial Circuit of Florida. (Nov. 1, 1993), available at <https://www.justice.gov/crt/foia/file/668391/download> (last visited Aug. 23, 2022).

¹² Stlmt. Agmt., USUSDOJ and The Utah Administrative Office of the Courts. (Jan. 11, 1995), available at https://www.justice.gov/crt/foia/readingroom/frequent_requests/ada_settlements/ut/ut3.txt (last visited Aug. 23, 2022).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

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- If an individual is a non-participant to a proceeding and a reasonable modification cannot be achieved, then the proceeding need not be postponed.

Due process protections recognized by the U.S. Supreme Court

Not only does failure to postpone a proceeding violate the ADA in some cases, but it also violates basic constitutional due process rights. The United States Supreme Court has acknowledged the ADA protects core constitutional rights, such as rights to access courts, be present in criminal proceedings as a defendant, and be heard in civil cases.¹⁶ In *Tennessee v. Lane*¹⁷ the Court explained:

These rights include some, like the **right of access** to the courts at issue in this case, that are protected by the Due Process Clause of the Fourteenth Amendment. The Due Process Clause and the Confrontation Clause of the Sixth Amendment, as applied to the States via the Fourteenth Amendment, both guarantee to a criminal defendant such as respondent Lane the “**right to be present** at all stages of the trial where his absence might frustrate the fairness of the proceedings.” The Due Process Clause also requires the States to afford certain civil litigants a “**meaningful opportunity to be heard**” by removing obstacles to their full participation in judicial proceedings. We have held that the Sixth Amendment guarantees to criminal defendants the right to trial by a jury composed of a fair cross section of the community, noting that the exclusion of “identifiable segments playing major roles in the community cannot be squared with the constitutional concept of jury trial.” And, finally, we have recognized that members of the public have a right of access to criminal proceedings secured by the First Amendment.¹⁸

When the branch fails to postpone proceedings to provide modifications it deprives participants of their constitutional rights to access courts, be present in criminal proceedings, and to be heard in civil proceedings.

Conclusion

The proposed policy safeguards these constitutional rights and reflects the USDOJ’s line drawing between participants and non-participants. Under the current draft policy, if a participant makes an untimely request, the proceeding must be postponed until reasonable modifications can be achieved. But if an observer makes an untimely request, the court can but need not postpone the proceedings. These provisions should remain for the reasons stated above.

¹⁶ *Tennessee v. Lane*, 541 U.S. 509, 532 (2004).

¹⁷ *Tennessee v. Lane* was an ADA case to determine if the ADA violated the sovereign immunity doctrine of the 11th Amendment, based on Congress’s 14th Amendment enforcement powers of the Due Process clause.

¹⁸ *Tennessee v. Lane*, 541 U.S. 509, 523 (2004) (internal citations omitted) (emphasis added).

WYOMING JUDICIAL BRANCH

Spoken Language Interpreter Policy

This Policy governs spoken language ~~interpreters interpretation in~~ by the courts and offers guidelines for access to the courts by persons with Limited English Proficiency. For sign language interpretation please refer to the Sign Language Interpreter Policy.

I. DEFINITIONS

- A. **Court Proceeding** – Any hearing, trial, or other appearance before the circuit court, district court, chancery court, and the Wyoming Supreme Court in an action, appeal, or other proceeding conducted by a Judicial Officer.
- B. **Court Interpreter Program Manager** – An employee of the Wyoming Administrative Office of the Courts (AOC) responsible for administering the Wyoming Interpreter Program.
- C. **Judicial Officer** – A justice, judge, commissioner, or magistrate authorized to preside over a Court Proceeding.
- D. **Language Interpreter** – ~~A Language Interpreter who is an independent contractor pursuant to contract or is an independent contractor as defined by IRS Revenue ruling 87-41 who is authorized to provide language interpreter services for the Wyoming Judicial Branch as set forth in this Policy.~~ A Language Interpreter may be Professionally Certified, Registered, or Qualified as defined ~~below~~herein.
- E. **Limited English Proficient (LEP) Person** – An individual who does not speak English as their primary language and who has limited ability to speak or understand the spoken English Language.
- F. **Professionally Certified Interpreter** – A Language Interpreter who has achieved the Professionally Certified designation on the Roster by completing the steps set forth in Section II(B).~~certification by a recognized interpreter certification program and who is on a roster of interpreters, if any, maintained by another jurisdiction. Professionally Certified Interpreters are listed on Wyoming's Interpreter Roster, maintained by the Wyoming Supreme Court and posted on the Wyoming Judicial Branch website. Professionally Certified Interpreters must attend Wyoming's interpreter orientation program.~~
- G. **Qualified Interpreter** – A Language Interpreter who is not Professionally Certified or Registered, as defined herein, but has been qualified by the local court. ~~Qualified Interpreters are not listed on the Interpreter Roster maintained by the Wyoming Supreme Court.~~
- H. **Registered Interpreter** – A Language Interpreter who has not achieved certification but has met minimum professional competency standards as outlined ~~herein~~in Section II(B).
- I. **Wyoming Interpreter Roster (Roster)** – A list of Language Interpreters as described in Section II of this Policy.

II. WYOMING INTERPRETER ROSTER

- A. There shall be a Wyoming Interpreter Roster (Roster) maintained by the Wyoming Administrative Office of the Courts (AOC) and posted on the Wyoming Judicial Branch website. Professionally Certified Interpreters and Registered Interpreters shall be included on the Roster. Qualified Interpreters shall not be included on the Roster.
- B. To receive the designation of a Professionally Certified Interpreter in the State of Wyoming, the Language Interpreter shall:
 - 1. Attend the two (2) day Wyoming interpreter orientation with a minimum of eighty percent (80%) attendance of the entire orientation, and one hundred percent (100%) attendance of the Wyoming specific component;
 - 2. Complete and return the *Wyoming Interpreter Service Provider Interest Form*, which is attached hereto as Appendix A, and can be found on the Wyoming Judicial Branch website;
 - 3. Pass the Wyoming interpreter written exam with a score of eighty percent (80%) or higher. A score lower than eighty percent (80%) requires the Language Interpreter to complete the two (2) day Wyoming interpreter orientation again;
 - 4. Provide evidence of certification in a recognized interpreter certification program, and provide evidence that the Language Interpreter is on a roster of interpreters maintained by another jurisdiction, or provide similar credentialing which the Court Interpreter Program Manager deems appropriate for interpreting in the Wyoming courts; and
 - 5. Take the *Wyoming Interpreter Oath*, which is attached to this Policy as Appendix B, and can be found on the Wyoming Judicial Branch website.
- C. To receive the designation of a Registered Interpreter in the State of Wyoming, the Language Interpreter shall:
 - 1. Attend the two (2) day Wyoming interpreter orientation with a minimum of eighty percent (80%) attendance of the entire orientation, and one hundred percent (100%) attendance of the Wyoming specific component;
 - 2. Complete and return the *Wyoming Interpreter Service Provider Interest Form*, which is attached to this Policy as Appendix A;
 - 3. Pass the Wyoming interpreter written exam with a score of eighty percent (80%) or higher. A score lower than eighty percent (80%) requires the Language Interpreter to complete the two (2) day Wyoming interpreter orientation again;
 - 4. Pass the Oral Proficiency Interview (OPI) with a score of Advanced-Mid or better. If a score of Advanced-Mid or better is not attained, the Language Interpreter may retake the OPI after a ninety (90) day waiting period. A score of Advanced-Mid or higher must be attained within one (1) year of attending the Wyoming interpreter orientation; and
 - 5. Take the *Wyoming Interpreter Oath*, which is attached to this Policy as Appendix B.

