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ARIZONA SUPREME COURT

In the Matter of:

Petition to Amend R. Pro. Jv. Ct. 323

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 Rule 323 of the Arizona Rules of Procedure for the Juvenile Court (R. Pro. Juv. Ct. 323) to address the persistent challenges that arise when dependency proceedings overlap with Family Court matters. The amendment seeks to prevent conflicting orders between the Juvenile and Family court divisions. In addition, it will help center children’s best interests in all determinations involving custody, parenting time, and decision-making. Finally, it will promote judicial efficiency by providing clear authority for consolidation and avoid duplicative or inconsistent litigation.

R. Pro. Juv. Ct. 323 was enacted in July 2022 and was modeled after Arizona Rule of Family Law Procedure 5.1 (R. Fam. Law P. 5.1) (2019). Its purpose was to harmonize practice across divisions when there were overlapping cases. Prior to its adoption, Juvenile Court judges often relied on R. Fam. Law P. 5.1 as a guide, which resulted in disparate outcomes based on individual interpretation. In July 2022, Judge Armstrong, Judge Young, Judge Kreamer and Judge Quigley prepared a video discussing the main amendments to the Juvenile Rules. Judge Quigley from Pima County indicated that R.Pro. Juv. Ct. 323 clarifies the rule and sets forth guidelines for addressing the issues of having both a Juvenile and Family Court case simultaneously. See training video: [Intro to New Juvenile Rules Part III on Vimeo](#) (55min54s).

II. Discussion of Rule Changes.

Since 2022, the interpretation and application of R. Pro. Juv. Ct. 323 have varied significantly across the bench, and recent case law has further complicated its application. The lack of uniformity creates unnecessary risk of conflicting rulings and procedural inefficiency.

Before R. Pro. Juv. Ct. 323 was enacted, the courts relied on *Meryl R. v. Dep't of Econ. Sec.*, 196 Ariz. 24 (Ct. App. 1999); *Sofia C. v. Dep't of Child Safety*, No. 2 CA-JV 2015-0084, 2015 WL 5332227 (Ariz. Ct. App. Sept. 14, 2015) (unpublished); and *In re Pima Cnty. Juv. Action No. J-77188*, 139 Ariz. 389 (Ct. App. 1983), when Family Court orders were necessary prior to dismissal of a dependency matter.

After the enactment of R. Pro. Juv. Ct. 323, Division One of the Court of Appeals, in *Verdugo v. Lang*, No. 1 CA-CV 22-0387 FC, 2023 WL 5466107 (Ariz. Ct. App. Aug. 24, 2023) (mem. decision), held that the trial court lacked jurisdiction and failed to follow proper procedures when it entered custody orders granting custody and decision-making authority to the child's adult half-sister without her filing a petition in the Family Court. The Court of Appeals concluded that, under Arizona law, third parties may obtain custody only by filing a proper petition, and that parents are entitled to due process protections, including notice and a hearing, before custody can be restricted. Although this was a memorandum decision, the case created significant confusion among Juvenile Court judges.

Later in 2025, the Court of Appeals, in *Magee v. Olson*, 574 P.3d 1189 (Ariz. Ct. App. July 2025), held that jurisdiction over matters involving children automatically

transfers to the Juvenile Court upon notice to the Family Court of pending dependency proceedings. The Family Court has no discretion to deny the transfer; only the Juvenile Court may later return the case. This holding ensures that custody and dependency issues are resolved together in the same court. Consolidating both matters facilitates communication between the courts and helps prevent confusion.

Despite the guidance provided by the Court of Appeals, some Juvenile Court judges remain reluctant to assume temporary jurisdiction over existing Family Court matters for the limited purpose of entering temporary orders to safeguard a child from being removed from a parent who has failed to remedy the circumstances that led to the dependency. In such circumstances, the parent determined to be adequate to provide care is left with a legitimate concern that the child may be removed upon dismissal of the dependency pursuant to preexisting Family Court orders granting joint custody.

In April of 2022, Pima County Superior Court adopted a comprehensive *Juvenile–Family Law Protocol* and corresponding Local Rule 6.2: [View Document - Arizona Court Rules](#) and [protocol_with_attachments.pdf](#). Their system mandates post-adjudication consolidation, manages confidentiality issues between case types, and requires that final Family Court orders be entered before the dismissal of a dependency.

