

Hon. Donna McQuality, President  
Arizona Association of Superior Court Clerks  
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IN THE SUPREME COURT STATE OF ARIZONA

IN THE MATTER OF	)	Supreme Court No. R-20-0044
SUPPLEMENTAL PETITION TO	)	
ADOPT NEW JUVENILE RULES	)	COMMENT
349, 350, AND 419 AND NEW	)	
FORMS 7 AND 8 AND TO AMEND	)	
FAMILY LAW RULES 43.1	)	

The Arizona Association of Superior Court Clerks (Clerks Association) submits the following Comment to the Supplemental Petition to Adopt New Juvenile Rules 349, 350, and 419 and New Forms 7 and 8 and to Amend Family Law Rule 43.1. The Clerks Association is made up of the elected Clerks of the Superior Courts for each of Arizona’s fifteen (15) counties. Thirteen (13) of the fifteen (15) elected Clerks, on behalf of their respective offices, reached consensus in objecting to Rule 419(e)(2) as currently written and propose an alternative process for the handling of the Form 7.<sup>1</sup> The two other elected Clerks, on behalf of their respective offices, have no objection to Rule 419(e)(2) as currently proposed by the Task Force on the Rules of Procedure for the Juvenile Court.<sup>2</sup> The reasoning for the divergent positions is set forth below.

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<sup>1</sup> The Clerks in opposition to Juvenile Rule 419(e)(2) as currently written represent the following counties: Apache, Cochise, Coconino, Gila, Graham, Greenlee, LaPaz, Mohave, Navajo, Pinal, Santa Cruz, Yavapai and Yuma. These Clerks Offices all utilize the AJACS case management system, so do their respective Courts, which is supported by the Administrative Office of the Courts.

<sup>2</sup> The Clerks not in opposition to Juvenile Rule 419(e)(2) as currently written represent the following counties: Maricopa and Pima. The Maricopa County Superior Court owns and operates its own case management system, iCIS, which the Clerk of the Superior Court for Maricopa County utilizes in fulfilling its roles and responsibilities. The Pima County Superior Court owns and operates its own case management system, Agave, which the Clerk of the Superior Court for Pima County utilizes in fulfilling its roles and responsibilities.

The 13 Clerks only objection to the new Juvenile Rules is to the requirement that the Form 7 be destroyed. The 13 Clerks would strongly prefer to file the Form 7 into the adoption case file, rather than destroy the Form 7. Using the information provided on the Form 7, if the Clerk's search confirms the existence of a child support order, the Clerk must complete a Form 8, and file the Form 8 as a confidential document into the family law case file, as well as transmit copies of the Form 8 in accordance with Rule 419(d). The 13 Clerks maintain because superior courts are courts of record pursuant to AZ CONST Art. 6 § 30 and the Clerks and their staff will be relying on the information contained on the Form 7 to execute the Form 8, the Form 7 should be preserved and filed into the adoption case, and afforded the necessary protections provided pursuant to Rule 75 of the Juvenile Rules and Rule 123 of the Rules of the Supreme Court. In addition, the AJACS case management system may lack necessary data fields, and Clerks rely on the contents of documents. Lastly, it is extremely rare for a document to be presented to the 13 Clerks that is not formally filed into a case file. Attached is proposed Rule 419, with amendments as recommended by the 13 Clerks.

The Clerk of the Maricopa County Superior Court (Maricopa County Clerk), in conjunction with Court Administration for the Maricopa County Superior Court, currently utilize a portion of the process set forth in Rule 419, in furtherance of fulfilling the legal obligations set forth in A.R.S. §§8-539 and 25-503(Q)(3).<sup>3</sup> Court Administration currently provides Birth Parent Information Forms for attorneys to fill out, which are submitted to the Maricopa County Clerk on a voluntary basis. Subsequent to completing the necessary research to identify the existence of a child support order, the Maricopa County Clerk shreds or destroys

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<sup>3</sup> Representatives of the Clerk of the Superior Court for Maricopa County assisted with the drafting of proposed Rule 419, Forms 7 and 8 and Amended Family Law Rule 43.1 as Maricopa County already utilized an informal process to conduct research to terminate child support orders subsequent to an adoption.

the Form. As such, the Maricopa County Clerk does not object to the shredding or destruction of the Form 7, as it is its current practice. Further, the Maricopa County Clerk routinely works with documents that are not necessarily filed into a case file and has experienced no issues in destroying the Birth Parent Information Form.

Alternatively, the Maricopa County Clerk has no objection to filing the Form 7 into the adoption case file, and will adapt to whatever the Supreme Court decides is in the best interests of the superior courts, clerks, attorneys, government agencies and the parties to both the adoption and family law cases.<sup>4</sup>

DATED this 27<sup>th</sup> day of April, 2022.

/s/ Donna McQuality  
Hon. Donna McQuality, President  
Arizona Association of Superior Court Clerks

This Comment has been filed via electronic filing of in accordance with deadlines set forth in the Supreme Court's December 8, 2021 Order.

A copy of this Comment has been mailed to the Petitioner at the following:

Rebecca White Berch (Justice, ret.), Chair  
Task Force on the Rules of Procedure for the Juvenile Court  
1501 West Washington Street  
Phoenix, Arizona 85007

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<sup>4</sup> It is the understanding of the Clerks Association that the Clerk of the Superior Court for Pima County also does not object to the destruction of the Form 7.