III. APPOINTMENT OF LANGUAGE INTERPRETERS

- A. The court shall appoint and pay for language interpretation in Court Proceedings relating

to the following case types, subject to Section III(C):

1. Felony and Misdemeanor;
 2. Forcible Entry or Detainer;
 3. Juvenile Delinquency and CHINS;
 4. Protection Orders;
 5. Abuse and Neglect;
 6. Paternity and Support when covered under Title IV-D of the Social Security Act;
 7. Relinquishment and Termination of Parental Rights;
 8. Mental Health- Title 25.
- B.** The court may, in its discretion, appoint and pay for an interpreter for any LEP party to any Court Proceeding.
- C.** For those cases listed in Sections III(A) and III(B), the court may pay for language interpretation services in the following circumstances:
1. During Court Proceedings when an individual related to a case, a victim, witness, parent, legal guardian, or minor charged as a juvenile is an LEP Person, as determined by the court.
 2. To facilitate communication outside of the Judicial Officer's presence to allow a Court Proceeding to continue as scheduled, including pretrial conferences between defendants and prosecuting attorneys to relay a plea offer immediately prior to a court appearance.
 3. During contempt proceedings when loss of liberty is a possible consequence.
 4. During mental health evaluations performed for the purpose of aiding the court in determining competency.
- D.** The court shall not arrange, provide, or pay for language interpretation to facilitate communication with attorneys, prosecutors, or other parties related to a case involving LEP Persons for the purpose of gathering background information, investigation, trial preparation, client representation, or any other purpose that falls outside of the Court Proceedings, except as delineated in Section III(C). Prosecutors and attorneys are expected to provide and pay for language interpretation that they deem necessary for case preparation and general communication with parties outside of Court Proceedings.
- E.** For cases other than those listed in Sections III(A) through III(C) above, the parties may provide and arrange for their own interpretation services. Failure by the parties to provide and arrange for language interpretation services will not require a continuance of hearings.

IV. QUALIFICATIONS OF LANGUAGE INTERPRETERS

- A.** All Language Interpreters provided by the courts shall sign an oath to abide by the *Interpreter's Code of Ethics*, which is attached to this Policy as Appendix C, and can be found on the Wyoming Judicial Branch website.

- B. To ensure that Court Proceedings are interpreted as accurately as possible, courts are strongly encouraged to appoint a Language Interpreter according to the following preference list: (1) Professionally Certified Interpreters; (2) Registered Interpreters; and (3) Qualified Interpreters.
- C. When a Language Interpreter is not listed on the Roster, the court shall conduct a *voir dire* inquiry of the Language Interpreter to determine the Language Interpreter's credentials prior to utilizing the services of the Language Interpreter in a Court Proceeding. The *voir dire* inquiry applies to family members and friends of parties involved in the case used as Language Interpreters. The court shall make the following findings in open court on the record:
 - 1. A summary of the unsuccessful efforts made to obtain a Professionally Certified Interpreter or Registered Interpreter; and
 - 2. A finding that the proposed Language Interpreter appears to have adequate language skills, knowledge of interpreting techniques, and familiarity with interpreting in a court setting; and
 - 3. A finding that the proposed Language Interpreter has read, understands, and will abide by the *Interpreter's Code of Ethics*, attached as Appendix C to this Policy.

V. COURT RESPONSIBILITIES WHEN APPOINTING LANGUAGE INTERPRETERS

- A. Absent exigent circumstances, the court should arrange, provide, and pay for two (2) or more Language Interpreters during the following proceedings to prevent interpreter fatigue and the concomitant loss of accuracy in interpretation:
 - 1. Court Proceedings scheduled to last three (3) hours or more; or
 - 2. Court Proceedings in which multiple languages other than English are involved.
- B. When two (2) Language Interpreters are used, one Language Interpreter will act as the proceedings interpreter and the other a support interpreter. The proceedings interpreter provides language interpretation services for all LEP Persons, while the support interpreter is available to assist with research, vocabulary, equipment, or other issues. The proceedings interpreter and the support interpreter should, when possible, alternate roles every thirty (30) minutes.
- C. If two (2) Language Interpreters are not reasonably available as set forth in Section V(A), the Language Interpreter should be given no less than a ten (10) minute break for every fifty (50) minutes of interpreting, when possible.

VI. UTILIZATION OF LANGUAGE INTERPRETERS

- A. The following guidelines and limitations apply to the utilization of Language Interpreters:
 - 1. Language Interpreters are bound by an oath of confidentiality and impartiality, and serve as officers of the court; therefore, the use of one Language Interpreter by more than one individual in a case is permitted.
 - 2. The court is not obligated to appoint a different Language Interpreter when a Language

Interpreter has previously provided interpretation services during a Court Proceeding for another individual in the same case or in a different case.

3. Any individual may provide and arrange for interpretation services to facilitate attorney-client communication if interpretation services exceeding those provided by the court are desired.

VII. USE OF COURT PERSONNEL AS INTERPRETERS

- A. A court employee may not interpret Court Proceedings except as follows:
 1. Prior to using a court employee as a Language Interpreter, the court shall make findings in open court on the record summarizing the unsuccessful efforts made to obtain a Language Interpreter who is not a court employee; and
 2. The court employee will not be paid wages or benefits in addition to the employee's regular compensation as a court employee. The court employee will not receive any interpreter service fees established in this Policy.

VIII. INVESTIGATION OF COMPLAINTS AND IMPOSITION OF SANCTIONS

- A. An interpreter should be one whose record of conduct justifies the trust of the courts, witnesses, jurors, attorneys, parties, and the public.
- B. Language Interpreters are not entitled to interpret on behalf of the courts or in Court Proceedings. Instead, the provision of interpretation services by Language Interpreters rests within the discretion of each Judicial Officer.
- C. Professionally Certified Interpreters and Registered Interpreters are not entitled to have their names included on the Roster. The Roster is maintained at the discretion of the Wyoming AOC.
- D. The AOC shall investigate complaints and impose sanctions against Language Interpreters to protect the integrity of Court Proceedings and the safety of the public.
- E. Sanctions may be imposed upon a Language Interpreter when:
 1. The Language Interpreter is unable to adequately interpret the Court Proceedings;
 2. The Language Interpreter knowingly makes a false interpretation;
 3. The Language Interpreter knowingly discloses confidential or privileged information obtained while serving as a Language Interpreter;
 4. The Language Interpreter knowingly fails to disclose a conflict of interest;
 5. The Language Interpreter fails to appear as scheduled without good cause; or
 6. An alternate sanction is deemed appropriate in the interest of justice.
- F. Complaints.
 1. A complaint against a Language Interpreter must be in writing, signed by the complainant, and delivered via mail or email to the Court Interpreter Program Manager at:

Wyoming Supreme Court
c/o Court Interpreter Program Manager
2301 Capitol Ave.
Cheyenne, WY 82002
interpreters@courts.state.wy.us

2. The complaint shall state the date, time, place, and nature of the alleged improper conduct. The complaint shall include the names, titles, and telephone numbers of possible witnesses. If the complainant is unable to communicate in written English, the complainant may submit the complaint in his/her primary language.
3. The Court Interpreter Program Manager may take immediate action, upon receipt and review of the complaint, if deemed necessary to protect the integrity of the courts, including immediately removing the Professionally Certified Interpreter or Registered Interpreter from the Roster for the pendency of the investigation. In any case where the Court Interpreter Program Manager deems it necessary to remove the Professionally Certified Interpreter or Registered Interpreter from the Roster, notice shall be sent by certified mail to the Language Interpreter.

G. Investigation and Report.

1. Upon receipt by the Court Interpreter Program Manager of a written complaint against a Language Interpreter or upon its own initiative based on suspicion of misconduct, the Court Interpreter Program Manager shall investigate the alleged improper conduct of the Language Interpreter.
2. The Court Interpreter Program Manager shall seek and receive such information and documentation as is necessary for the investigation.
3. The rules of evidence do not apply, and the Language Interpreter is not entitled to representation by counsel.
4. The Court Interpreter Program Manager shall provide a written report of the investigation results, along with a recommendation on any action to be taken, to the State Court Administrator within sixty (60) days of the complaint or start of the investigation.
5. The report and recommendation shall be provided to the Language Interpreter by certified mail at the same time it is provided to the State Court Administrator. The Language Interpreter shall have fifteen (15) days from receipt to respond to the report and recommendation of the Court Interpreter Program Manager.

