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ARIZONA SUPREME COURT

In the matter of :)
)
PETITION TO AMEND) Supreme Court No. R-16-_____
RULES 19, 30, 45, 47, and 104,)
RULES OF PROCEDURE FOR)
THE JUVENILE COURT)
_____)

Pursuant to Arizona Supreme Court Rule 28, David K. Byers, Director, Administrative Office of the Courts, Arizona Supreme Court, respectfully petitions this court to adopt the attached proposed rule amendment to the Rules of Procedure for the Juvenile Court.

I. Background and Purpose of the Proposed Rule Amendment

In late 2014, the Administrative Office of the Courts, Arizona Supreme Court, (AOC) became aware of varying practices around the State concerning the keeping and use of the Juvenile Social File in delinquency cases. AOC staff scheduled a series of meetings with presiding juvenile court judges, as well as representatives from the Office of the Arizona Attorney General, to identify and discuss local practices regarding the Social File. Participants in these discussions

identified lack of clarity and consistency concerning what was filed, where it was filed, where files are kept, how the court gained access to documents in the file, and what documents were included in the record on appeal. Recognizing the need for uniformity, clarity, and standardization concerning the handling of all documents relevant to the judicial determinations in a case, AOC staff met with and received recommendations from the Presiding Juvenile Court Judges in Maricopa and Pima Counties. Consultations also included the Presiding Juvenile Court Judges in Yavapai, Coconino, and Pinal Counties. During the course of these meetings and consultations, it also became apparent that similar issues were arising in dependency cases. The proposed rule revisions are a result of these collaborative efforts.

II. Contents of the Proposed Rule Amendment

The proposed rule amendments include:

Rule 19. Records and Proceedings

A. Contents of Juvenile Court Files

- 1. Legal File**
- 2. Social File.**

The recommended changes are intended to clarify that while the legal file is open to the public, there may be confidential information that will require segregation upon filing.

Rule 30. Disposition

The recommended changes are intended to clarify that the disposition report should include any Rule 19(A)(2) Social File information relevant to the recommendations and that the clerk must file this in a segregated portion of the Legal File.

Rule 45. Admissibility of Evidence.

The recommended changes are intended to provide the option for the court to set a date other than that prescribed by rule and to allow a child safety worker's report to be admitted unless it is the subject of an objection. In the event of an objection, the right to have the worker who prepared the report available for cross-examination at the time the report is being offered is preserved.

Rule 47. Release of Information

The amendments are technical in nature to conform to statutory citations.

Rule 104. Time Within Which An Appeal May be Taken and Notice Thereof; Preparation of Certified Transcript and Record on Appeal.

The new subsection requires the attorneys to order a certified transcript when a proceeding was recorded by audio or audiovideo means because there is no

court reporter to do so. The proposed language is consistent with the Arizona Rules of Civil Appellate Procedure, Rule 11 (b) (2).

III. Pre-Petition Distribution and Comment

Petitioner has not circulated this proposal for pre-petition comments.

IV. Request for Modified Comment Period.

Petitioner recognizes this petition has not been widely circulated prior to filing due to time constraints. Petitioner wishes to encourage comments from those impacted by these proposed amendments and requests that the Court allow a modified comment period to accommodate filing of an amended petition after an initial round of public comments. Petitioner suggests the following dates:

- March 1, 2016: First round of comments due
- April 1, 2016: Amended petition due
- May 20, 2016: Second round of comments due
- June 30, 2016: Reply due

Wherefore petitioner respectfully requests that the Supreme Court amend the Rules of Procedure of the Juvenile Court as set forth in Appendix A.

Respectfully submitted this ____ day of _____, 2016.

