Hon. Anna Young, Chair
Committee on Juvenile Courts
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IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the matter of:	)	
	)	
PETITION TO ADOPT RULES 701 THROUGH 706, RULES OF PROCEDURE FOR THE JUVENILE COURT	)	Supreme Court No. 24-_____
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Pursuant to Rule 28 of the Rules of the Supreme Court of Arizona, the Committee on Juvenile Courts (COJC) ("Petitioner"), respectfully petitions this Court to adopt new Rules 701 to 706 of the Rules of Procedure for the Juvenile Court to establish court rules governing the process for mental health services provided to juveniles under A.R.S. § 8-272.

I. Summary of A.R.S. § 8-272.

Title 8, Chapter 2, Article 6 of the Arizona Revised Statutes, titled "Children's Mental Health Services," includes A.R.S. § 8-272, which consists of 19 subsections and governs psychiatric inpatient and outpatient assessments and psychiatric acute care services for juveniles. Given the length and density of A.R.S. § 8-272, Petitioner provides the following summary of the statute's provisions to provide insight on the derivation of the proposed rules:

- A.R.S. § 8-272(A) provides that if a child exhibits behavior that indicates the child may suffer from a mental disorder or is a danger to self or others, an entity (defined) may request that the child receive an outpatient or inpatient assessment.
- A.R.S. § 8-272(B) sets forth who may conduct an outpatient assessment, the time and place for doing so, and the recommendations that may be made, including that the child be admitted to a psychiatric acute care facility for inpatient assessment or inpatient psychiatric acute care services.
- A.R.S. § 8-272(C) sets forth who may conduct an inpatient assessment, the timeframe for doing so (within 72 hours after a child is admitted to an inpatient assessment facility, excluding weekends and holidays), and the recommendations that may be made, including that the child be admitted to a psychiatric acute care facility for inpatient psychiatric acute care services.
- A.R.S. § 8-272(D) requires that within 24 hours after a child is admitted for an inpatient assessment, excluding weekends and holidays, the entity must file a motion for approval for an inpatient assessment with the juvenile court, and sets forth the information that must be included in the motion.

- A.R.S. § 8-272(E) provides the notice requirements for the motion for approval for an inpatient assessment under A.R.S. § 8-272(D). This subsection further provides that the court must rule on the motion without a response from any party. However, any party may request a hearing to review the child's admission for an inpatient assessment, and if the court grants the request for a hearing, the court must set the hearing on an expedited basis.
- A.R.S. § 8-272(F) provides the requirements for filing a motion for the child to receive inpatient acute care psychiatric services if such services are recommended by the mental health professional who performed the outpatient or inpatient assessment.
- A.R.S. § 8-272(G) requires the court to appoint an attorney for the child if a motion is filed under A.R.S. § 8-272(D) or (F).
- A.R.S. § 8-272(H) provides that if a motion for inpatient psychiatric acute care services under A.R.S. § 8-272(F) is filed, the court must hold a hearing on the motion within 72 hours after the motion is filed, excluding weekends and holidays.
- A.R.S. § 8-272(I) requires that if a child has been admitted for an inpatient assessment and the motion for inpatient psychiatric acute care

services under A.R.S. § 8-272(F) is not timely filed, the child must be discharged from the inpatient assessment facility.

- A.R.S. § 8-272(J) establishes the standard of proof (by clear and convincing evidence) for admitting the child for inpatient psychiatric acute care services and the findings the court must make for it to approve the child's admission for inpatient psychiatric acute care services.
- A.R.S. § 8-272(K) requires the court to review the child's need for continuing treatment at least every 60 days and the inpatient psychiatric acute care facility to submit a progress report to the court at least five days before the review and to the parties. It also sets forth the information that must be included in the progress report. Lastly, this subsection provides provisions for when the court must hold a hearing on the child's continuing need for inpatient psychiatric acute care services.
- A.R.S. § 8-272(L) provides the notice requirements if a child is transferred from one inpatient psychiatric acute care facility to another inpatient psychiatric acute care facility and makes explicit that no new inpatient or outpatient assessment is required. A.R.S. § 8-272(M) provides that any party may request a hearing to review the transfer.

