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**ARIZONA SUPREME COURT**

In the matter of:	)	
	)	
PETITION TO AMEND CRIMINAL	)	Supreme Court No. 22-0038
RULE 1.5 AND JUVENILE RULE 227	)	
AND ADOPT CRIMINAL RULE 7.7	)	REPLY
AND JUVENILE RULE 228	)	(Second Comment Period)
	)	
_____	)	

David K. Byers, Administrative Director, Administrative Office of the Courts, and Petitioner in this matter, hereby replies pursuant to Rule 28(e)(5), Rules of the Supreme Court of Arizona and this Court’s Order dated December 8, 2022.

**I. Procedural History**

On September 19, 2022, Petitioner filed a petition to amend Criminal Rule 1.5 and Juvenile Rule 227, and create a new Criminal Rule 7.7 and a new Juvenile Rule 228 to address the detainment of juveniles transferred for criminal prosecution or charged pursuant to A.R.S. § 13-501. Proposed amendments were prompted by changes made to A.R.S. § 8-305 through the enactment of Senate Bill (SB) 1073 during the 2022 Second Regular Session of the 55<sup>th</sup> Legislature. The proposed

amendments also incorporate federal requirements under the Juvenile Justice and Delinquency Prevention Act for grant funding intended to improve juvenile justice system programs and juvenile delinquency education, research, prevention, treatment, and rehabilitation programs.

SB 1073 became effective on September 24, 2022. Accordingly, Petitioner requested expedited consideration of the petition with an initial public comment period until October 31, 2022, and emergency adoption of the proposed rule amendments at the Court's December 2022 Rules Agenda with a second comment period to follow.

On September 21, 2022, this Court granted Petitioner's request to consider this petition on an expedited basis. The Court further ordered the petition be opened for public comment until October 31, 2022. On December 8, 2022, this Court entered an Order adopting many of Petitioner's proposed amendments, on an emergency basis. This Court reopened the public comment period until May 1, 2023, with any reply due by June 1, 2023. This Court will consider whether to adopt the rule amendments on a permanent basis at its August 2023 Rules Agenda.

This petition received two comments during the second comment period, and Petitioner files this Reply to address those comments.

## **II. Discussion**

The first comment was a joint comment from the Directors of the Maricopa County Indigent Defense Agencies (“Directors”). The Directors indicate they have no comment regarding the permanent adoption of the amendments to Criminal Rule 1.5 and Juvenile Rule 227 but reiterate their position from their October 31, 2022 comment, that any court procedures implementing SB 1073 “respect the due process rights of juvenile defendants and ensure that juveniles who are being prosecuted in the adult criminal courts are not prejudiced in obtaining fair results.” May 1, 2023 Joint Comment, ¶3. Petitioner believes the rule amendments as adopted in this Court’s December 8, 2022 Order achieve that end, and Petitioner is confident that any court implementing the provisions of A.R.S. § 8-305(E) through the rules as adopted by this Court on December 8, 2022 will ensure due process.

Petitioner files this Reply to advise this Court that Petitioner maintains his position as set forth in his November 4, 2022 Reply and that he supports the rules as adopted in this Court’s December 8, 2022 Order.

The second comment was from Mr. Doug Sargent, Director of the Arizona Department of Juvenile Corrections (ADJC) and addresses the portion of Mr. Eric Meaux’s October 31, 2022 comment that proposes adding a provision to Juvenile Rule 227(a)(3)(F) that would require that a juvenile who the court determines should remain in a juvenile facility and is in the custody of the Department of Juvenile Corrections be remanded to the Department of Juvenile Corrections. Petitioner

advised this Court in his November 4, 2022 Reply that he believed this proposal was beyond the scope of the petition's purpose. Petitioner maintains this position. Mr. Sargent's comment opposes Mr. Meaux's proposal in this regard and concurs that it is beyond the scope of the petition's purpose.

### **III. Request**

Petitioner appreciates the comments stakeholders submitted during the second comment period and deems it important to file this Reply to address those comments. Based on the foregoing responses, Petitioner respectfully requests that this Court adopt on a permanent basis the rules as set forth in its December 8, 2022 Order.

Respectfully submitted this 31<sup>st</sup> day of May, 2023.

By /s/David K. Byers  
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