H. Findings and Possible Sanctions.

1. Upon receipt of the report and recommendations of the Court Interpreter Program Manager and the Language Interpreter's response, if any, the State Court Administrator may take any of the following actions to protect the integrity of the courts and the safety of the public:
 - a) Dismiss the complaint;
 - b) Issue a written reprimand against the Language Interpreter;
 - c) Specify corrective action with which the Language Interpreter must fully comply in

order to remain on the Roster, including, but not limited to, the completion of educational courses and/or retaking one or more parts of the of the Wyoming interpreter orientation, written exam, or oral proficiency interview;

- d) Suspend the Language Interpreter from the Roster for a specified period of time, or until corrective action is completed; or
 - e) Remove the Language Interpreter from the Roster indefinitely.
2. Written notice of any action taken by the State Court Administrator will be sent via certified mail to the Language Interpreter and the complainant. Written notice will also be provided to Judicial Officers and court staff if sanctions are imposed against the Language Interpreter.

IX. REMOTE INTERPRETING

- A. Remote interpretation may be utilized to facilitate access to the courts by LEP ~~P~~persons as may be determined by the court.
- B. Courts, at their discretion, may utilize KUDO, a remote interpretation platform.
- C. The Roster will designate Language Interpreters who have obtained KUDO certification.
- D. To receive KUDO certified designation on the Roster, a ~~Language Interpreter~~ must:
 - 1. Set up a KUDO profile/account;
 - 2. Complete a self-guided course provided by KUDO, The Interpreter Journey;
 - 3. Attend a one (1) hour live KUDO webinar provided by KUDO and provide the ~~Wyoming Administrative Office of the Courts-Court Interpreter Program Manager, or designee,~~ with a certificate of completion; and
 - 4. Attend a thirty (30) minute webinar provided by the ~~Wyoming Administrative Office of the Courts~~AOC.

X. RECORDING OF PROCEEDING

The court may order that the testimony of the person for whom interpretation services are provided, and the interpretation, be recorded for use in verifying the official transcript of the Court Proceeding. If an interpretation error is believed to have occurred based on a review of the recording, a party may file a motion requesting that the court direct that the official transcript be amended and the court may grant further relief as it deems appropriate.

XI. ACCESS TO SERVICES

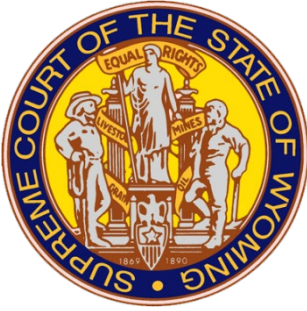
Based on current Policy, court interpreting services are only provided in the cases detailed under Sections III(A) through III(C). This Policy reflects a commitment to consistency and fairness in the provision of interpreting services for LEP Persons statewide, a recognition of the serious nature and possible consequences of Court Proceedings for individuals who come into contact with the courts, and the need to allocate limited financial resources most effectively.

XII. FACILITATING THE USE OF LANGUAGE INTERPRETERS

To facilitate the use of the most qualified Language Interpreter available, the ~~Wyoming Supreme Court~~AOC or its designated agent(s) shall administer the training and testing of Language Interpreters and post the Roster on the Wyoming Judicial Branch.

XIII. PAYMENT

Guidance for payment of Language Interpreters is contained in Appendix D of this Policy. Appendix D may be amended from time to time as necessary. Amendments to Appendix D may be made without requiring the reissuance of this Policy.



**WYOMING JUDICIAL BRANCH
COURT INTERPRETER SERVICE PROVIDER
INTEREST FORM**

SECTION 1: PERSONAL INFORMATION

Last Name	First Name	M.I.	Date
Home Phone Number	Cell Phone Number	Other Phone Number	
Personal E-mail Address			
List locations you are available to provide interpreter services		or <input type="checkbox"/>	Check for Statewide

SECTION 2: INTERPRETING EXPERIENCE

Native Language	Languages for which you interpret
List any courts where you are currently providing interpreting services	

SECTION 3: ACKNOWLEDGEMENT

I hereby certify that the information in this document is accurate. I understand that any false statements, omissions, or misrepresentations that I indicate on this form may be grounds for immediate suspension of interpreting services within the Wyoming Court System as well as removal from the roster of registered court interpreters in Wyoming.

Signature of Interpreter Service Provider	Date
Printed Name	

APPENDIX B

Wyoming Interpreter's Oath

STATE OF WYOMING) IN THE CIRCUIT/DISTRICT COURT
) ss
COUNTY OF _____) _____ JUDICIAL DISTRICT

Interpreter's Oath

I, _____, do solemnly swear or affirm under penalty of law that I will interpret accurately, completely and impartially, using my best skill and judgment from the English language into the _____ language, and from the _____ language into the English language, all statements made, oaths administered, and all questions and answers, in accordance with the standards prescribed by law, the Interpreter's Code of Ethics, and any guidelines for court interpreting set by this Court or the Wyoming Judicial Branch.

Printed Name

Signature

Subscribed and affirmed before me this

_____ day of _____, 20____.

Name and title of person
Administering oath

APPENDIX C

Interpreter's Code of Ethics

Canon 1: Accuracy and Completeness

Language Interpreters shall render a complete and accurate interpretation or sight translation, without altering, omitting, or adding anything to what is stated or written, and without explanation.

Canon 2: Representation of Qualifications

Language Interpreters shall accurately and completely represent their certifications, training, and pertinent experience.

Canon 3: Impartiality and Avoidance of Conflict of Interest

Language Interpreters shall be impartial, unbiased and shall refrain from conduct that may give an appearance of bias. Language Interpreters shall disclose any real or perceived conflict of interest.

Canon 4: Professional Demeanor

Language Interpreters shall conduct themselves in a manner consistent with the dignity of the court and shall be as unobtrusive as possible.

Canon 5: Confidentiality

Language Interpreters shall keep confidential all matters interpreted and all conversations overheard between counsel and client. Interpreters should not discuss a case pending before the court.

Canon 6: Restriction of Public Comment

Language Interpreters shall not publicly discuss, report, or offer an opinion concerning a matter in which they are or have been engaged, even when that information is not privileged or required by law to be confidential.

Canon 7: Scope of Practice

Language Interpreters shall limit themselves to interpreting and translating, and shall not give legal advice, express personal opinions to individuals for whom they are interpreting, or engage in any other activities which may be construed to constitute a service other than interpreting or translating while serving as an interpreter.

Canon 8: Assessing and Reporting Impediments to Performance

Language Interpreters shall assess their ability to deliver services for which they are contracted at all times.

When Language Interpreters have any reservation about their ability to satisfy an assignment competently, they shall immediately convey that reservation to the appropriate Judicial authority Officer.

Canon 9: Duty to Report Ethical Violations

Language Interpreters shall report to the proper authority any effort to impede their compliance with any law, any provision of this Code, or any other official policy governing court interpreting and legal translating.

Canon 10: Professional Development

Language Interpreters shall continually improve their skills and knowledge and advance the profession through activities such as professional training and education and interaction with colleagues and specialist in related fields.

APPENDIX D

I. PAYMENT OF LANGUAGE INTERPRETERS AND OTHER LEP-RELATED SERVICES

A. Compensation Rate for Language Interpreters. Language Interpreters should be compensated at the following rate, where possible:

1. Professionally Certified: \$55/hr.
2. Registered: \$40/hr.
3. Qualified: \$25/hr.

The Language Interpreter's certification status and the language availability in the judicial district and the state may require a higher compensation rate.

B. Minimum Time Compensation. Unless otherwise agreed to, Language Interpreters shall be paid a thirty (30) minute minimum. Language Interpreters shall be paid by the hour in thirty (30) minute increments. Time shall be determined by using the next highest thirty (30) minute increment (i.e., 2 hours 4 minutes equals 2 hours 30 minutes). This time shall include any pre-assignment prep time (i.e., remote interpretation) in which the court has requested of the Language Interpreter to attend.

C. Payment for Travel Time. At the discretion of the court, a Language Interpreter may be paid the State of Wyoming's allowable mileage reimbursement rates or half the hourly Language Interpreter rate for travel time. In extraordinary circumstances, the Language Interpreter may be paid the full hourly Language Interpreter rate for travel when round-trip travel exceeds one hundred fifty (150) miles.