Mohave County Superior Court implemented Local Rule DR-2 (2024), requiring notice of concurrent proceedings, judge-to-judge coordination, and automatic assignment of Family Court matters to the Juvenile Court upon adjudication of dependency. These practices are designed to prevent conflicting orders and ensure continuity of judicial oversight. See page 8: [Local Rule Amendments Approved 2024.pdf](#)

This proposed amendment brings R. Pro. Juv. Ct. 323 into alignment with proven practices in several Arizona counties, ensures consistency across divisions, and strengthens both judicial efficiency and child protection. It provides attorneys and judges with clear guidance, reduces procedural ambiguity, and keeps the child’s best interests as the guiding principle in all overlapping proceedings.

Respectfully submitted this 16th day of December 2025.

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By /s/ Michael C. Jones
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APPENDIX

(Removed language is struck through. New language is underlined)

Rules of Procedure for the Juvenile Court

Rule 323 Simultaneous Dependency and Legal Decision-Making/Parenting Time Proceedings

(a) Consolidation When Dependency, Guardianship Is Pending. ~~Transfer to Juvenile Division.~~ If pending family law and dependency proceedings concern the same parties, ~~the judge presiding over the juvenile case makes decisions concerning the children.~~

~~(1) *Notice.* The parties must notify the family division of a pending dependency proceeding.~~

~~(2) *Effect of Transfer.* If the proceedings are transferred, the juvenile division will hear custodial issues until the dependency is dismissed or the juvenile division defers jurisdiction to the family division.~~

When both a family law proceeding and a dependency or guardianship proceeding involving the same parties are pending, the judge presiding over the juvenile case makes decisions concerning the children. The juvenile court has exclusive jurisdiction over concurrent family and dependency proceedings.

Any party may move, either in writing or orally, to consolidate the proceedings. The assigned juvenile division shall rule on any consolidation and endorse the family court division.

(1) *Written motions:* A written motion for consolidation must be filed in the juvenile case and copied to the family law case.

(2) *Oral motions:* An oral motion for consolidation must be made on the record during any hearings in the dependency matter.

(A) The Juvenile Court judge may consult with the assigned Family Court judge regarding consolidation or may order consolidation on their own motion.

(B) The assigned juvenile division shall rule on any consolidation. If consolidated in Juvenile Court, legal decision-making and parenting time may be litigated in the juvenile division.

(b) Consolidation of the proceedings Upon an Adjudication of Dependency Referral to Family Division. ~~If the juvenile division determines that a change of legal decision-making or parenting time is appropriate, it may decide those issues or refer the matter to the family division for further proceedings.~~

1. Upon an adjudication of dependency, the Juvenile Court shall consolidate any family law matter concerning the same parties with the juvenile matter to prevent conflicting orders in the Family and Juvenile cases and to permit the Juvenile Court, if appropriate, to determine legal decision-making and parenting time issues necessary to protect a child.
2. All orders regarding child custody issued by the Juvenile Court shall endorse the Family Court.
3. To safeguard the confidentiality of the Juvenile Court matter, a separate minute entry will be filed in the family law matter showing whether the Court ordered the family law matter consolidated with the Juvenile Court matter. The minute entry from the Juvenile matter will likewise reflect whether the Court ordered a family law matter consolidated with the Juvenile Court matter.

(c) Support Orders. During any dependency or guardianship proceeding in the juvenile division, the juvenile division may establish, suspend, modify, or terminate a child support order. Except in Title IV-D cases, the juvenile division also may make appropriate orders regarding any past due support or child support arrears and may direct that an income withholding order be quashed or modified. Any order regarding child support must be filed in both the family division and the juvenile division.

(d) Applicability of Family Law Statutes and Rules. In deciding issues of legal decision-making, parenting time, and support, the court must apply A.R.S. Title 25 and the Family Law Rules.

e) Maintaining confidentiality of DCS information under A.R.S. 8-807

All information obtained from DCS that is filed in a Family Court case shall be filed under seal in accordance with A.R.S. § 8-807. Any Juvenile Court minute entries

submitted or incorporated into the Family Court record shall be filed under seal to preserve confidentiality.

f) Only One Parent Involved and Actively Participating in Dependency

If only one parent is involved in the dependency case and paternity has been established, the court may affirm legal decision making with the involved parent pursuant to A.R.S. § 25-803(D), which states: “In any case, in which paternity is established, the parent with whom the child has resided for the greater part of the last six months, shall have legal decision making unless otherwise ordered by the court.”