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ARIZONA SUPREME COURT

In the matter of:

PETITION TO AMEND CRIMINAL RULE
1.5 AND JUVENILE RULE 227 AND ADOPT
CRIMINAL RULE 7.7 AND JUVENILE
RULE 228

Supreme Court No. R-22-0038

COMMENT BY ARIZONA DEPARTMENT
OF JUVENILE CORRECTIONS

Doug Sargent, Director, Arizona Department of Juvenile Corrections, hereby submits a comment in this matter, pursuant to Rule 28, Rules of the Supreme Court of Arizona.

The Arizona Department of Juvenile Corrections (ADJC) supports the rule changes proposed by this petition as appropriate to implement the changes necessitated by amendments to the federal Juvenile Justice Delinquency Prevention Act and A.R.S. § 8-305. However, in light of Petitioner's reply seeking input from stakeholders, ADJC wishes to respond to the comment submitted by Mr. Eric Meaux, Chief of Juvenile Probation for the Maricopa County Juvenile Probation Department. More specifically, this comment will address the portion of Chief Meaux's comment that pertains to housing youth who are subject to charges in criminal court while having previously been committed to ADJC by the juvenile court.

The changes to the Rules of Criminal Procedure and the Rules of Juvenile Procedure proposed in this petition would govern whether youth charged with criminal offenses pursuant to

A.R.S. § 13-501 or transferred for criminal prosecution would be detained in an adult jail facility or a juvenile detention facility. Chief Meaux's comment requests that, in addition to the changes set forth in the petition, Rule 227(3)(F) be amended to state, "If the court determines that a juvenile facility is appropriate and the juvenile is currently in the custody of the Department of Juvenile Corrections under A.R.S. § 8-341(A)(1) (e), the court shall remand the juvenile to the Department of Juvenile Corrections under the concurrent jurisdiction of the existing juvenile court order pursuant to A.R.S. § 8-202(F)."

ADJC opposes the addition of the language Chief Meaux proposes. First, ADJC concurs with Petitioner's reply to Chief Meaux's comment, in which Petitioner states that the issue Chief Meaux raised is beyond the scope of the petition's purpose of implementing the changes to A.R.S. § 8-305 enacted in SB 1073 in 2022. In addition, the proposal submitted by Chief Meaux misinterprets A.R.S. § 8-202(F), and it would violate other Arizona statutes.

Chief Meaux's proposed language is meant to apply to those youth who were committed to ADJC pursuant to A.R.S. § 8-341(A)(1)(e) and remain under ADJC's jurisdiction when they are subsequently charged with crimes as adults. It would require that such youth be held at Adobe Mountain School if, after applying the factors for determining whether a youth is to be held in a county jail or in a juvenile detention facility pending trial, a court determines that detainment in a juvenile facility is appropriate.

The Language Proposed by Chief Meaux Relies Upon an Overly Broad Interpretation of

A.R.S. § 8-202(F)

A.R.S. § 8-202(F) provides in pertinent part that "[t]he orders of the juvenile court under the authority of this chapter or chapter 3 or 4 of this title take precedence over any order of any other court of this state. . . ." Chief Meaux suggests that this statute requires that once a juvenile court

has ordered a youth's commitment to ADJC, that youth can only be confined in an ADJC secure facility, even if subsequently charged as an adult.

Chief Meaux's interpretation of A.R.S. § 8-202(F) is unsupported by existing law and contradicts his own position. If, as suggested, A.R.S. § 8-202(F) mandates that once committed to ADJC pursuant to A.R.S. § 8-341, a youth can be detained only in an ADJC facility, notwithstanding any subsequent order by any Arizona court, then youth committed to ADJC would be effectively excluded from the application of A.R.S. § 8-305(D) and (E), the provisions that prompted this petition. Instead, the order committing the youth to ADJC would take precedence over any determination by the criminal court that a youth should be detained in a county jail pending trial. Unlike all other youth charged with criminal offenses, those previously committed to ADJC could be detained only at ADJC's secure facility, Adobe Mountain School, pending trial in criminal court. Such an interpretation is contrary to A.R.S. § 8-305 and would defeat the very purpose of this petition.

ADJC Cannot House Youth for Whom Bail has Been Set, But Not Posted

When a person is charged with a bailable offense, A.R.S. § 13-3967 provides the court two options: it can release the detainee on their own recognizance or it can set bail, the payment of which is a prerequisite for release. Unless the criminal court releases a defendant on their own recognizance or the defendant posts bail, the defendant must be detained at a county operated facility. A.R.S. § 13-3969 places the responsibility for accepting a payment of bail exclusively on the county sheriff. It is a county function.

ADJC is a state agency, not a county operated facility, and has no authority to detain defendants for whom bail has been set. Nothing in A.R.S. §§ 41-2801, et. seq, ADJC's enabling legislation, authorizes it to hold a criminal defendant for whom bail has been set, nor is there any

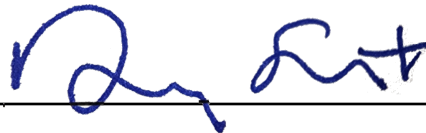
authority or mechanism for ADJC to accept a bond payment from and release a defendant. That function rests exclusively with the county sheriff and presupposes that such defendants are in county custody.

The Trial Court is Best Positioned to Determine Where a Youth Should be Housed

Requiring the court to remand youth previously committed to ADJC back to ADJC, as Chief Meaux suggests, removes discretion from the trial court, which is best positioned to determine the appropriate placement for a youth charged with a criminal offense, using the factors in A.R.S. § 8-305(D). Should the court determine that a youth previously committed to ADJC is best placed back at Adobe Mountain School, the court already has within its authority the mechanism for achieving this, by releasing the youth on their own recognizance. At that point, the juvenile court's committing order would require the youth to be returned to ADJC's custody.

Therefore, Chief Meaux's proposal eliminating the court's discretion to determine the best placement for youth previously committed to ADJC and charged with a criminal offense is unworkable and should not be adopted.

Respectfully submitted this 28th day of April, 2023.



Doug Sargent
Director