D. Overnight Travel. In the case of trials or hearings exceeding one (1) day duration, Language Interpreters may be compensated for food and lodging at the state rate when round-trip travel of one hundred twenty (120) miles or greater is required to secure the best qualified Language Interpreter. To receive reimbursement for food or lodging expenses, the Language Interpreter must receive written authorization from the court for the expenses ~~in advance of the actual expenditure~~. Reimbursement of allowed food and lodging expenses will be made only if itemized receipts are provided and expenses are within the allowable ranges as defined by the State of Wyoming fiscal procedures.

E. Cancellation Policy. A Language Interpreter whose assignment is cancelled within seventy-two (72) hours of the assigned start time shall be paid for the scheduled time up to a maximum of sixteen (16) hours as determined by the presiding judge in the cancelled matter. If the assignment is cancelled with more than seventy-two (72) hours' notice, the scheduling court ~~is under no obligation to~~ shall not pay a cancellation fee.

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Wyoming Judicial Branch

Administrative Office of the Courts

Procurement Policy – AOC-2 (v2)

Policy Approver(s)	Chief Justice Kate M. Fox Elisa Butler, State Court Administrator
Storage Location	WSC (\\courts.state.wy.us\dfsroot\Shares) (F:)\Court Administration Policies and Protocol\Administrative Office of the Courts
Review Period	Annually

I. PURPOSE

The purpose of this policy is to ensure supplies and services which meet the needs of the Judiciary are procured at the best prices possible and in compliance with applicable laws through formal bids, competitive negotiation or noncompetitive negotiation.

II. POLICY STATEMENT AND APPLICATION

- A. Pricing commitments for supplies or services by the Administrative Office of the Courts shall be made in accordance with this procurement policy. The State Court Administrator and division heads are responsible for assuring purchases comply with this policy.
- B. This policy governs the manner in which prices are obtained for the purchase of supplies or services from one vendor within a 30-day period or on the same invoice.

III. DEFINITIONS

A. Competitive sealed bidding means:

- 1. Bids are obtained through an invitation for competitive bidding or a request for proposal.
 - a. Competitive sealed bidding requires the completion of an invitation to bid. The invitation must contain a statement of technical specifications.
 - b. Requests for proposal must define all minimum requirements, both design and performance, and must set forth the method to be used for evaluation of an award.

B. Competitive negotiation means:

1. Bids or quotes are requested from a number of sources as follows:
 - a. Bids or quotes shall be obtained using National Association of State Procurement Officials pricing or other similar entity recognized in the business as offering credible competitive pricing from multiple vendors; or
 - b. Bids or quotes shall be obtained from an adequate number of qualified sources to permit reasonable competition. If feasible, bids or quotes should be solicited from at least three sources.
2. Awards may be made to the responsible offeror whose proposal will be most advantageous to the Judiciary considering price and other factors.

C. Noncompetitive negotiation means:

1. The best prices possible are negotiated through a bid or quote from a single vendor because it is in the best interest of the Judiciary to obtain the services or goods from a specific source.
2. Noncompetitive negotiation requires a bid waiver approval form delineating the reasons noncompetitive negotiation is in the best interest of the Judiciary.

IV. PURCHASES OF SUPPLIES OR SERVICES

A. Small Purchase Procedures

1. "Small purchase" means commitments to purchase supplies or services under \$15,000.
2. Small purchases do not require the use of competitive sealed bidding or competitive negotiation. The prices, however, shall be obtained in a manner that ensures the prices are fair and reasonable.

B. Supplies or Services Over \$15,000

1. Competitive Sealed Bidding

- a. Commitments for supplies or services over \$15,000 shall be made by competitive sealed bidding if configuration or performance specifications, or both, are sufficiently designed to permit award on the basis of the lowest evaluated price as determined in accordance with objective, measurable criteria set forth in the invitation for bids, and when available sources, the time and place of performance, and other conditions are appropriate for the use of competitive sealed bidding.

2. Competitive Negotiation

- a. Commitments for supplies or services over \$15,000 shall be made by competitive negotiation if:
 - i. The division head determines in writing that the use of competitive sealed bidding is not feasible or practical; and
 - ii. The requirements for noncompetitive negotiation have not been met.

3. Noncompetitive Negotiation

- a. Commitments for supplies or services over \$15,000 may be made by noncompetitive negotiation if the division head determines in writing the requirements for noncompetitive negotiation have been met.

V. DOCUMENTATION

- A. The division head shall document compliance with this policy for all purchases over \$15,000. The documentation shall be maintained on forms provided by the Administrative Office of the Courts.

VI. APPROVAL and EFFECTIVE DATE

Effective Date: July 9, 2021

Approved By:

<u>Kate M. Fox</u> Kate M. Fox, Chief Justice	<u>7/9/21</u> Date
<u>Elisa Butler</u> Elisa Butler, State Court Administrator	<u>7.10.21</u> Date



Wyoming Judicial Branch Administrative Office of the Courts

Bid Waiver Approval Form - AOC-2.1 (v2)

This form is to be used to document the acquisition of supplies or services when bidding is not feasible or practical.

Supplier Selected: _____ Amount: _____

Business Justification:

Service/Product is currently in use, or is up for renewal period.

Administrative Office of the Courts Use Only

Date Approved: _____

Court Administrator Signature: _____ Date: _____



Wyoming Judicial Branch

Administrative Office of the Courts

Jury Management Policy – CA-1(v1)

Policy Owner	Elisa Butler
Policy Approver(s)	Joint Court Automation Committee
Storage Location	WSC (\\courts.state.wy.us\dfsroot\Shares) (F:)\Court Administration Policies and Protocol\Court Automation
Effective Date	1/1/19
Next Review Date	12/1/19

I. PURPOSE

The purpose of this policy is to establish a uniform procedure for management of juries and jurors through the jury management software.

II. DEFINITIONS

A. As used in this policy:

1. “AgileJury” means the jury management system software that provides for the management of jurors and potential jurors electronically.
2. “Permanent excusal” means permanently eliminating a juror from the AgileJury jury management system.
3. “R Pool” means a pool of jurors who have been selected to serve on a jury panel.

III. APPLICATION

This policy applies to those courts that have gone live on, and are currently utilizing, the AgileJury management system.

IV. POLICIES

A. Permanent Excusal of Potential Jurors.

1. The permanent excusal of jurors in AgileJury has a substantial impact on juror availability throughout the state.
2. Jurors shall not be permanently excused within AgileJury unless the juror is deceased, or a judge has determined that there is other good cause for permanent excusal.

B. Pardons and Restoration of Rights.

1. Pursuant to W.S. § 1-11-102, convicted felons are disqualified from serving on a jury unless the conviction is reversed or annulled, or a pardon or restoration of rights is received pursuant to W.S. § 7-13-105(a).
2. To ensure that a person who has been convicted of a felony has been pardoned or has received a restoration of rights in accordance with statute such that they are qualified to serve on a jury, the potential juror shall provide documentation to the clerk evidencing the pardon or restoration of rights.

C. Duplicate Entries.

1. If a clerk believes that the name of a potential juror within AgileJury is a duplicate of another name, the clerk shall verify that the entries are the same by comparing the dates of birth and addresses of the potential jurors before marking the potential jurors as duplicate entries within AgileJury.

D. Returned Mail and Out-of-State Addresses.

1. When the summons sent by a clerk is returned with a forwarding address, the clerk shall resend the summons to the forwarding address provided.
2. When a potential juror has an address or forwarding address that is out-of-state, the clerk shall send the summons and questionnaire to the out-of-state address and require the potential juror to complete the questionnaire.

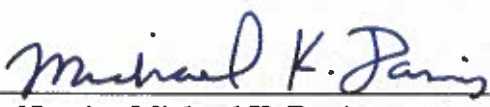
E. R Pool Limits.

1. No jurors shall be required to serve twice on an R Pool until all jurors within the Q Pool have served once on an R Pool.
2. Once all jurors within the Q Pool have served on an R Pool, the jurors on the Q Pool are subject to being called on additional R Pools during the jury term for which they are called, as needed.
3. Circuit courts:
 - a. Shall be limited to pulling twenty-five (25) jurors for each R Pool; and
 - b. Shall seek and receive prior approval before pulling more than twenty-five (25) jurors for an R Pool if the circuit court believes that it needs more than twenty-five (25) jurors.

