

Arizona Supreme Court No. R-24-0055

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TO:

Rule 28 Distribution

Hon Anna C Young

Hon Samuel A Thumma

ATTACHMENT¹

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 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 of 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.

¹ Additions to the text of a rule are shown by underscoring.

(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.