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ARIZONA SUPREME COURT

In the matter of:)
)
PETITION TO AMEND RULES 206, 325,) Supreme Court No. 23-_____
327, 334, AND FORM 8 OF THE RULES) (expedited consideration
OF PROCEDURE FOR THE JUVENILE) and emergency adoption
COURT) requested)
_____)

Pursuant to Rule 28 of the Rules of the Supreme Court of Arizona, David K. Byers, Administrative Director, Administrative Office of the Courts, respectfully petitions this Court to amend the rules specified above as proposed in the Appendix. The proposed amendments implement legislative enactments affecting the Rules of Procedure for the Juvenile Court from the First Regular Session of the Fifty-sixth Legislature, including Senate Bill (SB) 1197 and House Bill (HB) 2313 as more particularly described below.

SB 1197 and HB 2313 are expected to become effective in November or December 2023. Accordingly, Petitioner seeks expedited consideration of this petition and emergency adoption of the proposed amendments with an effective date

that coincides with the general effective date of legislation from the First Regular Session of the Fifty-sixth Legislature.

I. Purpose of the Proposed Rule Amendments

A. SB 1197, Juvenile Offenders; Monetary Sanctions; Repeal (Laws 2023, Ch. 162)

SB 1197 repeals several statutory provisions in Title 8 related to a court's ability to impose monetary obligations against a juvenile or a juvenile's parent, including reimbursement for court-appointed counsel. Accordingly, it is necessary to amend Juvenile Rule 206(c) that otherwise allows the court to assess the financial circumstances of the juvenile's parent and order the parent to pay a reasonable portion of the cost of a court-appointed attorney. Petitioner's proposed amendments are set forth in the Appendix and would amend Juvenile Rule 206(c) to prohibit the court from assessing the financial circumstances of the parent and assessing any portion of the cost of a court-appointed attorney against the juvenile or the juvenile's parent.

B. HB 2313, Child Placement; Relative Search; Notice (Laws 2023, Ch. 87)

HB 2313 amends A.R.S. § 8-514.07 to establish detailed requirements for the ongoing search the Department of Child Safety (DCS) is required to conduct to identify and notify adult relatives of a child and persons with a significant relationship with a child when the child is taken into temporary

custody. Accordingly, A.R.S. § 8-821 was amended to add a new subsection (D) to require the court to order DCS to initiate a due diligence search pursuant to A.R.S. § 8-514.07 if a child is taken into temporary custody under A.R.S. § 8-821. Therefore, Petitioner proposes an amendment to Juvenile Rule 327(d)(1), Court Authorized Removal, Findings and Orders, as set forth in the Appendix, to add a new subsection F that would require an order granting an application for court authorized removal to require DCS to initiate a due diligence search pursuant to A.R.S. § 8-514.07.

This bill also amends A.R.S. § 8-842(B)(2) related to the initial dependency hearing, to require the court to determine whether DCS is conducting a due diligence search pursuant to A.R.S. § 8-514.07. Accordingly, Petitioner proposes amending Juvenile Rules 325(d) and 334(e)(1) as set forth in the Appendix to add this as a determination that must be made at the initial dependency hearing.

Lastly, this bill amends A.R.S. § 8-842(B)(1) to require the court, at the initial dependency hearing, to determine whether the parent is providing the court and DCS with the names, relationships, and contact information necessary to locate persons who are related to the child or who have a significant relationship with the child, rather than requiring the court to order the parent to provide this information at the initial dependency hearing. Therefore, Petitioner proposes amending Juvenile Rule 334(e) as set forth in the Appendix to add a new subsection 4 for this purpose.

Although the order requirement was removed from A.R.S. § 8-842(B)(1), Petitioner recommends that this requirement remain in existing Juvenile Rule 334(g)(7) and (8), to facilitate the due diligence search required under A.R.S. § 8-514.07.

C. Technical Change - Juvenile Form 8, Notice of Completed Adoption

Petitioner proposes correcting a statutory cross-reference in Form 8, Notice of Completed Adoption, to change “25-530(Q)” to “25-503(Q)” as set forth in the Appendix.

II. Preliminary Comments

This petition was sent to judges in Cochise, Gila, Greenlee, La Paz, Maricopa, Mohave, Pima, Pinal, and Yavapai Counties. Petitioner did not receive comments or feedback; however, Petitioner notes that the time for requested feedback from these judges was short due to the technical nature of this petition and the short period of time since the enactment of the new statutory provisions.

III. Request for Expedited Consideration and Emergency Adoption

The legislation identified in this petition is expected to become effective in November or December 2023. Therefore, as permitted by Supreme Court Rule 28(h), Petitioner respectfully requests that this Court expedite its consideration of this petition for inclusion on the August 2023 Rules Agenda, consider adoption of the proposed amendments as set forth in the Appendix on an emergency basis at that

Agenda, open the petition for comment, and consider adopting the proposed amendments on a permanent basis at this Court's December 2023 Rules Agenda.

