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ARIZONA SUPREME COURT

In the Matter of:

Petition to Adopt R. Pro. Jv. Ct. 323.1

Supreme Court No. R-26-_____

Joint Petition by the Directors of the
Maricopa County Indigent Defense
Agencies

The Maricopa County indigent representation offices (IR) collectively handle most cases filed in Maricopa County in which there has been a finding of indigency. The Office of Public Defense Services (OPDS) provides administrative and financial oversight to the staffed offices and the Office of Contract Counsel (OCC). The staffed offices are

comprised of the Office of the Public Defender (OPD), the Office of the Legal Advocate (OLA), the Office of the Legal Defender (OLD), and the Office of the Public Advocate (OPA).

I. Background.

We propose amending Rules of Procedure for the Juvenile Court (R. Pro. Jv. Ct.) to adopt Rule 323.1 for Orders to Show Cause. Currently, there is no rule that addresses the process to exercise the Juvenile Court’s contempt power. A.R.S. § 8-247. Previously, parties to a Juvenile Court proceeding could refer to the Arizona Rules of Civil Procedure for guidance when the Juvenile rules were silent. “In some instances, it may be appropriate to resort to civil rules of procedure where juvenile rules are silent and where civil rules are readily adaptable and necessary to dependency proceedings.” *SS. v. Superior Court*, 178 Ariz. 423, 424, 874 P.2d 980, 981 (App. 1994). The new rules prohibit such ad hoc incorporation (R. Pro. Jv. Ct. 103), and there is no reference to Rule 7.3 of the Arizona Rules of Civil Procedure for Orders to Show Cause.

Despite the lack of explicit rule guidance, motions and hearings for an order to show cause still often occur in dependency, guardianship, and severance proceedings. Formalizing the process provides guidance to the courts and parties and creates parity in expectations and implementation of the Superior Court’s contempt power.

II. Discussion on Proposed Rule Changes.

This proposed rule change differs from the Civil Rules of Procedure and favors quicker resolution by not requiring written responses and allowing the proceedings to utilize avowals when appropriate. This is important as enforcement of judicial orders,

especially concerning placement of a child(ren), can often be time sensitive. For example, bed space at a Behavioral Health Inpatient/Residential Facility may only be available for a day or two, and the opportunity to place a child cannot wait for the typical written filing and response time anticipated in R. Pro. Jv. Ct. 316.

It is respectfully requested 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 10th day of December 2025.

By /s/ Rosemarie Pena-Lynch
Rosemarie Pena-Lynch, Director
Mcpa. Cnty. Ofc. of Public Defense Svc.

By /s/ Lina G. Garcia
Lina G. Garcia, Interim Director
Mcpa. Cnty. Public Defenders Ofc.

By /s/ Steve Koestner
Steve Koestner, Director
Mcpa. Cnty. Ofc. of Legal Advocate

By /s/ Shannon L. Burns
Shannon L. Burns, Director
Mcpa. Cnty. Ofc. of Public Advocate

By /s/ Michael C. Jones
Michael C. Jones, Director
Mcpa. Cnty. Ofc. of Legal Defender

APPENDIX

(new language is underlined)

Rules of Procedure for the Juvenile Court

Rule 323.1. Orders to Show Cause

(a) Generally. A court may issue an order requiring a party to show cause why the party applying for the order should not have the relief it requests in its application.

(b) Service. An order to show cause must be served in accordance with Rule 106.

(c) Procedure. The court must set a hearing as soon as necessary giving paramount consideration to the child's health and safety and protecting the child's best interests. The court may order written responses or may proceed with just a hearing to address the issue. The hearing may proceed by avowal or with testimony and exhibits as justice requires.