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IN THE ARIZONA SUPREME COURT

In the Matter of PETITION TO
AMEND RULE 122 OF THE RULES
OF PROCEDURE FOR THE
SUPREME COURT

R-07-0016

Arizona Department of Economic
Security Comment On the Petition to
Amend Arizona Supreme Court Rule 122

The Arizona Department of Economic Security (“ADES” or “the Department”), does not oppose the proposed amendment to Rule 122, Arizona Rules of Procedure for the Supreme Court, provided that the adoption of the amendment does not compromise the confidentiality of dependency and termination proceedings or the Department’s exercise of its duty to protect the best interests of the children who are parties to those proceedings.

The proposed amendment to Rule 122 would allow electronic and still photographic coverage of public judicial proceedings unless the court makes a specific finding that there is a “substantial likelihood of an overriding harm”

arising from a list of enumerated factors. (Petition, Appendix A.) The rationale for the amendment is to “improve public access to the courts, foster greater public understanding of the judicial system and enhance public confidence in the legitimacy and integrity of the judicial process.” (Petition at 2.) The proposed amendment does not seek to amend Rule 122(a), which explicitly states that “[n]o electronic or still photographic coverage of juvenile court proceedings shall be permitted, except that such coverage may be permitted in adoption proceedings for the purpose of memorializing the event, with the agreement of the parties to the proceeding and the court.” As such, the amendment would not impact dependency and termination proceedings.

Additionally, the Arizona Legislature has taken steps to address the articulated concern expressed by the Petitioner in the proposed amendment for greater “public access to the courts,” “public understanding of the judicial system,” and “public confidence” in the judicial process. House Bill 2453, which is expected to be signed into law by the Governor, provides that “court proceedings relating to dependent children, permanent guardianship and termination of parental rights are open to the public.” (House Bill 2453.) The Bill further establishes the procedures by which the juvenile court may close such hearings, “for good cause,” while re-affirming the confidential nature of such proceedings by prohibiting the

disclosure of any “information that may identify the child and the child’s siblings, parents, guardians and caregivers, and any other person whose identity will be disclosed during the proceeding.” (*Id.*)

Therefore, the Department does not oppose the proposed amendment to Rule 122, so long as it preserves the exception, as set forth in subsection (a) of the Rule, relating to juvenile court proceedings.

DATED this 20th day of May, 2008.

Ken Deibert
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A copy of this comment has been mailed
this 20th day of May, 2008, to:

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Petitioner

By _____