Respectfully submitted this 13th day of July, 2023.

By /s/ David K. Byers
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APPENDIX

Arizona Rules of Procedure for the Juvenile Court

(deletions shown with ~~strikethrough~~, new language is underlined)

Rule 206. Appointment of Attorney for a Juvenile

(a) and (b) [No change]

(c) ~~Determination of the Cost of a Court-Appointed Attorney.~~ The court may order the juvenile's parent to provide proof of financial resources by completing the court's financial questionnaire. The court also may question the parent under oath about the parent's available financial resources. If the court determines the juvenile is entitled to a court-appointed attorney, the court may order the juvenile's parent to pay a reasonable portion of the cost of a court-appointed attorney. The cost of a the court-appointed attorney may not be assessed against the juvenile, the juvenile's parent, DCS or ADJC.

(d) and (e) [No change]

Rule 325. Mandatory Judicial Determinations

(a) through (c) [No change]

(d) **At the Preliminary Protective Hearing and Initial Dependency Hearing.**

(1) At the preliminary protective hearing and the initial dependency hearing, the court must determine whether DCS is attempting to identify and assess:

(~~1A~~) placement of the child with the child's grandparent or other member of the child's extended family, including a person who has a significant relationship with the child, and

(~~2B~~) placement of the child with the child's siblings, if such placement is possible and is in the child's best interests.

(2) At the initial dependency hearing, the court must also determine whether DCS is conducting a due diligence search under A.R.S. § 8-514.07.

(e) through (j) [No changes]

Rule 327. Court Authorized Removal

(a) through (c) [No change]

(d) **Findings and Orders.**

(1) *Content.* An order granting an application must:

(A) through (C) [No change]

(D) state whether remaining in the child's home is contrary to the welfare of the child as required by Rule 325(c); ~~and~~

(E) if there is reason to know that the child an Indian child, find that authorization of temporary custody is necessary to prevent imminent physical damage or harm to the child, as required by 25 C.F.R. § 23.113(b)(1); and

(F) require DCS to initiate a due diligence search under A.R.S. § 8-514.07.

(2) through (5) [No change]

Rule 334. Initial Dependency Hearing

(a) through (d) [No change]

(e) Determination. If DCS is the petitioner, the court should determine:

(1) whether DCS placed, or is conducting a due diligence search under A.R.S. § 8-514.07 and attempting to place, the child with a grandparent or another member of the child's extended family, including a person who has a significant relationship with the child;

(2) whether DCS placed, or is attempting to place, the child with the child's siblings, if such placement is possible and is in the child's best interests, and if that is not possible, to maintain frequent visitation or other ongoing contact between all siblings; ~~and~~

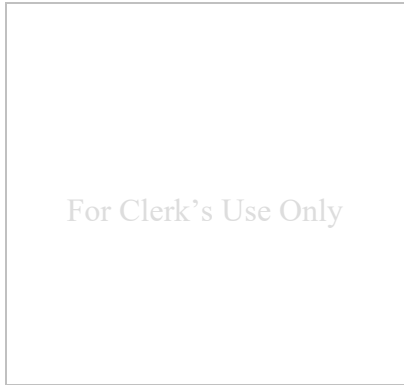
(3) identify on the record all the documents the court has received and will consider, including DCS's report prepared pursuant to A.R.S. § 8-824(H) and other evidence permitted by A.R.S. § 8-825; and

(4) whether the parent is providing the court and DCS with the names, relationships, and contact information necessary to locate persons who are related to the child or who have a significant relationship with the child.

(f) and (g) [No change]

Form 8. Notice of Completed Adoption

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Representing [] Self or [] Attorney for: _____
State Bar No. (if any): _____



_____ **COURT OF ARIZONA**
IN _____ **COUNTY**

In the Matter of:

Case Number: _____

**NOTICE OF COMPLETED
ADOPTION [Form 8]**

(Names of Child(ren) under 18 years of age)

(Assigned to Hon. _____)
(Division: _____)

You are hereby notified that the following child/children were adopted.

Full Name of Child	Date of Birth	Date of Adoption
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

The obligation to pay child support is terminated by operation of law when a child is adopted under A.R.S. §§ 8-539 and ~~25-530~~ 25-503(Q). However:

- You may need to request that your income withholding order be stopped.
- The order may not terminate if the order is for more than one child, and they are not all adopted.
- Child support arrears from prior to adoption are not extinguished by the adoption and the parent entitled to receive the support or a state child support agency may still be entitled to collect arrears.

If you have received this notice, you may want to seek legal advice about what steps you need to take with regards to your child support order. If your case is being enforced by the Arizona Division of Child Support Services, you can contact your caseworker for additional information.

Clerk of the Court

Date

Distribution:

This Notice must be filed by the Clerk of the Court as a Confidential Document pursuant to Rule 43.1(h), Rules of Family Law Procedure.