V. ROLES AND RESPONSIBILITIES

Role	Responsibility
Joint Court Automation Committee	Overseeing management of policy by the State Court Administrator and the Court Automation Project Administrator
State Court Administrator and Court Automation Project Administrator	Managing implementation of policy
Court Automation Project Administrator	Managing implementation of policy by courts and ensuring compliance
Jury Management Project Manager	Ensuring compliance with policy by courts
Clerks of District Court and Chief Clerks of Circuit Court	Managing implementation of policy by office and ensuring compliance

Approved By the Joint Court Automation Committee:

	<u>11/26/2018</u>
Chief Justice Michael K. Davis Chair Joint Court Automation Committee	Date

History

Version ID	Date of Change	Author	Reason



Wyoming Judicial Branch

Administrative Office of the Courts

Audio and Video Standard (v2)

Policy Owner	Administrative Office of the Courts
Policy Approver(s)	Courtroom Technology Committee
Storage Location	SHARED(\courts-fs01)(F:)\Court Administration Policies and Protocol\Court Technology\Courtroom Technology Committee
Effective Date	06/25/2020
Next Review Date	As needed

I. PURPOSE

This standard lists the specific information technology equipment items approved by the Courtroom Technology Committee to be installed in each circuit and district courtroom throughout the Judicial Branch. *NOTE:* Not all equipment listed may be necessary to provide adequate courtroom technology functionality. Courtroom shape, size, and layout will be used to determine the appropriate equipment.

II. AUDIO

- A. Up to twelve (12) desk top microphones (judge, clerk, witness, up to two (2) for prosecution tables, up to two (2) for defense tables, and lectern);
- B. Two (2) wireless microphones (lapel), or other wireless microphone alternative;
- C. Matrix presentation switcher with sixteen (16) inputs and sixteen (16) outputs and an audio output card;
- D. Processors for audio, to include Liberty recording, Surface Hub audio, and streaming audio connection;
- E. Streaming audio connection with PC1 for power control;
- F. Assisted listening system, to include six (6) units for jury, one (1) unit for court reporter for sidebar, and up to eight (8) units for attorney sidebar (up to two (2) per table);
- G. Two (2) 10" touch panels for systems control, to include one (1) for the judge and one (1) for the clerk;

H. One (1) headset connection for the reporter station; and

I. The number of speakers and amplifiers will be determined for each location. Six to seven (6-7) zones of audio will be provided for full coverage. The zones should include the judge, witness, clerk, jury, prosecution and defense areas, the audience, and any media room.

III. VIDEO

A. One (1) main 80" LCD monitor, and two (2) 70" LCD monitors (mounting options for additional monitors include the ceiling, wall, or cart);

B. Up to eight (8) 22" monitors (judge, clerk, witness, up to two (2) tables for prosecution (one (1) per table), up to two (2) tables for defense (one (1) per table), and court reporter);

C. Up to seven (7) HDMI connections, to include the judge, lectern, up to two (2) for prosecution (one (1) per table), up to two (2) for defense (one (1) per table), and Surface Hub video out only;

D. Matrix presentation switcher sixteen (16) inputs and sixteen (16) outputs plus audio output card; and

E. Up to four (4) table connection interface/boxes, to include up to two (2) for prosecution, and up to two (2) for defense tables.

Approved By:


Lily Sharpe, State Court Administrator

07.15.2020
Date

History

Version ID	Date of Change	Author	Reason



Wyoming Judicial Branch

Administrative Office of the Courts

Jury Room Standards (v2)

Policy Owner	Administrative Office of the Courts
Policy Approver(s)	Courtroom Technology Committee
Storage Location	SHARED(\\courts-fs01)(F:)\Court Administration Policies and Protocol\Courtroom Technology\Courtroom Technology Committee
Effective Date	06/25/2020
Next Review Date	As needed

I. PURPOSE

This standard lists the specific information technology equipment items approved by the Courtroom Technology Committee to be installed in each circuit and district court jury rooms throughout the Judicial Branch. It additionally provides for the approved presentation formats for video, audio, photos, and documents. *NOTE:* Not all equipment listed may be necessary to provide adequate jury room technology functionality. Jury room shape, size, and layout will be used to determine the appropriate equipment.

II. EQUIPMENT

A. Audio

1. Three (3) rechargeable infrared hearing assist, with charging bases; and
2. Suitable microphones.

B. Video

1. One Microsoft Surface Hub mounted on cart.

C. Miscellaneous

1. Mounted equipment (if possible); and
2. Surge protection.

III. PRESENTATION FORMATS

A. Audio

1. MP3 (most common); and
2. WAV.

B. Video

1. MP4 (most common); and
2. AVI.

C. Photos

1. JPG (most common);
2. PNG; and
3. PDF.

D. Documents

1. Microsoft Word;
2. Microsoft Excel;
3. Microsoft PowerPoint;
4. PDF;
5. TXT; and
6. XML.

Approved By:

Lily Sharpe
Lily Sharpe, State Court Administrator

07.14.2020
Date

History

Version ID	Date of Change	Author	Reason



Wyoming Judicial Branch

Administrative Office of the Courts

Public iPad Standards (v1)

Standard Owner	Administrative Office of the Courts
Standard Approver(s)	Courtroom Technology Committee
Storage Location	SHARED(\\courts-fs01)(F:)\Court Administration Policies and Protocol\Court Technology\Courtroom Technology Committee
Effective Date	02/01/2021
Next Review Date	As needed

I. PURPOSE

Two (2) iPads per courtroom are available for public use. The public iPads were acquired as part of the CARES Act Funding and under the direction of the Courtroom Technology Committee. The intended use of these iPads is to provide Pro Se litigants and other members of the public who do not have access to technology the ability to participate in court proceedings via Microsoft Teams. This standard lists the security and management of the public iPads available in the circuit and district courts.

II. SECURITY

A. Management

1. A Mobile Device Management Software (MDM) will be used to manage devices;
2. A one (1) mile Geo-Fencing perimeter shall be set; and
3. Only the following applications shall be installed:
 - a. Microsoft Teams; and
 - b. Email Client to provide each iPad a dedicated, non-courts email address for Teams invitations.

B. Network Connectivity

1. Will be restricted from connecting to the court's private Wi-Fi network;
2. Will use a dedicated court's Wi-Fi (SSID) network; and
3. Locations within a courthouse where public iPads may be used will vary from location to location as iPads require network connectivity and connection to a court's Wi-Fi network to be functional.

III. USE

A. Courthouse

1. The public iPads will be checked out from the District Court Chambers or the Circuit Court Clerk's Office. It is recommended the public iPads are checked out in exchange for a driver's license or monies. Additionally, it is recommended a log be kept of when a public iPad has been checked out and returned.

Approved By:



Elisa Butler, State Court Administrator

03.25.2021

Date



Wyoming Judicial Branch

Administrative Office of the Courts

Firewall and Anti-Virus Content Filtering Policy – CT-15 (v1)

Policy Approver(s)	Information Technology Resources Steering Committee
Storage Location	WSC (\\courts.state.wy.us\dfsroot\Shares) (F:)\Court Administration Policies and Protocol\Court Technology
Effective Date	10/29/18
Next Review Date	4/29/19 NOTE: Six Month Review Required

I. PURPOSE

This policy establishes the requirements for content filtering in both firewall and anti-virus setups. Under this policy, traffic will first go through the firewall and then through anti-virus software. This procedure allows for two layers of protection. Each step blocks or limits access to potentially harmful content. The purpose of this policy is to protect IT Resources from potential threats, vulnerabilities, data loss and misuse.

