

Anna Young, Chair
On behalf of the Committee on Juvenile Courts
Administrative Office of the Courts
1501 W. Washington, Suite 411
Phoenix, AZ 85007-3327

**IN THE SUPREME COURT
STATE OF ARIZONA**

In the matter of:)	
)	
PETITION TO ADOPT R. PRO.)	Supreme Court No. R-25-0051
JV. CT. 323.1)	
)	COMMENT OF THE
)	COMMITTEE ON JUVENILE
)	COURTS
)	
)	
)	

Pursuant to Rule 28(c), Rules of the Supreme Court of Arizona and this Court’s order dated January 22, 2026, the Committee on Juvenile Courts (COJC) hereby submits this Comment regarding Rule Petition No. R-25-0051 (“Petition”), a joint petition filed by the Directors of the Maricopa County Indigent Defense Agencies. The Petition proposes adoption of a new Rule 323.1 of the Rules of Procedure for the Juvenile Court concerning orders to show cause in dependency, guardianship, and termination of parental rights proceedings.

Following discussion of this Petition at the April 23 2026, COJC meeting, a motion was made and seconded that the COJC file this Comment opposing Rule Change Petition No. R-25-0051 in part, and making recommendations it believes

will make the proposed rule amendments workable. The motion passed unanimously. This Comment is a result of that formal Committee action and is intended to reflect the COJC's discussion and recommendations on the amendments requested in the Petition.

I. Applicability of Proposed Amendments

As the Petition explains, before the 2022 restyling of the Juvenile Rules, parties seeking an order to show cause (OSC) in juvenile proceedings could rely on Rule 7.3 of the Rules of Civil Procedure. Juvenile Rule 103(d), however, now prevents the application of Civil Rule 7.3 to applications for OSC's because Rule 7.3 is not incorporated by reference in the Juvenile Rules. As a result, the Juvenile Rules currently contain no mechanism for a party to request an OSC in a juvenile matter.

To address this gap, the Petition proposes creating a new rule, Rule 323.1, governing applications for OSC's in guardianship, dependency, and termination of parental rights matters. But these are not the only juvenile proceedings in which an OSC may be necessary. Delinquency matters routinely involve OSC's, and the Petition offers no explanation for excluding them. Accordingly, the COJC recommends that, if the Court is inclined to adopt a rule establishing procedures for OSC applications in juvenile matters, the rule should apply to delinquency matters as well as the other juvenile matters identified in the Petition.

II. Proposed Rule Placement

Because the Petition’s proposal applies only to guardianship, dependency, and termination of parental rights matters, it places the new rule in Part III of the Juvenile Rules (“child dependency and guardianship, termination of parental rights”). But if the Court adopts the broader applicability recommended in Section I of this Comment, placement in Part III is no longer appropriate. The COJC therefore recommends placing the rule in Part I (“general provisions”), immediately before Rule 114 (“forms”), to reflect its applicability across multiple types of juvenile matters.

III. Contents of Proposed Rule

A. Proposed Rule 323.1(a)

Proposed Rule 323.1(a) states: “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.” Although this language parallels Civil Rule 7.3(a), it omits critical text: that a court may issue an OSC only “on application supported by affidavit showing sufficient cause.” This omitted language is necessary because it clarifies that a party seeking an OSC must first file an application and supporting affidavit. The Petition’s proposed text instead moves directly to the court’s issuance of the OSC, leaving the procedural prerequisites unclear.

If this Court adopts a rule establishing procedures for issuing OSC's on application in juvenile matters, the COJC recommends incorporating the language of Civil Rule 7.3(a), which reflects the longstanding procedure used for this practice. However, because more effective and appropriate mechanisms for addressing juvenile noncompliance already exist, the COJC does not believe an application-based OSC procedure should be available against juveniles. The COJC therefore further recommends expressly excluding use of this procedure against juveniles. The COJC's proposed language for Rule 113.1(a) is set forth in the Appendix.

B. Proposed Rule 323.1(b)

Proposed Rule 323.1(b) requires service of the OSC in accordance with Juvenile Rule 106. The COJC has no substantive concerns with this requirement. However, consistent with the renumbering discussed in Section III.A of this Comment, the COJC recommends renumbering this provision as Rule 113.1(b), as reflected in the Appendix.

C. Proposed Rule 323.1(c)

The COJC opposes proposed Rule 323.1(c) and recommends that this Court decline to adopt it or in the alternative, adopt the alternative amendments set forth in the Appendix to this Comment.

Proposed Rule 323.1(c) requires the court to set a hearing on every OSC application. The Petition explains that this is an intentional departure from Civil Rule

7.3(a), designed to expedite resolution by eliminating the requirement for a written response. Petition at page 2. However, not every application involves urgent circumstances warranting the need for an immediate hearing without first obtaining a written response from the person subject to the order to show cause.

Requiring a hearing in every instance risks inefficient use of judicial resources and unnecessarily overwhelming judicial calendars with matters that could be resolved more efficiently after reviewing a response—or without a hearing at all. There must be a balance between expediting judicial consideration when urgency exists and allowing more efficient handling of non-urgent matters.

The court is best positioned to determine how to proceed on an application. Allowing the court discretion to either require a written response or set a hearing based on the circumstances presented in the application appropriately balances efficiency with the need for timely action when warranted. Accordingly, the COJC recommends an alternative to proposed Rule 323.1 by adding language to subpart (a) that tracks the language of Civil Rule 7.3(a), differing slightly to allow the court discretion to require a response or set a hearing on the application.

Second, the provision requiring the court to give “paramount consideration” to the child’s health, safety, and best interests when determining the hearing’s timing is unnecessary and may unintentionally constrain judicial discretion. Judges handling juvenile matters already consider these factors as a matter of course. If

circumstances warrant an expedited hearing—whether because of concerns about the child’s safety or other urgent factors—the court will act accordingly. The proposed language creates ambiguity and could limit the court’s ability to schedule a hearing based on the entirety of the circumstances and the grounds for the OSC request. The COJC recommends that this Court decline to adopt this provision.

Lastly, proposed Rule 323.1(c) allows the hearing to proceed by avowal or with testimony and exhibits. If adopted, the COJC recommends adding the language reflected in the Appendix to clarify that whether a hearing that takes place will proceed by avowal or with testimony and exhibits will be determined by the court.

IV. Conclusion

For the reasons stated in this Comment, the COJC opposes the rule amendments as proposed in the Petition. However, should the Court be inclined to adopt rule amendments establishing an application-based OSC procedure for juvenile matters, the COJC respectfully recommends adopting the alternative amendments set forth in the Appendix to this Comment, which the COJC believes better accomplish the Petition’s stated intent.

Respectfully submitted this 23rd day of April, 2026.

/s/ Anna Young
Anna Young, Chair
On behalf of the Committee on Juvenile Courts

Appendix
(Additions shown in underline)

Rules of Procedure for the Juvenile Court

Rule 113.1. Orders to Show Cause

(a) Generally. A court, on application supported by affidavit showing sufficient cause, may issue an order requiring a person, other than a juvenile, to show cause why the party applying for the order should not have the relief it requests in its application. The court must designate a date by which the person must respond or set a hearing on the application.

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

(c) Procedure. A hearing under (a) may proceed by avowal or with testimony and exhibits as justice requires, as determined by the court in its sole discretion.