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## ARIZONA SUPREME COURT

In the Matter of:

Petition to Amend R. Pro. Jv. Ct. 335

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 335 of the Arizona Rules of Procedure for the Juvenile Court (R. Pro. Juv. Ct. 335) to implement provisions of the federal Family First Prevention Services Act (FFPSA) addressing Qualified Residential Treatment Program (QRTP) placements.

Congregate care settings for children, such as group homes, produce poorer outcomes for children than family-like settings, deprive children from building and experiencing caring relationships, deprive children from experiencing normal childhood activities, and cost far more than placement in family-like settings. Children routinely experience congregate care as traumatic, punitive and prison-like. Recognizing the evidence-based principle that children do best in family-like settings and that congregate care is harmful for children, the FFPSA was designed to increase the placement of children in family-like settings and decrease the placement of children into congregate care. Thus, the FFPSA severely restricts federal funding for congregate care.

However, the FFPSA contains some exceptions where federal funding can be used for congregate care in very limited circumstances, with significant due process protections for children. QRTPs fall into one of these exceptions. The federally created QRTP

placements are not behavioral health placements and do not offer behavioral health services. However, the FFPSA has stringent requirements for QRTPs, mandating conditions such as at least six months of aftercare.

To ensure that children are not being placed inappropriately in QRTPs (e.g. the FFPSA forbids determining children need QRTP placement due to a lack of qualified foster homes), the FFPSA grants children significant due process. These due process protections are enshrined in Arizona as R. Pro. Jv. Ct. 335.

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

Amending R. Pro. Jv. Ct. 335 will clarify due process protections for when and how children are placed in QRTP. While the current version of R. Pro. Jv. Ct. 335 incorporates the FFPSA's due process protections, R. Pro. Jv. Ct. 335 in its present state has been ineffective. Currently, the Arizona Department of Child Safety (DCS) never follows R. Pro. Jv. Ct. 335's due process requirements, decision makers struggle to understand what R. Pro. Jv. Ct. 335 requires, and very few, if any, of the placements labeled QRTPs by DCS meet the FFPSA requirements for QRTPs.

With the due process guarantees of R. Pro. Jv. Ct. 335 being very rarely enforced, children are systematically illegally placed in restrictive congregate care placements labeled as QRTPs (but not meeting federal QRTP requirements). The effect on the vulnerable children in DCS care is severe. Placements labeled as QRTPs by DCS are largely clustered in far-flung areas of Maricopa County. Children are routinely uprooted from existing supports and placed in congregate care settings that are often very far from their services, schools, and natural supports. This disruption in services, schools, and

natural supports is especially damaging to children when the promised services that the FFPSA requires are also never delivered.

Often the best course of action for a child placed into a non-QRTP congregate care setting is to remove the child from the traumatic congregate care setting and place the child in a caring foster home. However, the non-enforcement R. Pro. Jv. Ct. 335 has created an ironic response where DCS routinely places children traumatized by congregate care into even more restrictive congregate care placements instead of family-like settings.

These amendments would clarify R. Pro. Jv. Ct. 335, allow the Court sufficient information to make the federally required findings for funding, and address the current practice of bypassing individualized assessments and placing children in restrictive settings without due process.

Additionally, these amendments provide for clear and timely judicial oversight of an intended short-term placement for children placed in congregate care which is consistent with the rights of children in foster care and their best interest pursuant to A.R.S. § 8-529 and A.R.S. § 8-514.

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.

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Respectfully submitted this 16 day of December 2025.

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By /s/ Michael C. Jones  
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## APPENDIX

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

### Rules of Procedure for the Juvenile Court

#### Rule 335. Qualified Residential Treatment Program; Judicial Review

**(a) Generally.** A child may be placed in a qualified residential treatment program under the conditions set forth in this rule, subject to approval and review by the court.

**(b) Definitions.**

(1) “*Qualified Residential Treatment Program*” (“QRTP”) means a program that is licensed as described in 42 U.S.C. § 672(k)(4) that has a trauma-informed treatment model designed to address the needs, including clinical needs as appropriate, of children with serious emotional or behavioral disorders or disturbances and, with respect to a child, is able to implement the treatment identified for the child by the QRTP assessment, ~~to serve children with specific treatment needs~~ who need short term placement out of their homes and that qualifies for funding under the federal FFPSA.

(2) “*Qualified Individual*” means a trained professional or licensed clinician who:

(A) is qualified to conduct a QRTP ~~assessment~~ tool;

(B) has training and knowledge about what constitutes a QRTP, including licensing and training requirements of a QRTP consistent with 42 U.S.C. § 672(k)(4).

(~~B~~ C) is not an employee of DCS unless the requirement is waived pursuant to 42 U.S.C. § 675a(c)(1)(D); and

(~~C~~ D) is not connected to or affiliated with any placement setting in which children are

placed by the State unless the requirement is waived pursuant to 42 U.S.C. § 675a(c)(1)(D).

(3) “*QRTP Assessment Tool*” means an evaluation by a qualified individual that assesses the strengths and needs of the child using an age-appropriate, evidence-based, validated, functional assessment tool as described in 42 U.S.C. § 675a(c)(1). A score from the tool is not independently sufficient for placing a child in a QRTP.

(4) “*QRTP Assessment*” means a comprehensive assessment, as described in 42. USC §675(a)(c)(1)(A), including the QRTP Tool, that is completed by a single evaluation by a qualified individual that assesses the strengths and needs of the child using an age-appropriate, evidence-based, validated, functional assessment tool as described in 42 U.S.C. § 675a(c)(1); determines whether the needs of the child can be met in kinship care with a grandparent or another member of the child's extended family, including a person who has a significant relationship with the child, or in a foster home, and if not, which setting from among the settings specified in 42 U.S.C. § 472(k)(2) would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child; and develops a list of child-specific short- and long-term mental and behavioral health goals.

