

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 AMEND R. PRO. |) | Supreme Court No. R-25-0055 |
| JV. CT. 323 |) | |
| |) | 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-25-0055 (“Petition”), a joint petition filed by the Directors of the Maricopa County Indigent Defense Agencies. The Petition proposes amendments to Rule 323 of the Rules of Procedure for the Juvenile Court concerning procedures when a family court and dependency or guardianship proceeding involving the same parties are pending.

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-25-0055. 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. Introduction and Background

Family Rule 5.1 was adopted in 2019 based on the recommendations of the Task Force on the Arizona Rules of Family Law Procedure to address the interplay between proceedings under Title 8 and Title 25 when they involve the same parties. In 2022, Juvenile Rule 323 was adopted as an analog to Family Rule 5.1, both providing a notice-based mechanism to transfer matters concerning the children from the family division to the juvenile division when a dependency is pending.

Under the current framework, when a party provides the family division with notice of a pending dependency involving the same parties, child-related matters in the family case automatically transfer to the juvenile division. Once transferred, the juvenile division hears legal decision making and parenting time issues until the dependency is dismissed or the juvenile division defers jurisdiction to the family division. See Rule 323(a)

Although the Petition does not provide specific examples of inconsistent interpretations or operational problems, it suggests that interpretations of Rule 323 vary statewide and recent decisions—*Verdugo v. Lang*, 2023 WL 5466107 (Ariz. Ct. App. Aug. 24, 2023) (mem. decision) and *Magee v. Olson*, 574 P.3d 1189 (Ariz.App. Div. 1 2025)—have complicated the rule's application. However, the

issues raised in these cases do not align with the concerns raised by the Petition. *Verdugo* held that the juvenile court lacked authority to enter legal decision-making and parenting time orders, explaining that the juvenile court's authority is not triggered where there is no family case pending.

Magee confirmed the automatic transfer of child-related matters on notice. Stated differently, the family division has no discretion to retain jurisdiction when a party submits the notice required by Family Rule 5.1. Neither case involved conflicting orders between the juvenile and family divisions, which the Petition identifies as the perceived problem.

Although the Petition's objective appears well-intentioned, the proposed amendments introduce ambiguity, expand the juvenile division's authority beyond child-related issues, and will create confusion statewide.

The Petition cites to procedures and local rules adopted in Mohave and Pima Counties, but those procedures are tailored to those courts. Expanding these procedures statewide is problematic for the reasons explained herein. To the extent that operational issues exist in particular counties, they are better addressed through adoption of tailored local rules and internal protocols as Mohave and Pima Counties have done.

II. Discussion

A. Rule 323(a)

The current structure of Rule 323(a) is intentional. Family Rule 5.1 and Juvenile Rule 323 were designed so that that the children's issues could be transferred, rather than consolidated with, the juvenile action, and both actions could continue under their respective case numbers. See [Family Law Rules Task Force Minutes](#) (Aug. 25, 2017), at 2. Under this framework, the family division can continue to make decisions in the family case that are unrelated to the children (e.g., dissolution, property allocation, spousal maintenance, etc.), while the juvenile division addresses child safety during the dependency.

B. Petition's Proposed Amendments to Rule 323(a)

The Petition proposed striking Rule 323(a) in its entirety, eliminating the notice provision in Rule 323(a)(1) that triggers the automatic transfer described in Rule 323(a)(2), yet retains the general statement that the juvenile judge decides child-related issues when concurrent proceedings exist.

The amendment also references guardianships, but only in this section, leaving it unclear how guardianships interact with concurrent family cases under this rule and Family Rule 5.1. An example is when a juvenile is adjudicated dependent, a guardianship is pending, and then a family case is filed involving the same parties. The proposed rule indicates that the juvenile judge will make decisions regarding the children, but the proposed rule amendments make no provisions for transfer, and Family Rule 5.1 does not resolve this gap.