By _____
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APPENDIX

RULE 19. Records and Proceedings

A. Contents of Juvenile Court Files.

1. Legal File. The legal file of the juvenile court shall consist of all pleadings, motions, minute entries, orders, or other documents ~~as the court may order as provided by rule or ordered by the court.~~ Within the legal file, the clerk shall file and segregate confidential documents, including any information and documents from the social file submitted to the court as provided in Rule 30(A). In addition, the court may close all or part of the legal file upon a finding of a need to protect the welfare of the victim or another person or a clear public interest in confidentiality. With the exception of the portions of the file marked confidential, or ordered closed by the judge, the legal file shall be open to public inspection without order of the court, except upon a finding by the court of a need to protect the welfare of the victim, another party or a clear public interest in confidentiality. The court shall state its reasons for withholding the legal file, or portions thereof, from public inspection.

2. Social File. The social file shall be maintained by the probation department and may consist of all social records, including diagnostic evaluations, psychiatric and psychological reports, treatment records, medical reports, social studies, Department of Child Safety records, police reports, ~~p~~redisposition reports, detention records, and records and reports or work product of the probation department ~~for use by the court in formulating and implementing a rehabilitation plan for the juvenile and his or her family.~~ The social file of the juvenile shall be confidential and withheld from public inspection except upon order of the court.

RULE 30. Disposition

A. Disposition~~al~~ Investigation and Report. Prior to the disposition hearing, the court shall order the juvenile probation officer to conduct an investigation and submit a written report to the court with recommendations regarding the disposition of the juvenile.

1. The disposition report shall:
 - a. Be submitted to the court three (3) days prior to the disposition hearing;
 - b. Be made available three (3) days prior to the hearing to counsel for the parties or to the parties if unrepresented by counsel;
 - c. Include a written victim impact statement as required by law;
 - d. Provide the court with information regarding restitution if restitution is requested; and
 - e. Make recommendations as to the most appropriate disposition for the juvenile.
 - f. Include any Rule 19(A)(2) Social File information and records relevant to the recommendations for use by the court in formulating and implementing a rehabilitation plan for the juvenile and his or her family. The clerk shall segregate Social File records and identify them as confidential.

(A)(6) Filing of Social File Information. When Social File information is part of a Disposition Report Pursuant to Rule 30(A)(1)(f), the clerk shall file the Disposition Report in a segregated portion of the Legal File, identifying the information as confidential unless the social file information is presented as a separate document that can be segregated from the Disposition Report.

RULE 45. Admissibility of Evidence.

~~**C. Admissibility of reports.** Prior to any dependency hearing, the court may review reports prepared by the child safety worker and shall admit those reports into evidence if the worker who prepared the report is available for cross-examination and the report was disclosed to the parties no later than:~~

- ~~1. One (1) day prior to the preliminary protective hearing; or~~
- ~~2. Ten (10) days prior to any other hearing.~~

C. Consideration, Filing and Admissibility of reports. Prior to any dependency hearing, the court may review reports prepared by the child safety worker and shall admit those reports into evidence if the worker who prepared the

~~report is available for cross-examination and~~ if the report was disclosed to the parties no later than:

1. One (1) day prior to the preliminary protective hearing; ~~or~~
2. Ten (10) days prior to any other hearing; or
3. Another date set by the court.

The court shall file a report considered by the court in the dependency file maintained by the clerk. Unless a party objects, a report used in an evidentiary hearing shall be admitted into evidence. If the child safety worker who prepared the report is available for cross-examination at the time the report is being offered, the report may be admitted into evidence over a party's objection.

RULE 47 Release of Information.

A. – B. [No change]

C. If the court grants the request for inspection of court records, the court shall redact any information subject to the requirements of A.R.S. § 8-525(B)(1) ~~and through (6)~~ and A.R.S. § ~~8-807(F)(2)~~ 8-807.01(A)(1).

RULE 104 Time Within which an Appeal May be Taken and Notice Thereof; Preparation of Certified Transcript and Record on Appeal.

(A) – (J) [No change]

(K) If the juvenile court created only an audio or audio-video recording of the proceeding, a party must order a certified transcript of the proceeding directly from an authorized transcriber. The juvenile court must furnish the transcriber with a copy of the designated electronic recording upon receipt of a notice from the transcriber that the transcriber has reached a satisfactory arrangement for payment. All parties to the appeal must cooperate with the transcriber by providing information that is necessary to facilitate transcription.