- A.R.S. § 8-272(N) establishes the requirements for the inpatient psychiatric acute care facility to prepare a discharge summary and the requirements for the notice of the discharge that must be filed with the court.
- A.R.S. § 8-272(O) establishes the requirements for child-attorney communication, required hearing attendance, and provides that the child may attend any hearing unless the court finds that it would not be in the child's best interests.
- A.R.S. § 8-272(P) provides notice requirements if the child is dually adjudicated and that any entity is permitted to attend and participate in all hearings or other proceedings relating to the provision of inpatient psychiatric acute care services to a dually adjudicated child.
- A.R.S. § 8-272(Q) sets forth when certain other A.R.S. sections apply.
- A.R.S. § 8-272(R), with exception, makes information and records obtained or created in the course of any assessment, examination, or treatment subject to the confidentiality requirements of A.R.S. § 36-509.
- A.R.S. § 8-272(S) defines "child" and "psychiatric and mental health nurse practitioner."

II. Grounds for Petition.

Given the length and density of the statute, the process and requirements for obtaining court approval for psychiatric inpatient assessments and psychiatric acute care services for juveniles is unclear and confusing. The members of the COJC agreed during their October 2023 meeting that court rules pertaining to A.R.S. § 8-272 proceedings would be helpful to judges, practitioners, and other stakeholders, to better organize and clarify the process and requirements. Accordingly, the COJC formed a workgroup to examine A.R.S. § 8-272 and draft court rules to clarify the process. The workgroup presented the rule proposal to the COJC at the COJC's April 2024 meeting, and the COJC voted to move forward with filing a petition. The proposed rules are set forth in the Appendix.

III. Workgroup.

The workgroup met four times from January 2024 to March 2024 and was led by the Honorable Kathleen Quigley, Presiding Juvenile Judge of the Juvenile Court in Pima County. Other members included:

Administration/Probation/Detention

- Beth Broeker, Legal Systems Bureau Administrator, ADJC
- Jennifer Torchia, Deputy Court Administrator, Pima County Juvenile Court
- Cara Singer, Assistant Director, Pima County Juvenile Court

Attorneys

- Sandra Diehl, Public Defenders Office, Coconino County
- Jillian Aja, Chief Counsel, Office of Children's Counsel, Pima County
- David Miller, Office of Children's Counsel, Pima County
- Bill Owsley, Office of the Legal Advocate, Maricopa County
- David Lieb Office of the Public Advocate, Child's Counsel, Maricopa County

Attorney General

- Kristen Wright, Division Chief Counsel
- Anndrea Kawamura, Section Chief Counsel
- Carey Turner, Unit Chief Counsel, Pima County

DCS

- Dr. Sara Park, Chief Medical Office
- Amelia Cearlock, MSW, System of Care
- Administrator Sara Perry, Chief Health Services Officer
- Emily Steiner, Deputy General Counsel

Judges

- Judge Erin Farrar, Presiding Juvenile Judge, Yuma County
- Judge Michala Ruechel, Presiding Juvenile Judge, Navajo County

IV. Contents of Proposed Rules.

Petitioner proposes creating six new rules, numbered 701 through 706, to be placed in a new Part of the Juvenile Rules, titled "Part VII. Mental Health Services." Petitioner proposes creating a new Part VII for two reasons: (1) the current schema of the juvenile rules does not lend itself to an appropriate place for rules addressing mental health services for juveniles, and (2) creating a new Part VII will provide a location for any future rules related to mental health services to be placed.

Additionally, in early discussions, the workgroup discussed whether the statutory references should be included in the rules. This was also noted by colleagues of workgroup members when early drafts were vetted. The workgroup decided that given the length and density of A.R.S. § 8-272, explicit references to the statute's subsections would be useful. Moreover, including statutory references, while not always preferred in court rule drafting, is not inconsistent with other Juvenile Court rules that include statutory references.