The amendments would also vest the juvenile division with exclusive jurisdiction over all concurrent “family proceedings” and dependency proceedings, raising several concerns:

1. **No Notice Mechanism.** The rule provides no procedure to put either division on notice that the juvenile division has assumed responsibility for child-related issues in both the family case and the juvenile case. Although Family Rule 5.1 retains its notice requirement, the proposed amendments make no reference to Family Rule 5.1, in order to harmonize the two rules. Establishing clear requirements is important because transfer may become particularly complicated when the family and dependency cases are pending in different counties.
2. **Overbroad Jurisdiction.** By granting the juvenile division exclusive jurisdiction over all “family proceedings,” the amendment would sweep in dissolution, property division, and other issues unrelated to the children. It is also inconsistent with Family Rule 5.1 which transfers only child-related issues to the juvenile division and allows the juvenile division to defer jurisdiction to the family division. Proposed Rule 323(a) contains no such provisions, and its exclusive jurisdiction provisions, without more, conflict with Family Rule 5.1.

3. **“Consolidation” Motion.** The Petition introduces a motion-based procedure for “consolidation,” which is equally problematic and confusing. Specifically, if exclusive jurisdiction already lies with the juvenile division, it is unclear why a party would need to move for consolidation at all. Courts routinely consolidate hearings, but if the intent is to have the cases consolidated before an adjudication of dependency, this is problematic and unworkable for the reasons explained in Section C below.

C. Proposed Rule 323(b)

The proposed amendments would require the juvenile division to “consolidate” any family law “matter” upon an adjudication of dependency. It is unclear whether a “matter” means a case, a motion, or a specific issue, which invites inconsistent interpretation and application across the state. Under Family Rule 5, “consolidation” merges two *cases* into one case, and the first-filed case number is the controlling case number under Family Rule 5(b). Under the proposed amendments, it is therefore possible that the juvenile case would be consolidated into the family case, and the family case number would control. This is at odds with proposed Rule 323(b)(1) and incapable of reconciliation.

Conversely, if the juvenile case was filed first and consolidated with the family case, the juvenile case number would control. But more problematic is that

even if there is an adjudication of dependency, under the proposed rule, the *entire* family law matter would remain with the juvenile division. Further complicating matters is that family cases can go on for years, well after the petition initiating the case is resolved.

Family cases and juvenile cases rely on separate and distinct case numbers and have their own governing rule sets so that the procedures applicable to the matters within those cases are clear. For these reasons, consolidation as proposed is both impractical and incompatible with existing statewide framework.

D. Proposed Rule 323(e)

Proposed Rule 323(e) would require that all information obtained from DCS that is filed in a family case, and all juvenile division minute entries incorporated into the family case, be filed under seal. While the aim to preserve confidentiality is appropriate, the proposed amendments overlook that information obtained from DCS cannot be filed into another case without a court order authorizing the filing. See A.R.S. § 8-807. Moreover, any juvenile rule governing the filing of sealed documents in a family case must be harmonized with Family Rule 17. The proposed amendments do not address this, leaving uncertainty about the relationship between Family Rule 17, proposed Rule 323(e), and A.R.S. § 8-807.

E. Proposed Rule 323(f)

The COJC does not object to the substance of proposed Rule 323(f), but if this Court is inclined to adopt it, the COJC recommends the following revised version, which aligns with current rule restyling conventions, maintains consistent terminology, and clarifies which court is acting:

Proposed Rule 323(f) (as revised):

If only one parent is involved in the dependency ~~ease~~ proceeding and paternity has been established, the juvenile court division 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.~~

III. Conclusion

For the reasons stated in this Comment, the COJC opposes the proposed amendments to Juvenile Rule 323(a) and (b) and the adoption of Rule 323(e) and respectfully requests that this Court decline to adopt them. The current notice-based, automatic transfer framework limited to child-related issues and preserving family division jurisdiction over non-child matters best serves judicial economy, clarity, and consistent statewide practice.

If this Court is inclined to adopt proposed Juvenile Rule 323(f), the COJC requests adoption of the revised version set forth in Section II.E above, renumbering it to Rule 323(e).

Respectfully submitted this 23rd day of April, 2026.

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