**(c) Time to Complete the Assessment and Documentation.** ~~No later than 30 days after the start of~~ Prior to the child's placement in a QRTP, a qualified individual must do all of the following:

(1) a qualified individual must prepare an assessment of the strengths and needs of the

child using an age-appropriate, evidence-based, validated, functional assessment tool as described in 42 U.S.C. § 675a(c)(1);

(2) a qualified individual must determine whether the needs of the child can be met in kinship care with a grandparent or another member of the child's extended family, including a person who has a significant relationship with the child, or in a foster home, and if not, which setting from among the settings specified in 42 U.S.C. § 472-672(k)(2) would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child; and

(3) a qualified individual must develop a list of child-specific short- and long-term mental and behavioral health goals.

**(d) QRTP Placement and Approval.**

*(1) Notice and Disclosure.*

(A) DCS must promptly notify the parties of the child's placement no later than 24 hours, excluding weekends and holidays, after the child is placed in the QRTP in the manner prescribed in Rule 324.

(B) DCS must file a notice with the court of the child's placement in the QRTP no later than 5 court days after the placement.

*(2) Procedure.*

(A) Upon DCS's motion seeking approval of a child's placement ~~notice by DCS that the child is placed~~ in a QRTP, the court must set a hearing ~~no later than 60 days after the child's placement~~ to assess and review the need for the QRTP placement.

(B) DCS must file a motion seeking approval of the child's placement in the QRTP prior no later than 10 court days after to placement of the child in the QRTP receipt of the QRTP assessment. The motion must contain supporting documentation, including: ~~the QRTP assessment.~~

(i) the QRTP tool authored within the last 30 days;

(ii) the QRTP assessment authored by a qualified individual, addressing how the child's needs cannot be met by the child's parent, in kinship care with a grandparent or another member of the child's extended family, including a person who has a significant relationship with the child or in a foster home with support services and;

(iii) the number of family foster homes available on the date of placement in order to show that the lack of availability of family foster homes is not the reason why the child is placed in the QRTP;

(iv) how the child's placement in the QRTP is the least restrictive given the child's needs;

(v) how the placement is consistent with the child's permanency plan;

(vi) if there is reason to know the child is an Indian child, how the placement complies with the standards of Rule 321; and

(vii) the plan for sibling and family contact while the child is placed at the QRTP.

~~If no party objects to placing the child in the QRTP, the court may rule upon the motion based on the supporting documentation without a hearing.~~

(C) In deciding the motion, whether contested or uncontested, the court must consider:

(i) whether a qualified individual completed the QRTP tool and QRTP assessment;

~~(+ii)~~ the QRTP tool, QRTP assessment, any related documentation, and additional

relevant evidence including testimony and the positions of the parties;

(~~ii~~ iii) whether the child, child's family, and individuals who are identified as important to the child have had an opportunity to express their views on the placement decision;

(~~iii~~ iv) whether placement of the child in the QRTP ~~provides the most effective and appropriate level of care for the child~~ is in the least restrictive environment; and

(iv) whether that placement is consistent with the short- and long-term goals for the child as specified in the child's DCS case plan ~~permanency plan~~, or if the needs of the child can be met through another available alternative placement.

(v) whether the QRTP meets the programming, staffing, and licensing requirements of 42 U.S.C. § 672(k)(4).

(3) *Findings*. In a signed minute entry or order, the court must find that:

(A) the child's needs cannot be met by the child's parent, in kinship care with a grandparent or another member of the child's extended family, including a person who has a significant relationship with the child or in a foster home with support services;

(B) a shortage or lack of family home is not the reason why the child is placed in the QRTP;

(C) the child's placement in the QRTP ~~provides the most effective and appropriate level of care~~ is in the least restrictive environment;

(D) the placement is consistent with the child's permanency plan; and

(E) if there is reason to know the child is an Indian child, the placement complies with the standards of Rule 321.

(4) *Orders*. The court must enter the following orders:

- (A) approving or disapproving the child's placement in the QRTP;
- (B) if the child's QRTP placement is approved, setting a further hearing as provided in section (e);
- (C) if the child's placement in a QRTP is not approved, ordering DCS to investigate alternative placements or ordering DCS to continue funding the placement, and setting a further hearing if necessary; and
- (D) if it is in the child's best interests, providing for contact with siblings and other family members consistent with the treatment plan.

**(e) Continuing Review of QRTP Placement.**

(1) *Procedure.* If the child remains placed in a QRTP for more than ~~60~~ 30 days, the court must review the child's placement and follow the procedures set forth in subparts (d)(2) and (3) of this rule at every subsequent hearing under Rule 341 or Rule 343, and ~~or~~ a QRTP placement review set by the court every 60 days. DCS must disclose subsequent reports received from the QRTP to the court and parties no later than 15 days before the QRTP placement review.

(2) *Findings.* In addition to the findings and orders required by subparts (d)(3) and (d)(4), the court must also make the following findings in a signed minute entry or order:

(A) ongoing assessment by a qualified individual of the child's strengths and needs continues to support the determination that the child's needs cannot be met through placement with a parent, in kinship care, relative care, or in a foster home;

(B) order that the specific treatment or service that the child needs is being provided and by which agency as a QRTP placement does not include services;

(C) the length of time the child is expected to need additional treatment; and

(D) the efforts made to prepare the child for transition to a parent, kinship care including a person who has a significant relationship with the child, legal guardian, or an adoptive home or foster family home.

**(f) Discharge.** A party ~~The petitioner~~ must file a motion for change of physical custody prior to discharge from the QRTP, unless there are exigent circumstances. Under those circumstances, the motion must be filed upon discharge or as soon as practicable.