The proposed Juvenile Rules 701 through 706 track A.R.S. § 8-272 and are summarized as follows:

1. Rule 701. General Provisions. This rule provides general provisions applicable to Rules 701 through 706. Specifically,

a. Subpart (a) generally tracks A.R.S. § 8-272(A), providing that an entity (defined) may file a request for a child to receive an inpatient

assessment and treatment as provided in A.R.S. § 8-272(A). This subpart also adopts the definitions in A.R.S. §§ 8-271 and -272 to make clear that the terms as used in Rules 701 through 706 have the same meaning as they have in A.R.S. § 8-272. Moreover, the term "juvenile" is defined in Juvenile Rule 102(r). Rule 102(r) provides that the term "juvenile" is interchangeable with the term "child;" however, the definition provided in Rule 102(r) differs from the definition of "child" provided in A.R.S. § 8-272. Therefore, proposed Rule 701(a) specifically adopts the definitions in A.R.S. §§ 8-271 and -272, which includes the statutory definition of "child," and "as used in Rules 701 through 706," to clarify the application of the definitions in A.R.S. §§ 8-271 and -272 and avoid any conflict between the definitions in Rule 102 and the definitions in A.R.S. §§ 8-271 and -272.

b. Subpart (b) provides that entities may attend and participate in hearings.

c. Subpart (c) provides a definition for "party" as used in Rules 701 through 706, to clarify that it includes an entity, the child's parents, an Indian custodian, and the child.

2. Rule 702. Motion for Approval for Inpatient Assessment. This rule provides the procedure governing a request for a child to receive an inpatient assessment. Specifically,

a. Subpart (a) provides the timeframe in which an entity must file a motion for approval of an inpatient assessment, provides an exemption to Rule 316's requirement to state the positions of other parties due to the expedited nature of the request, and requires that the motion contain the information required by A.R.S. § 8-272(D). This subpart tracks A.R.S. § 8-272(D).

b. Subpart (b) provides who must be provided with a copy of the motion for approval of an inpatient assessment and tracks A.R.S. § 8-272(E).

c. Subpart (c) requires the court to appoint an attorney for the child and may appoint a guardian ad litem. This subpart tracks A.R.S. § 8-272(G) and requires that the entity provide the motion for approval of an inpatient assessment to the appointed attorney and guardian ad litem if one is appointed.

d. Subpart (d) provides the timeframe in which the attorney and guardian ad litem must communicate with the child after the motion for approval of an inpatient assessment has been filed and requires the

entity to ensure that they are on the child's contact list at the inpatient assessment facility. This subpart tracks A.R.S. § 8-272(O).

e. Subpart (e) requires the court to rule on the motion for approval of an inpatient assessment without a response from any party and tracks A.R.S. § 8-272(E).

3. Rule 703. Motion for Inpatient Psychiatric Acute Care Services. This rule provides the requirements for requesting inpatient psychiatric care services for the child if treatment is recommended after the outpatient or inpatient assessment is performed. Specifically,

a. Subpart (a) provides the timeframe for filing a motion for inpatient psychiatric care services after an inpatient assessment is performed and tracks A.R.S. § 8-272(F).

b. Subpart (b) provides the venue for filing the motion for inpatient psychiatric care services when the filing entity is the Arizona Department of Juvenile Corrections.

c. Subpart (c) provides the requirements for the contents of the motion for inpatient psychiatric care services and references the requirements set forth in A.R.S. § 8-272(F)(1) and (2).

d. Subpart (d) provides who must be provided with a copy of the motion for inpatient psychiatric care services and notice of hearing.

e. Subpart (e) provides the timeframe in which the child's attorney and guardian ad litem must communicate with the child after the motion for inpatient psychiatric care services is filed and tracks A.R.S. § 8-272(O).

f. Subpart (f) provides the timeframe in which the court must set a hearing after the motion for inpatient psychiatric care services is filed, requires the court to dismiss an untimely filed motion, provides that the child has the right to attend the hearing, and requires the court to consider evidence admissible under Rule 104 in making its determination. This subpart tracks A.R.S. § 8-272(H), (I), and (O).

g. Subpart (g) provides the findings the court must make and provides that such findings must be in a signed minute entry or order. This subpart tracks A.R.S. § 8-272(J).

h. Subpart (h) requires the court to enter an order granting or denying the motion for inpatient psychiatric care services and provides specific orders the court must make if the motion is granted and specific orders the court must make if the motion is denied. This subpart also requires the court, if the motion is granted, to review within 60 days the continuing need for treatment and provides how the review may be conducted. This subpart tracks A.R.S. § 8-272(K).

