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**ARIZONA SUPREME COURT**

In the Matter of:

Petition to Amend R. Pro. Jv. Ct. 324

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 324 of the Arizona Rules of Procedure for the Juvenile Court (R. Pro. Juv. Ct. 324) to address the process for requesting the move of a child from one placement to another and the need for court oversight. Although the general practice across the State is for parties to file a Motion for a Change in Physical Custody, there is currently no Rule.

In addition, whenever a child is placed in the “physical custody of the DCS” (foster home), DCS has total discretion to disrupt these placements as often as they want with impunity and without oversight. In these circumstances, no subsequent motion is filed, there is no Court oversight, and the child and parent have no opportunity to be heard on whether the move should take place. The multiple placements that children face once in foster care plagues our system. As a result, these children often face severe issues like deepening trauma, emotional insecurity, abandonment feelings, severe academic disruption (losing months of progress per move), difficulty forming trust/attachments, and increased behavioral problems, hindering their development and path to permanency due to constant instability, loss of connections, and lack of a consistent environment. This cycle disrupts education, mental health, and relationships, making it harder for them to thrive or

find stable, permanent homes, and ultimately contributes to the next generation of dependent children. The failure to allow parents and children a voice in these life altering events, and much less any oversight by the Court, is unjust and easily correctible.

**II. Discussion on Proposed Rule Changes.**

Current R. Pro. Jv. Ct. 324 only outlines notice requirements that must be followed when a child is moved from one placement to another. There is currently no authority requiring a court order or that a child or parents' position be taken into consideration prior to a child being moved from one foster home to another. Unfortunately, this notice requirement is constantly ignored and violated by DCS, leaving parents and children without a remedy as the moves have already taken place.

The proposed amendment to R. Pro. Jv. Ct. 324 provides not only the authority but the Court oversight required to prevent unnecessary harm and further safeguards the legal rights of child and their parents. Importantly, the proposed amendment does not prevent DCS from moving a child when clearly necessary to protect the child from suffering abuse or neglect and it is contrary to the child's welfare to remain in the home.

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Respectfully submitted this 16 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. Removed language is struck through)

### Rules of Procedure for the Juvenile Court

#### Rule 324. ~~Providing Notice of a Change in a Child's Placement~~

##### Motion for a Change in Physical Placement

~~(a) Notice to Child's Attorney and GAL. DCS must notify the child's attorney and an appointed GAL of any change in the child's placement. The notice must include the child's new placement address, the type of placement, and contact information, which must be kept confidential.~~

**Generally.** Any party seeking the move of a child's physical placement, except for a parent requesting a return of child to the parent's custody, must file a motion seeking to change the physical placement of the child. Unless exigent circumstances exist that require DCS to immediately move a child to ensure the child's immediate safety from abuse or neglect, the motion must be filed prior to the change in physical placement.

(1) Emergency removal. In the event exigent circumstances, pursuant to A.R.S. § 8-821(E), DCS is permitted to immediately take temporary custody of the child and place the child prior to the motion and order. However, DCS must provide notice while it awaits ruling on the motion for change of physical placement.

a. Notice to Child's Attorney and GAL. DCS must notify the child's attorney and an appointed GAL of any change in the child's placement. The notice must include the child's new placement address, the type of placement, and contact information, which must be kept confidential.

- b. Notice to Parent's Attorney. DCS must notify the parent's attorney of any change in the child's placement and the type of placement. The notice must not include the child's new placement address or contact information. If the parent's attorney receives the new placement address or contact information, the attorney must keep the information confidential, not disseminate the information to the parent or any other person and promptly notify counsel for DCS of the erroneous receipt.
- c. Time and Manner of Notice. DCS must provide notice as soon as practicable before the child is relocated. If DCS is not able to provide advance notice of the child's relocation because relocation was necessary to protect the child, it must do so as soon thereafter as possible and no later than 24 hours after the change of placement, excluding weekends and holidays. DCS may provide the notice orally or electronically, including by email.
- d. For purposes of the section, exigent circumstances include placing a child after the child is released from juvenile detention if no parent, guardian, or person with legal custody is willing or able to pick up the child.

~~(b) Notice to Parent's Attorney. DCS must notify the parent's attorney of any change in the child's placement and the type of placement. The notice must not include the child's new placement address or contact information. If the parent's attorney receives the new placement address or contact information, the attorney must keep the information confidential, not disseminate the information to the parent or any other person, and promptly notify counsel for DCS of the erroneous receipt.~~

**Findings.** The court must find in a signed minute entry or order:

- (1) The proposed placement is the least restrictive consistent with the best interest of the child
- (2) Whether any party objects to the change of placement.
- (3) Indian child. Whether a child is an Indian child, and whether the proposed placement conforms with Rule 321 placement preferences for an Indian child.
- (4) Rule 342 and A.R.S. § 8-861 findings and burdens apply to requests by a parent or guardian back to the parent's or guardian's care, including a parent filing a motion to place the child in another parent's care.

~~(c) Time and Manner of Notice. DCS must provide notice as soon as practicable before the child is relocated. If DCS is not able to provide advance notice of the child's relocation because relocation was necessary to protect the child, it must do so as soon thereafter as possible and no later than 24 hours after the change of placement, excluding weekends and holidays. DCS may provide the notice orally or electronically, including by email.~~

**Orders.** The court's order granting or denying a request to change physical placement of a child must be in a signed minute entry or order. If the court grants the request to change placement of the child, the court must order:

- (1) The proposed placement be authorized to consent to all social and authorized educational activities for the child.
- (2) The proposed placement is the least restrictive consistent with the best interest of the child.