

**NOTICE OF FINAL RULEMAKING**  
**TITLE 10. LAW**  
**CHAPTER 4. ARIZONA CRIMINAL JUSTICE COMMISSION**

**PREAMBLE**

- 1. Sections Affected**

	<b><u>Rulemaking Action</u></b>
Article 3	New Article
R10-4-301	New Section
R10-4-302	New Section
R10-4-303	New Section
R10-4-304	New Section
R10-4-305	New Section
  
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 41-2405(A)(8)  
Implementing statute: A.R.S. § 41-2401(D)(6), (7), (8), and (9)
  
- 3. The effective date for the rules:**

As specified under A.R.S. § 41-1032(A), the rules will be effective 60 days after the Notice of Final Rulemaking is filed with the Office of the Secretary of State.
  
- 4. List of all previous notices appearing in the Register addressing the final rules:**

Notice of Rulemaking Docket Opening: 16 A.A.R. 1913, September 24, 2010  
Notice of Proposed Rulemaking: 16 A.A.R. 1909, September 24, 2010  
Notice of Supplemental Proposed Rulemaking: 17 A.A.R. 320, March 4, 2011
  
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: John A. Blackburn, Jr.  
Address: Arizona Criminal Justice Commission  
1110 W. Washington, Ste. 230  
Phoenix, AZ 85007  
Telephone: (602) 364-1171  
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**6. An explanation of the rules, including the agency's reasons for initiating the rulemaking:**

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

**7. A reference to any study relevant to the rules that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None

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

Not applicable

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

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

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

Only minor, non-substantive changes were made between the proposed and final rules. Some of these changes result from comments by GRRC staff.

**11. A summary of the comments made regarding the rules and the agency response to them:**

No comments were received regarding the Notice of Supplemental Proposed Rulemaking.

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

None

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

None

**14. Were these rules previously made as emergency rules?**

No

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

**TITLE 10. LAW**  
**CHAPTER 4. ARIZONA CRIMINAL JUSTICE COMMISSION**  
**ARTICLE 3. CRIMINAL JUSTICE ENHANCEMENT FUND**

Section

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

## **ARTICLE 3. CRIMINAL JUSTICE ENHANCEMENT FUND**

### **R10-4-301. Definitions**

In this Article:

1. "Commission" means the Arizona Criminal Justice Commission.
2. "Contact" means the individual within a recipient or the Arizona Sheriffs' Association, on behalf of the various county Sheriffs' Offices, who communicates with the Commission regarding the Fund.
3. "Enhance or enhancing," as used in A.R.S. § 41-2401(D), means to supplement rather than supplant monies from other sources.
4. "Fund" means the Criminal Justice Enhancement Fund established by A.R.S. § 41-2401(A).
5. "Head" means:
  - a. The Director of the Arizona Department of Public Safety,
  - b. The Arizona Attorney General,
  - c. The Director of the Administrative Office of the Courts, and
  - d. The sheriff in each Arizona County.
6. "Recipient" means the Arizona Departments of Public Safety and Law, the Supreme Court, and each Arizona County Sheriff's Office.

### **R10-4-302 Contact Information Required**

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

### **R10-4-303. Fund Guidelines Required**

- A.** Within 60 days after this Article takes effect, the contact within the Arizona Departments of Public Safety and Law and the Administrative Office of the Courts shall submit to the Commission the recipient's guidelines regarding the following:
  1. The procedure for handling Fund monies until they are allocated for expenditure;
  2. The procedure used to allocate Fund monies;
  3. The procedure used to ensure that Fund monies are expended as specified in A.R.S. § 41-2401(D); and

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

#### **R10-4-304. Records Required**

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

#### **R10-4-305. Complaints**

- A.** An individual who believes that Fund monies are being expended in a manner that is inconsistent with A.R.S. § 41-2401(D) may:
  1. Submit a written complaint to the Commission; and
  2. If the complaint relates to an expenditure by a court, shall submit the complaint to the Director of the Administrative Office of the Courts.
- B.** An individual who submits a complaint shall ensure that the complaint includes sufficient information to enable the Commission to investigate the expenditure alleged to be inconsistent with A.R.S. § 41-2401(D).

- C.** Except as specified in subsection (E), if the Commission determines that an expenditure about which a complaint is submitted appears to be inconsistent with A.R.S. § 41-2401(D), the Commission shall ask the Head to explain the expenditure.
- D.** If the Commission determines that the expenditure is inconsistent with A.R.S. § 41-2401(D), the Commission shall take action allowed by law to remedy the expenditure.
- E.** The Director of the Administrative of the Courts shall:
  - 1. Investigate an expenditure about which a complaint is submitted under subsection (A)(2),
  - 2. Determine whether the expenditure is inconsistent with A.R.S. § 41-2401(D), and
  - 3. Notify the Commission of the determination and any action taken to remedy the expenditure.