4. Rule 704. Continuing Review of Inpatient Psychiatric Acute Care Services. This rule provides the requirements for continued review of the need for inpatient psychiatric care services. Specifically,

a. Subpart (a) provides that the court must conduct a review every 60 days and that the review may be conducted by hearing or an in-chambers review unless the court is otherwise required to hold a hearing. This subpart tracks A.R.S. § 8-272(K).

b. Subpart (b) provides that the court may admit and review the progress report required to be submitted to the court by the inpatient facility under A.R.S. § 8-272(K). This subpart also provides that the court may find a continued need for inpatient psychiatric acute care services based on the factors in A.R.S. § 8-272(K).

c. Subpart (c) requires the court to set the next 60-day review hearing if the child remains in the inpatient facility and order the filing entity to provide a copy of the progress report to all parties, the child's attorney, and the guardian ad litem.

d. Subpart (d) provides that the court may set additional review hearings on the court's own motion or on the motion of any party. This subpart tracks A.R.S. § 8-272(K).

5. Rule 705. Transfer to Another Inpatient Psychiatric Acute Care Facility. This rule governs the procedures for a child that is transferred from one inpatient psychiatric acute care facility to another inpatient psychiatric acute care facility. Specifically,

a. Subpart (a) tracks A.R.S. § 8-272(L) and provides that if a child is transferred from one facility to another, a new inpatient or outpatient assessment is not required.

b. Subpart (b) tracks A.R.S. § 8-272(L) and provides the requirements for the Notice of Transfer, who the filing entity must provide the notice to, and the timeframe for doing so.

c. Subpart (c) provides that any party may request that the court set a hearing to review the transfer. This subpart tracks A.R.S. § 8-272(M).

d. Subpart (d) provides that the court is required to continue to review the ongoing need for the child to receive inpatient psychiatric acute care services as provided in Rule 704.

6. Rule 706. Discharge. This rule requires the filing entity to provide notice to the court of the child's discharge and sets forth the information that must be included in the notice. This subpart tracks A.R.S. § 8-272(N).

V. Conclusion and Request.

The proposed rules as set forth in the Appendix will significantly help clarify the requirements and procedures for obtaining approval for psychiatric inpatient assessments and psychiatric acute care services for juveniles. Petitioner therefore respectfully requests that this Court open this petition for public comment, consider the petition and comments in the regular course provided by Supreme Court Rule 28, and adopt the proposed amendments as set forth in the Appendix.

Respectfully submitted this 17th day of October, 2024.

By /s/ Hon. Anna Young
Hon. Anna Young, Chair
Committee on Juvenile Courts

APPENDIX

(All verbiage below is new language and shown in underlined)

Rules of Procedure for the Juvenile Court

PART VII. MENTAL HEALTH SERVICES

Rule 701. General Provisions

(a) Generally. An entity may request that a child be placed in a facility to receive an inpatient assessment and treatment as provided in A.R.S. § 8-272(A) if the child exhibits behavior that indicates the child may suffer from a mental disorder as defined in A.R.S. § 36-501 or is a danger to self or others. Unless the context requires otherwise, the definitions in A.R.S. §§ 8-271 and -272 apply as used in Rules 701 through 706.

(b) Attendance at Hearings. Any entity that has been granted the legal care, custody, and control of the child may attend and participate in all hearings or other proceedings relating to the provision of inpatient psychiatric acute care services for the child.

(c) Parties. "Party" for purposes of Rules 701 through 706 is any entity as defined in A.R.S. § 8-271(2), a parent of the child, a guardian, an Indian custodian, an Indian tribe when the child is an Indian child, and the child.

