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10 **ARIZONA SUPREME COURT**
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IN RE PETITION TO AMEND RULES 327 AND 332 OF THE ARIZONA RULES OF PROCEDURE FOR THE JUVENILE COURT
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Supreme Court No. 24-_____

Pursuant to Rule 28 of the Rules of the Supreme Court of Arizona, Tom Jose, licensed attorney and Director of the Children’s Law Clinic at the Center for the Rights of Abused Children, respectfully petitions this Court to amend the rules specified above as proposed below. The proposed amendments seek to add a statement to the application for court-authorized removal that the Department of Child Safety (“DCS”) has provided information about its investigation and the child safety decision-making processes to the parents or guardians from whom it proposes to remove the child. The proposed amendments further seek to add judicial determinations at the preliminary protective hearing regarding whether an educational placement conference has been conducted, and,

1 if DCS is the petitioner, whether DCS has informed the child, parent, guardian, custodian,
2 foster parent, and kinship foster parent of their respective rights.

3 **I. Purpose of Proposed Rule Amendments.**

4 The proposed rule amendments seek to conform the juvenile rules to the
5 requirements of SB 1186 (2023) (Laws 2023, Ch. 157), which codifies certain rights to
6 people interacting with DCS and the juvenile courts, along with notification
7 requirements, and SB 1205 (2023) (Laws 2023, Ch. 117), which requires DCS and a
8 child's school to engage in an educational placement conference within five days of the
9 child's removal from the home. These laws went into effect in October 2023.

11 **a. SB 1186 (Laws 2023, Ch. 157)**

12 Through SB 1186, the Legislature amended several statutes regarding the rights of
13 people interacting with the child welfare system. *See* A.R.S. §§ 8-529 (foster children);
14 -530 (foster parents and kinship foster parents); and -809.01 (parents, guardians, and
15 custodians under investigation). The proposed amendment would require the juvenile
16 court to determine at the preliminary protective hearing whether DCS has informed all
17 such people of their rights in cases in which DCS is the petitioner.

18 That same bill enacted A.R.S. §§ 8-802 and -809.01(A), which modify and bestow
19 certain rights upon parents, guardians, and custodians while under investigation by DCS
20 for child abuse or neglect. The proposed amendment would require a person applying for
21 the court-authorized removal of a child to state in the application whether DCS provided
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1 information of those rights to the parent, guardian, or custodian from whom DCS seeks to
2 remove the child.

3 **b. SB 1205 (Laws 2023, Ch. 117)**

4 In SB 1205, the Legislature created a requirement that certain people, including the
5 child’s caseworker and representatives from the child’s local education agency or school
6 of origin, engage in a best-interest educational determination conference within five days
7 after the child is removed from the home. The proposed amendment would require the
8 juvenile court to determine at the preliminary protective hearing whether such an
9 educational determination conference has been conducted.
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11 **II. Draft of Proposed Amendments.**

12 **Arizona Rules of Procedure for the Juvenile Court**
13 (deletions shown with ~~strikethrough~~, new language is underlined)

14 **Rule 327. Court Authorized Removal**

15 **(a) through (b) [No change]**

16 **(c) Procedure.**

17 (1) *Application.* An applicant may request the court to authorize DCS to take
18 temporary custody of a child by submitting the application to a judicial officer
designated by the Maricopa County superior court presiding judge to receive
and respond to applications under this rule. The application must state:

19 (A) the applicant’s professional qualifications;

20 (B) the particular reasons that each child is presently or imminently in
danger of abuse or neglect;

21 (C) a detailed account of facts and circumstances that require
authorization of temporary custody;

22 (D) efforts made to determine the availability of less restrictive
voluntary options, including care by a parent or relative, that effectively
removes or controls the danger; ~~and~~

23 (E) the identity and description of each child for whom temporary
24 custody authorization is sought; and

1 (F) Whether DCS provided information to each child’s parent,
2 guardian, or custodian regarding the investigation and child safety
3 decision-making process pursuant to A.R.S. § 8-803(A)(2) and the
4 parent’s, guardian’s, or custodian’s rights pursuant to A.R.S. § 8-
5 809.01(D).

6 (2) through (4) [No change]

7 (d) [No change]

8 **Rule 332. Preliminary Protective Hearing**

9 **(a) through (b) [No change]**

10 **(c) Procedure.** At the preliminary protective hearing, the court must:

11 (1) appoint counsel pursuant to Rule 303;

12 (2) determine:

13 (A) whether the parties have been served pursuant to A.R.S. § 8-
14 841(D) and Rule 329;

15 (B) whether to close the proceeding and provide the admonition for a
16 hearing that remains open to the public, as required by A.R.S. § 8-
17 525 and Rule 312;

18 (C) whether paternity has been established as to any father, and if not,
19 the court must ask the mother, and may take her testimony, concerning
20 the identity and location of any potential father;

21 (D) whether reasonable efforts were made to prevent or eliminate the
22 need for removal of a child from the child’s home and if services are
23 available that would eliminate the need for continued removal pursuant
24 to A.R.S. § 8-825(D);

 (E) whether there is probable cause to believe that continued temporary
 physical custody is clearly necessary to prevent abuse or neglect
 pending the hearing on the dependency petition required by A.R.S. § 8-
 824(F);

 (F) whether a proposed case plan for services has been submitted and
 whether it is reasonable and necessary to carry out the case plan; ~~and~~

 (G) whether the parent admits, does not contest, or denies the
 allegations in the dependency petition; and

(H) whether an educational placement conference has been conducted
 pursuant to A.R.S. § 8-530.04;

 (3) if DCS is the petitioner, determine:

 (A) whether DCS placed, or is 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;

1 (B) whether DCS made arrangements, as provided by A.R.S. §§ 8-
2 512, 8-512.01, and 8-514.05, for:

- 3 (i) the assembly of the child’s medical records;
- 4 (ii) a medical assessment of the child;
- 5 (iii) the implementation of referrals; and
- 6 (iv) the communication of recommendations and results;:-

7 (C) whether DCS has provided the child with information regarding the
8 child’s rights pursuant to A.R.S. § 8-529(C);

9 (D) whether DCS has provided the parent, guardian, or custodian with
10 information regarding the investigation and child safety decision-
11 making process pursuant to A.R.S. § 8-803(A)(2) and the parent’s,
12 guardian’s, or custodian’s rights pursuant to A.R.S. § 8-809.01(D); and

13 (E) whether DCS has provided the foster parent or kinship foster parent
14 with information regarding the foster parent’s or kinship foster parent’s
15 rights pursuant to A.R.S. § 8-530(B).

16 (4) through (9) [No change]

17 **(d) through (f) [No change]**

18 **III. Similar Petitions.**

19 A review of this Court’s website does not reveal any similar petition filed within
20 the last five years.

21 Respectfully submitted this 9th day of January, 2024.

22 **CENTER FOR THE RIGHTS OF ABUSED CHILDREN**

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