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SUPREME COURT OF ARIZONA

PETITION TO AMEND THE ) Supreme Court No. R-20-0044  
RULES OF PROCEDURE FOR )  
THE JUVENILE COURT, AND ) PETITION  
TO AMEND CIVIL RULE 81 )  
\_\_\_\_\_ ) Request for Expedited Adoption of  
 ) Rule 335

Pursuant to Rule 28 of the Rules of the Arizona Supreme Court, the Task Force on the Rules of Procedure for the Juvenile Court (“Task Force”) petitions this Court to abrogate the current Rules of Procedure for the Juvenile Court and to adopt the proposed new set of rules. The proposed rules restyle and reorganize the current rules and make substantive changes that include the addition of several new rules.

Because the proposed rules would replace every current juvenile rule, this petition presents the revisions as a complete new set of rules, rather than as individual rule amendments. Appendix A contains two new tables, which are discussed in section 8. Appendix B to this petition contains a clean version of the proposed rules. Redline versions are not included because the changes are so extensive that redlines would be more confusing than helpful. Appendix C is Rule

52.1, an interim version of proposed Rule 335, as explained in Section 12. Appendix D contains 7 new or revised forms that also are discussed in Section 8. For reasons explained in Section 9, this petition also requests amendments to Rule 81.1 of the Rules of Civil Procedure, which are shown in Appendix E. The concluding sections of this petition discuss an implementation date and other requests.

**1. Background.** Administrative Order No. 2019-74, entered on July 1, 2019, established this Task Force. The Order directed the Task Force to

... review the Arizona Rules of Procedure for the Juvenile Court and identify possible changes that would conform these rules to modern usage, simplify the language, clarify and improve current procedures, reorganize the rules to enhance their usability, and account for recent Arizona and federal legislation, including the Family First Prevention Services Act.

The proposed rules address each of these elements.

The 26 members of the Task Force, who are listed on the last page of this petition, include individuals with a broad range of backgrounds and experience. Subject matter experts from the Attorney General's office, DCS, AOC-Legal, and private law practice, as well as active superior court judges, also attended a number of Task Force and workgroup meetings and provided valuable insights and guidance to the members.

**2. The Juvenile Rules are Complex.** Juvenile rules apply to a mixture of case types. Juvenile cases can be either criminal or civil in nature. Not only do Arizona statutes and case law apply in juvenile proceedings, but so does federal law, including the Family First Prevention Services Act (“FFPSA”) and the Indian Child Welfare Act (“ICWA”). Without belaboring the complexity of the assigned task, the revision of the juvenile rules has been a major and challenging undertaking.

**3. Restyling.** The proposed juvenile rules include stylistic revisions that make the rules more understandable and user-friendly. These rules employ consistent formatting and nomenclature and generally follow the conventions used in previous restyling projects.

Many of the current juvenile rules, even lengthy ones, have no titles for sections within a rule. The proposed rules correct this omission by adding titles to virtually every section, and frequently to subparts, too. These titles, along with uniform organization, makes it easier for users to navigate the rules and locate pertinent provisions.

Many of the proposed rules are related to Title 8 statutes. (The exception is the emancipation rules, which have their origin in Title 12.) The proposed rules include frequent cross-references to particular Arizona statutes and, when appropriate, to federal authority, which should assist the readers in locating and understanding applicable law.

**4. Organization and Numbering.** The current Juvenile Rules are divided into 6 parts: Part I, General Provisions; Part II, Delinquency and Incurability; Part III, Dependency, Guardianship, and Termination of Parental Rights; Part IV, Adoption; Part V, Emancipation; and Part VI, Appeals. The proposed rules retain the structure of these 6 major Parts, but the titles of some Parts have been edited.

The number of rules in this proposed set has also changed. There currently are 116 juvenile rules. (The last numbered rule is currently Rule 108, but some rule numbers include a number to the right of a decimal point, which accounts for a number higher than 108.) By comparison, the set proposed by this petition includes 124 rules. Here are factors that affected the total number of proposed rules:

(A) In the current set, 13 rules are shown as “reserved,” “repealed,” or “renumbered.” The proposed rules no longer include these placeholders.