II. DEFINITIONS

A. As used in this policy:

1. “Anti-Virus” means a software that detects, prevents and removes threats to IT Resources, such as viruses and malware.
2. “Firewall” means a network security system that monitors incoming and outgoing traffic to IT Resources from outside services.
3. “User” means a person with logical access to IT Resources.
4. “Wyoming Judicial Branch integrated statewide technology network and systems or IT Resources” means all communication and resource-sharing computing devices, network infrastructure, software, applications and systems linked together to facilitate communication throughout the State of Wyoming Judicial Branch. Wyo. Stat. § 5-3-102(b).
 - a. “Wyoming Judicial Branch integrated statewide technology network and systems or IT Resources” does not include telephones or communication by telephone.

III. APPLICATION

This policy applies to all users of IT Resources.

IV. FIREWALL

A. Security rules shall be set according to the following:

1. Content and Application Filtering restrictions shall be implemented to ensure the security of the IT Resources; and
2. Internet bandwidth restrictions shall be implemented as necessary to accommodate business applications.

B. Implementation

1. Content and Application Filtering shall be implement through the Firewall as follows:

Content Filtering (BLOCKED)	Application Filtering (BLOCKED)
Abused Drugs	Any traffic NOT to/from the U.S. or the Netherlands
Adult & Pornography	
Alcohol & Tobacco	
Bot Nets	
Confirmed SPAM Sources	
Dating	
Gambling	
Games	
Hacking	
Hate & Racism	
Illegal	
Malware Sites	
Nudity	
Proxy Avoidance & Anonymizers	
SPAM URLs	
Sex Education	
Swimsuits & Intimate Apparel	
Violence	
Weapons	

- a. Exceptions may be granted and documented by the State Court Administrator or designee based on legitimate business needs.
- b. The filtered Content and Applications are subject to change based on evidence of new threats to the IT Resources or misuse by Users.

2. Internet bandwidth restrictions shall be implemented due to the large applications the Judicial Branch operates, such as the case management systems, video appearances, and jury management system, which require substantial bandwidth. When appropriate, applications commonly used primarily for personal purposes may be limited as necessary.

- a. Exceptions may be granted and documented by the State Court Administrator or designee based on legitimate business needs.

V. ANTI-VIRUS CONTENT FILTERING

A. Security rules shall be set according to the following:

1. Website category filtering restrictions shall be implemented to ensure the security of the IT Resources; and
2. Internet bandwidth restrictions shall be implemented as necessary to accommodate business applications.

B. Implementation

1. Website category filtering shall be implemented by the Anti-Virus as follows:

Productivity Related (BLOCKED)	Social Networking (BLOCKED)	Adult & Potentially Inappropriate (BLOCKED)
Gambling	Personal & Dating	Adult & Sexually Explicit
Games		Alcohol & Tobacco
		Criminal Activity
		Hacking
		Illegal Drugs
		Intimate Apparel & Swimwear
		Intolerance & Hate
		Proxies & Translators
		Sex Education
		Tasteless & Offensive
		Violence
		Weapons

- a. Exceptions may be granted and documented by the State Court Administrator or designee based on legitimate business needs.
 - b. The filtered website categories are subject to change based on evidence of new threats to the IT Resources or misuse by Users.
2. Internet bandwidth restrictions shall be implemented due to the large applications the Judicial Branch operates, such as the case management systems, video appearances, and jury management system, which require substantial bandwidth. When appropriate, applications commonly used primarily for personal purposes may be limited as necessary.
 - a. Exceptions may be granted and documented by the State Court Administrator or designee based on legitimate business needs.


VI. ROLES AND RESPONSIBILITIES

Role	Responsibility
Information Technology Resources Steering Committee	Overseeing management of policy by the State Court Administrator, Chief Information Officer and IT Infrastructure and Operations Manager; Overseeing of compliance with policy by Justices and Judges
State Court Administrator, Chief Information Officer and IT Infrastructure and Operations Manager	Managing implementation of policy
Justices, Judges and Division Heads	Ensuring employees comply with policy
State Court Administrator	Managing implementation of policy by Division Heads
Division Heads	Managing implementation of policy by staff
Users	Maintaining personal accountability for compliance with policy

VII. RELATED POLICIES, PROCEDURES, GUIDELINES, AND CONTROLS

Document	Name	Control Mapping	Comment
CT-2 (v1)	Network Policy		
NIST CSF	National Institute of Standards Technology	NIST CSF ID.GF-1, PR.AC-5	
PCI-DSS v3.2	Payment Card Industry	PCI 1.1.6, 1.1.7, 1.2.1 (partially), 1.5 (partially)	

Approved By:

 IT Resources Steering Committee Chair, Chief Justice Michael K. Davis	<u>10/29/2018</u> Date
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History

Version ID	Date of Change	Author	Reason
v1	07.01.2019 Review	Cierra Hipszky	Six Month Review



Wyoming Judicial Branch

Administrative Office of the Courts

Justice and Judge Oath of Office and Payroll Policy – HR-2 (v1)

Policy Approver(s)	Chief Justice Michael K. Davis Lily Sharpe, State Court Administrator
Storage Location	WSC (\\courts.state.wy.us\dfsroot\Shares) (F:)\Court Administration Policies and Protocol\Human Resources
Effective Date	11/05/2018
Next Review Date	11/05/2019

I. PURPOSE

A. This policy is adopted to consistently apply Wyo. Const. Art. 5, § 4(g) concerning:

1. The day a judicial vacancy occurs; and
2. The day of judicial appointment which governs at which general election the newly appointed justice or judge must stand for retention.

B. See the attached memorandum.

II. APPLICATION


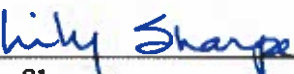
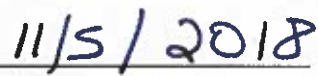

This policy applies to all justices and judges of the Wyoming Judicial Branch.

III. PROCEDURE

- A. Justices and judges shall be placed on the Judicial Branch payroll on the same date the justice or judge takes the oath of office and begins to serve as a justice or judge;
- B. A justice or judge shall not take an oath of office before the close of business of the last day the preceding justice or judge is on the Judicial Branch payroll.
- C. Exceptions:
 1. If the retiring justice has been assigned to serve as a justice or judge pursuant to Wyo. Stat. §5-1-106; and

2. If a justice or judge will immediately upon retirement receive judicial retirement benefits, the justice or judge should not be assigned to serve pursuant to W.S. § 5-1-106 until thirty (30) days has lapsed from the date of retirement. This restriction is to meet the Wyoming Retirement Systems' thirty (30) day separation requirement needed to effectuate retirement.

Approved By:

 Chief Justice Michael K. Davis	 Lily Sharpe, State Court Administrator
 Date	 Date

History

Version ID	Date of Change	Author	Reason

To: Chief Justice Davis
From: Elisa Butler
Cc: Sherry McBride, Lily Sharpe, Ronda Munger, Cierra Hipszky
Date: November 5, 2018
Re: Judicial Retention/Judicial Appointment

This memo discusses two issues that have arisen with regard to the judicial appointment process. The first issue analyzes when a judge or justice must sit for retention if that judge or justice is appointed prior to the expiration of his predecessor's term. While there is still some ambiguity when the constitution and the Wyoming statutes are read together, the practical reality is that it is now impossible to ensure staggered terms of judges and justices, which seems to be the only purpose in requiring a judge or justice to stand for retention at the end of a predecessor's unexpired term. As a result, it is recommended that the statutes be amended to reflect the current retention scheme being utilized in the judiciary. The second issue discusses the meaning of the term "appointment" as used in the Wyoming constitution, and when that "appointment" occurs. The language of the constitution reveals that an appointment commences when the judge or justice takes his oath of office and begins serving in that capacity. Both issues affect when a judge or justice is required to stand for retention.

I. Background

As with other states, the original method of selecting judges and justices in Wyoming was through popular election. Perceived flaws in the election-based system stimulated a reexamination across the country and led to the Missouri Plan – a method which "eliminate[s] the initial choice of judges by the voters and substitute[s] instead a procedure wherein it is felt expertise and wisdom will be the dominant considerations." Kenyon Griffin and Michael J. Horan, *Judicial Merit Retention in Wyoming: an Analysis and Some Suggestions for Reform*, 15 Land & Water L. Rev. 567, 568 (1980). In other words, merit selection.