Rule 702. Motion for Approval for Inpatient Assessment

(a) Motion. No later than 24 hours after a child is admitted for an inpatient assessment, excluding weekends and holidays, the entity requesting the inpatient assessment must file a motion for approval of the inpatient assessment as provided in A.R.S. § 8-272(D). The filing entity is not required to state the position of the other parties as otherwise required by Rule 316(a). The motion must include all the information required by A.R.S. § 8-272(D).

(b) Notice. The filing entity must provide all parties, their attorneys, and any guardian ad litem, in any known open juvenile court matter related to the child, with a copy of the motion for approval of the inpatient assessment.

(c) Appointment of an Attorney; Guardian Ad Litem. The court must appoint an attorney for the child if one has not been previously appointed, as provided in A.R.S. § 8-272(G). The court may appoint a guardian ad litem for the child. The filing entity must then provide the newly appointed attorney, and guardian ad litem if any, with a copy of the motion.

(d) Inpatient Assessment Facility Contact List. At the time the motion for approval of the inpatient assessment is filed, or the attorney or guardian ad litem is appointed by the court, the filing entity must ensure that the child's attorney and guardian ad litem are on the contact list at the inpatient assessment facility and must provide the child's attorney, and the child's guardian ad litem if one was appointed, with the contact information necessary for them to speak with the child. The child's attorney and the guardian ad litem must communicate with the child no later than 24 hours after a motion under A.R.S. § 8-272(D) is filed, excluding weekends and holidays, as provided in A.R.S. § 8-272(O).

(e) No Response Before Ruling. The court must rule on a motion for approval of an inpatient assessment without a response from any party, as provided in A.R.S. § 8-272(E).

Rule 703. Motion for Inpatient Psychiatric Acute Care Services

(a) Motion. If the person who performs the outpatient or inpatient assessment recommends inpatient acute care psychiatric services for the child, the entity must file a motion with the juvenile court for the child to receive inpatient psychiatric acute care services. If the motion is filed based on the recommendation from an inpatient assessment and the child is admitted to a psychiatric acute care facility, the motion must be filed no later than 24 hours after receiving the inpatient assessment, excluding weekends and holidays, as provided in A.R.S. § 8-272(F).

(b) Place of Filing When the Filing Entity is the Arizona Department of Juvenile Corrections. If the filing entity is the Arizona Department of Juvenile Corrections, the motion must be filed in the county where the child was residing at the time the child was committed to the Arizona Department of Juvenile Corrections.

(c) Requirements. The motion must include a copy of the outpatient or inpatient assessment, the date and time the filing entity received the assessment, and the other requirements listed in A.R.S. § 8-272(F)(1) and (2).

(d) Notice. The filing entity must provide a copy of the motion and the notice of hearing to all other parties, their attorneys, and any guardian ad litem. If the child is a dually adjudicated child, the motion must be provided to any other entity, as provided in A.R.S. § 8-272(P).

(e) Required Communication by Attorney and Guardian Ad Litem. The child's attorney, and guardian ad litem if one is appointed, must communicate with the child no later than 24 hours after the motion is filed, excluding weekends and holidays, as provided in A.R.S. § 8-272(O).

(f) Hearing. The court must set a hearing no later than 72 hours after the filing of

the motion, excluding weekends and holidays, as provided in A.R.S. § 8-272(H).

(1) *Untimely Filed Motion.* If the filing entity failed to file the motion within 24 hours of receiving the inpatient assessment, excluding weekends and holidays, the court must order the child discharged from the inpatient assessment facility.

(2) *Attendance of Child.* The child has the right to attend any hearing unless the court finds by a preponderance of the evidence that allowing the child to attend would not be in the child's best interests, as provided in A.R.S. § 8-272(O).

(3) *Evidence.* The court must consider evidence admissible under Rule 104(b) to determine whether to grant the motion for the child to receive inpatient psychiatric acute care services.