The Missouri Plan arrived in Wyoming in 1971 when the Wyoming legislature introduced a joint resolution proposing an amendment to the Wyoming constitution which would change the method by which judges and justices were selected. *Digest of House Journal of the Forty-First State Legislature of Wyoming*, H.J.R. No. 8 (1971). Wyoming voters approved the amendment in 1972. The constitutional amendment required numerous statutory amendments, and the evolution of the merit-based selection system prompted questions and issues that remain today.

II. Judicial Retention

Prior to the 1972 amendment, Wyoming used an election-based system to select its judicial officers. Wyo. Const. art. 5, § 4 (1957). Under the election-based system, if a justice or judge left a seat vacant prior to his term, the governor was given the power to appoint a justice or judge to serve. Wyo. Const. art. 5, § 4 (1957); W.S. § 5-42(b) (1957). By allowing the governor to appoint a person to fill a mid-term judicial seat vacancy, the electorate was effectively eliminated from the process and precluded from confronting and ultimately selecting who should fill the vacant seat, in contravention of the election-based system set forth in the Wyoming constitution. In Wyoming, this difficulty was remedied by allowing the appointed judge or justice to serve only until the next general election, at which time, the electorate would be entitled to elect a person to fill the vacant seat. Wyo. Const. art. 5, § 4 (1957); W.S. § 5-42(b) (1957). The term of that elected judge or justice, however, varied depending on which seat he was elected to fill. At the district court level, a judge elected to fill a mid-term vacancy, was deemed to have been elected for a full six-year term. This meant that a district court judge elected prior to the expiration of his predecessor's term was not required to stand for election at the end of his predecessor's unexpired term. *Burdick v. Schnitget*, 96 P. 238, 424 (Wyo. 1908); W.S. § 5-42 ("Should such office become vacant for any cause, such term shall be conclusively deemed for all purposes to terminate on the first Monday in January following an election of a new judge."). In the supreme court, however, a justice elected to a mid-term vacancy was required stand for election again at the end of the unexpired term of his predecessor. Wyo. Const. art. 5, § 4 (1957). The distinction in the two offices apparently stemmed from the concern that numerous justices not stand for retention simultaneously. In other words, the framers of the Wyoming constitution endeavored to ensure staggered terms for supreme court justices. *Burdick*, 96 P. at 243. ("Argument is unnecessary to show that this provision as to filling a vacancy in the office of Justice [of] the Supreme Court was made with the particular purpose in view of continuing the classification of the justices, and to prevent the election of a full term of eight years of more than one justice at the same time.").

With the adoption of the merit-based system in Wyoming, the distinction between district court judges and supreme court justices vanished. Instead, the constitutional provisions relating to judicial retention and selection were made identical for both levels of the court system. Wyo. Const. art. 5, § 4. Under the new scheme a judicial nominating commission, created to assist in the selection of judges and justices "for the supreme court, district courts, and any other courts," assesses applicants and provides three names of the most qualified applicants to the governor, who, in turn, appoints a judge or justice for the vacant judicial seat. *Id.* That judge or justice is then required to stand for retention at a general election to determine whether he should continue to serve in the capacity for which he was originally appointed. Wyo. Const. art. 5, § 4(g). Nowhere in the constitutional provisions relating to judicial selection or retention is there a distinction in how justices and judges are selected or required to stand for retention

based on the court level at which they serve. *Id.* Neither is there a distinction in the statutes relating to the retention process for judges and justices. *See* Wyo. Stat. Ann. §§ 22-2-105(a), 22-6-126(a) (LexisNexis 2017). Because it is clear from the amended constitutional language that there was no intent to treat justices of the supreme court differently from district court judges, the issue that must now be determined is whether the constitution requires all judicial officers to stand for retention election after the expiration of a predecessor's term when they fill a judicial vacancy mid-term.

In an effort to ensure not only that the most qualified judges are selected to serve, but also that judges are held accountable by the electorate, after a judge is selected to serve, based on a merit-centered process, that judge is required to stand for retention election at constitutionally and statutorily specified intervals. Kenyon Griffin and Michael J. Horan, *Judicial Merit Retention in Wyoming: an Analysis and Some Suggestions for Reform*, 15 Land & Water L. Rev. 567, 569 (1980) ("In principle, the public's opportunity to participate in merit retention election of judges is the ultimate check on judicial accountability."). After a judge is selected and appointed by the governor, he is required to "serve for one year after his appointment and until the first Monday in January following the next general election after the expiration of such year. He shall, at such general election, stand for retention in office on a ballot which shall submit to the appropriate electorate the question whether such justice or judge shall be retained in office for another term or part of a term." Wyo. Const. art. 5, § 4(g). The judge or justice is then required to stand for retention at the general election immediately preceding the expiration of his term, should he desire to retain his judicial office. *Id.*

The language "term or part of a term" has caused some confusion. The attorney general's office has opined that the language "part of a term" signifies the intent to require supreme court justices (but not district court judges) to stand for retention at the expiration of the term of a predecessor if the justice filled a mid-term vacancy. The attorney general argues that the Supreme Court's decision in *Burdick* demonstrates that district courts judges and supreme court justices are treated differently when it comes to retention, and since the language, "part of a term" cannot apply to district court judges under *Burdick*, the only explanation is that it applies to justices and thus requires the justices to stand for retention for the unexpired terms of their predecessors. This argument is faulty in a number of ways. First, as discussed above, the new selection/retention system for judges in Wyoming makes no distinction between supreme court justices and district court judges, which is in stark contrast to previous constitutional/statutory provisions in which there were distinctions. *Compare* Wyo. Const. art. 5, § 4 (2017) and Wyo. Stat. Ann. §§ 22-2-105(a), 22-6-126(a) (LexisNexis 2017) with Wyo. Const. art. 5, § 4 (1957) and W.S. § 5-42(b) (1957). Additionally, the Court's decision in *Burdick* was an interpretation of the previous judicial selection system, and so, holds little persuasive authority with regard to the new selection system.

One argument made by the attorney general may, upon examination, prove to be somewhat persuasive. The attorney general, again referring to *Burdick*, argues that the new selection/retention scheme intended to carry forward the staggered terms of the justices to ensure that justices were retained in an organized and predictable manner. Again, one major flaw in this reasoning is that there is no indication that the new selection system intended to treat supreme court justices and district court judges differently for retention purposes. However, the current statutes lend some support to the notion that **both** supreme court justices **and** district court judges should be required to stand for retention upon the expiration of their predecessors' terms if they filled mid-term vacancies. Wyoming Statute § 22-2-105(a)(iii) and (iv) require both district court judges and supreme court justices to stand for retention at each general election for “unexpired balances” or new terms. The language of “unexpired balances” was added to the statutory provisions in 1973, after the constitutional amendment providing for merit-selection was passed. Session Laws of Wyoming 1973, Chp. 251, § 1, 22.1-7. The rationale for including this language is lost due to the lack of legislative history in Wyoming. However, one possible reason for the addition is to ensure staggered terms in both the supreme and district courts in an effort preserve a mix of more experienced and newer judges in the judiciary at the same time. While this may have been the intent of the legislature, the practical reality is that many of the supreme court justices and the district court judges face retention at the same time – meaning that the mix the legislature may have hoped for has been lost over the years, if it ever existed.

It is also possible that the legislature added the “unexpired balances” language to what is now W.S. § 22-2-105 to ensure consistency. The statutorily-required ballots for nonpartisan elections also include language referring to “unexpired terms.” Wyo. Stat. Ann. § 22-6-126(a) (LexisNexis 2017). This language has remained constant since prior to the change in the selection scheme. W.S. § 22-109 (1959). It seems likely, therefore, that the language included in this section is nothing more than a carryover from a previous selection scheme, and is no longer applicable to the current merit-selection. The reality is that the statutory language “unexpired terms” and “unexpired balances” serve no practical purpose. In order for such language to have any effect as the legislature may have intended with regard to staggered terms, it would require the reordering of terms of both district court judges and supreme court justices, similar to what occurred when the constitution of Wyoming was originally instituted. Wyo. Const. art. 5, § 4.

What then, is the meaning of the language “part of a term” included in the constitution? The explanation for that language likely stems from a statutory change enacted in 1971. At that time, the legislature essentially mandated retirement for judges at the age of 70. While the statute did not explicitly require judges to retire once reaching the age of 70, it did preclude the receipt of pension benefits for a judge if he opted to

serve past that age. Session Laws of Wyoming 1971, Chp. 137 § 2 (subsequent iterations of this statute created a requirement that supreme court justices and district court judges retire at the age of 70 or before). Because the legislature anticipated that most, if not all, judges would opt to retire at or before the age of 70 to avoid the loss of pension benefits, the legislature anticipated that there were some judges who would not serve out their terms before retiring. Thus, the language “part of a term” was added to the constitution to ensure that judges who would reach the age of 70 before their final terms expired still had the option to stand for retention if so desired. Had the constitutional amendment not included that language, it may have been interpreted to preclude judges who would reach the age of 70 prior to the expiration of their final term from standing for retention.

Based on the foregoing analysis, it is my opinion that neither district court judges nor supreme court justices are required to stand for retention at the expiration of their predecessors’ terms if they fill mid-term vacancies. It is also my recommendation that the statutes referring to “unexpired terms” and “unexpired balances” be amended to eliminate this language.

III. Judicial Appointment

Another issue that affects judicial retention is the question of when a person is “appointed” pursuant to the constitution. Again, the constitution provides:

Each justice or judge selected under these provisions shall serve for one year after his appointment and until the first Monday in January following the next general election after the expiration of such year. He shall, at such general election, stand for retention in office on a ballot which shall submit to the appropriate electorate the question of whether such justice or judge shall be retained in office for another term or part of a term

Wyo. Const. art. 5, § 4(g). The question then becomes on what date is a judge or justice “appointed?” Wyoming has not yet addressed the issue of when an “appointment” occurs under this provision – either legislatively or through case law. However, the constitutional language itself evidences the intent of when an appointment is deemed to occur. The constitution provides, “Each justice or judge selected under these provisions shall serve for one year after his appointment” Wyo. Const. art. 5, § 4(g) (emphasis added). The language contemplates that service in the position of judge or justice commences upon appointment. A person who has been chosen to fill a vacant judicial seat is precluded from commencing her service until she has taken the oath of office. Wyo. Stat. Ann. § 6-5-116 (LexisNexis 2017). As a result, the only possible interpretation of the term “appointment” as used in this provision is the point in time when the judge or justice takes her oath of office and begins serving as a judge or justice.

Any other interpretation would render the term “serve” meaningless. *Powers v. State*, 2014 WY 15, ¶ 9, 318 P.3d 300, 304 (Wyo. 2014).

The Minnesota Supreme Court came to an analogous conclusion when interpreting its own constitutional provision. It determined that an “appointment” does not occur until the effective date, or the date on which the judge begins to serve. *Winters v. Kiffmeyer*, 650 N.W.2d 167, 167 (Minn. 2002). The Minnesota Court’s decision was based in part on the fact that a judge must be given an adequate period of time in which to demonstrate that he or she is capable of performing the duties required. *Winters*, 650 N.W.2d at 172 (Minn. 2002). A similar intent can be attributed to the language included in the Wyoming constitution. If the “appointment” date is deemed to commence when the governor announces who will fill the vacant position, the probationary period in which the electorate has the opportunity to evaluate performance could be drastically reduced. It is not uncommon for months to pass between the time that the governor announces the person that will fill a judicial vacancy and the time that person actually begins serving as a judge or justice. As the Minnesota Court found, “considering the appointment to occur on its effective date gives the public an opportunity to ‘reflect favorably or unfavorably on a judge’s competence in office.’” *Winters*, 650 N.W.2d at 172 (Minn. 2002).

It is my opinion that the term “appointment” included in section 4(g) of article 5 of the Wyoming constitution refers to the date on which a person takes the oath of office and begins serving as a judge or justice.

Judicial Council

March 20, 2023

NEWSLETTER

Judicial Council Members: Chief Justice Kate Fox (Chair), Justice Lynne Boomgaarden, Justice Kari Gray, Judge Catherine Wilking, Judge Catherine Rogers, Judge Joseph Bluemel, Judge Nathaniel Hibben, Judge John Prokos, Judge Wendy Bartlett

Newsletter Items

Judicial Branch Applications

Circuit Court – The Applications team continues to work with the Circuit Court Subject Matter Expert Committee to look for improvements to the use of FullCourt Enterprise in the courts.

District Court – The Judiciary is halfway through the FullCourt Enterprise (FCE) rollout in the District Courts. Throughout 2023 FCE will be implemented in the remaining 11 courts. The first courts to migrate to FCE in 2023 will be Sheridan and Johnson County District Courts. Sheridan District Court went live February 11, and Johnson County went live February 25th. The Applications team has begun working with the next courts that will be migrating to FCE this summer. The next FCE training is scheduled for May.

Clearview Jury – The first merge process for 2023 has just completed. The Applications team is reviewing an update to the application that will bring some changes to the eJuror website, making it a little easier to use and allowing a little more flexibility.

EFiling – Electronic filing is currently available in four District Courts: Albany, Fremont, Laramie, and Natrona. Due to challenges experienced with the vendors and the need to work through some of those challenges, the next implementation of eFiling in the District Courts will not occur until July 2023. This means that the full implementation of eFiling in the District Courts will be completed near the end of 2024.

Judicial Branch Technology	<p>The IT Division continues to work in several different areas:</p> <ul style="list-style-type: none"> • Completed installation of new security cameras in the Wyoming Supreme Court Building. • Configured and tested the new helpdesk (ConnectWise Manage). • Completed two “test deployments” of new remote site servers: Newcastle and Sundance. • Developed of Private PASS for court personnel and select partner agencies. • Configured and tested of branchwide notification system – GovDelivery. • Contracted for annual network penetration testing. • Planned installations of courtroom technology installs: <ul style="list-style-type: none"> • Douglas – tentative install of May 2023 due to new courthouse. • Wheatland – tentative install of March/April 2023 due to courthouse remodel. • Rawlins install due to courthouse remodel: <ul style="list-style-type: none"> ○ CC Courtroom A/V move – week of Feb 13th ○ DC Courtroom A/V move – week of Mar 20th • Lander – A/V equipment removed from Aux. Courtroom for remodel. Estimated completion September 2023. • Gillette – Coordinating with Campbell County on courthouse remodel to add 4th DC courtroom.
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Children’s Justice Project	<p>The 2021 case closure audit was completed, and reports were sent to all district court judges. We have begun pulling cases for the 2022 audit. We are working on our community trainings and will be in Torrington on February 15th and Cheyenne on February 22nd. Lisa Finkey presented at the Clerks of District Court conference and have been doing short trainings with clerks throughout the state on the basics of juvenile court.</p>
Education	<p>Judicial orientation for Judge McKay, Judge Stebner, and Judge LaBuda was scheduled on February 16th, but will be rescheduled due to weather.</p> <p>The Education Division is developing the programs for the Chief Circuit Court Clerks’ Conference, which will take place in April in Cheyenne, and the Circuit Court Judges’ Conference, which will take place in Jackson in May. A committee has been established to create a manual for the circuit court clerks and the Education Division is assisting them in their efforts.</p>

	Continuing work is underway on the Wyoming Judicial Branch E-Learning platform (Schoox) with the goal of presenting a training on the platform to the Circuit Court Judges in May.
Executive Committee Information	<p>The Pandemic Emergency Leave (PEL) plan ended on January 31, 2023.</p> <p>Committees of the Wyoming Judicial Council will record minutes for each committee meeting. Those minutes will not be posted publicly. Upon request, minutes can be obtained from Court Administration team members who staff those committees:</p> <ul style="list-style-type: none"> - Legislative Relations – Elisa Butler - Behavioral Health – Elisa Butler - Human Relations – Claire Smith and Brenda Reedy - Technology – Nate Goddard and Heather Kenworthy <p>When the committees of the Wyoming Judicial Council consider and approve items that have a fiscal impact on the Judicial Branch, the recommendations from the committee to the Wyoming Judicial Council will include a fiscal note for consideration along with the recommendation.</p>