(g) Findings. In a signed minute entry or order, the court must either:

(1) find by clear and convincing evidence that:

(A) the child is suffering from a mental disorder or is a danger to self or others and requires inpatient psychiatric acute care services, and

(B) available alternatives to inpatient psychiatric acute care services were considered, but the inpatient psychiatric acute care services are the least restrictive available alternative; or

(2) find that (g)(1)(A) or (B), or both, were not proven by clear and convincing evidence.

(h) Orders. The court must enter an order granting or denying the motion for the child to receive inpatient psychiatric acute care services.

(1) *Granting the Motion.* If the court grants the motion, the court must do all of the following:

(A) review within 60 days the child's continuing need for inpatient psychiatric acute care services as provided in A.R.S. § 8-272(K). The court may complete the review by holding a hearing or through an in-chambers review, except that a hearing must be held if requested by the child;

(B) order the inpatient psychiatric acute care facility to submit a progress report to the court at least 5 days before the review that meets the requirements of A.R.S. § 8-272(K)(1) through (5); and

(C) order the filing entity to provide copies of the progress report to all the parties, the child's attorney, and the guardian ad litem if one was appointed.

(2) *Denying the Motion*. If the court denies the motion, the court must order the child discharged from any inpatient psychiatric acute care facility to the custody of the filing entity for placement, after considering the recommendations of the facility.

Rule 704. Continuing Review of Inpatient Psychiatric Acute Care Services

(a) Continuing Review Required. If the child is placed or remains placed in an inpatient psychiatric acute care facility, the court must review the child's placement as provided in A.R.S. § 8-272(K) at least every 60 days after the date of the order approving treatment until the child is discharged. The review may be completed by holding a hearing or through an in-chambers review unless the court is required to hold a hearing as provided in A.R.S. § 8-272(K).

(b) Completing the Review. Whether the review is completed by holding a hearing or through an in-chambers review, the court may admit and review the progress report required to be prepared by the facility under A.R.S. § 8-272(K). The court may find that the need for inpatient psychiatric acute care services for the child continues to be necessary based on the factors listed in A.R.S. § 8-272(K).

(c) Subsequent Reviews. If the child remains placed in a facility, the court must set the next 60-day review and order the filing entity to provide copies of the progress report to all the parties, the child's attorney, and the guardian ad litem if one was appointed.

(d) Request for Additional Review Hearing. As provided in A.R.S. § 8-272(K), on the motion of the court or any party, the court may set a hearing on the child's continuing need for inpatient psychiatric acute care services.

Rule 705. Transfer to Another Inpatient Psychiatric Acute Care Facility

(a) New Assessment Not Required. As provided in A.R.S. § 8-272(L), if the child is transferred from one inpatient psychiatric acute care facility to another inpatient psychiatric acute care facility, a new outpatient or inpatient assessment is not required.

(b) Notice of Transfer. At least 5 days before the child is transferred, the filing entity must file a notice of transfer with the juvenile court and serve the notice on the parties. The notice must include:

(1) The name and address of the facility to which the child is being transferred and the date of the transfer;

(2) A statement from the medical doctor of the receiving inpatient psychiatric acute care facility or the medical director's designee that the receiving facility

is an appropriate facility to meet the child's mental health needs and that it is the least restrictive available alternative; and

(3) A statement that the filing entity has contacted the child's attorney or guardian ad litem and whether the child or the child's attorney or guardian ad litem opposes the transfer.

(c) Request for Hearing. Any party may file a motion to request that the court set a hearing to review the transfer as provided in A.R.S. § 8-272(M).

(d) Continuing Review. If a child is transferred, the court must continue to review the ongoing need for the child to receive inpatient psychiatric acute care services as provided in Rule 704.

Rule 706. Discharge

No later than 20 days after a child is discharged from receiving inpatient psychiatric acute care services, the filing entity must file a notice of discharge with the juvenile court as provided in A.R.S. § 8-272(N). The notice must include:

(a) A statement of the child's current placement;

(b) A statement of the mental health services that are being provided to the child and the child's family; and

(c) A copy of the discharge summary that is prepared by a mental health professional.