(B) The current 15 emancipation rules in Part V have been reorganized. There are now only 5 proposed emancipation rules.

(C) Several rules were consolidated, while other rules were bifurcated or even trifurcated. For example, current Rule 1 is titled, “Applicability; Definitions; Required Format of Stipulations, Motions and Orders.” The restyled rules separate these subjects into three rules: Rule 101 (“Scope and Construction,”) Rule 102 (“Definitions”), and Rule 105 (“Form of Filed Documents”). In other instances, two or more rules have been consolidated into a single rule.

(D) The petition proposes several entirely new rules. These new rules address subjects such as intervention (Rule 113), change of venue (Rule 314), a motion for judgment as a matter of law (Rule 319), and providing notice of a change in a child’s placement (Rule 324).

The reduction in the number of rules, combined with the additional rules, made it apparent midway through this project that the proposed set of Juvenile Rules would require renumbering. The Task Force proposes three-digit numbering – that is, each part begins with a new 100-series number. With three-digit numbering, the first number of a rule corresponds with the part in which the rule is located, and therefore provides a cue regarding the subject matter of the rule. For example, a reader might not know the subject of Rule 35, but in the proposed rules, that same rule is numbered 227, a signal that the rule is in Part II, which contains the delinquency rules. Accordingly, the rules in Part I are numbered 101, 102, etc.; in Part II they are numbered 201, 202, etc.; and this numbering pattern is continued through Part VI. This method of numbering is not unique; the Arizona Rules of Evidence are similarly numbered, with the initial digit of an Evidence Rule number indicating the Article (or “Part”) in which the rule is located.

**5. Task Force Methodology.** Task Force members were divided into 4 workgroups, which were assigned to revise roughly equivalent portions of the rules. Workgroups met 100 times, for hours at a time, between October 2019 and April

2021. Outside of meetings, the workgroups reviewed drafts, researched law, and edited documents. The workgroups presented proposed revisions to the full Task Force at public meetings.

The Task Force itself met 16 times during late 2019, 2020, and early 2021. Members learned early in the process that the juvenile rules had no low-hanging fruit; most of the rules were lengthy and included legal or practical issues. Many rules included controversial provisions that were the subject of extensive discussion. [Click here](#) to review more than 100 pages of meeting minutes, grouped by rule number, that memorialize those discussions.

In addition, beginning in July 2020, and with the authorization of Task Force members, an Editorial Group reviewed each rule after it had been considered by the Task Force. Consequently, the proposed rules underwent 3 levels of review: first by a workgroup, then by the Task Force, and again by the Editorial Group. (The Editorial Group was composed of the Chair, Judges Mark Armstrong, Joseph Kreamer, and Kathleen Quigley, and Beth Beckmann, as well as Mark Meltzer.) The Editorial Group has met more than 20 times. The Editorial Group improved the grammar, syntax, and organization of the approved rules, and with the authority of Task Force members, it made some substantive changes that furthered the spirit and intent of Task Force discussions.

**6. Court Comments to the Rules.** Most of the Court and committee comments in the current rules have been deleted. The Task Force moved the existing comments' substantive content to the proposed new rules. However, the Task Force retained some comments and even added a few new ones.

**7. The Proposed Rules.** This section summarizes some of the significant items in the proposed rules.

- **Part I: General Provisions (Rules 101 - 114).** Part I contains rules that apply in each of the other 5 Parts. Part I currently has 6 rules. By comparison, proposed Part I includes more than twice that number. Some of the increase is attributable to the splitting of Rule 1, but the Task Force also added several rules.

One new Part I rule govern the applicability of other Arizona procedural rules. Rule 103, "Priority of Proceedings; Conducting Proceedings; and Applicability of Other Rules," provides that civil, civil appellate, criminal, family law, probate, protective order, and Supreme Court rules, "are applicable only as specifically set forth or incorporated by reference in these rules." For the most part, then, the proposed juvenile rules are self-contained. Another new rule, Rule 104, specifically addresses the Arizona Rules of Evidence. Rule 104 distinguishes the applicability of the Rules of Evidence in a contested adjudication hearing from other, non-adjudication proceedings, in which evidentiary standards are relaxed. Rule 104 includes detailed provisions regarding the admissibility of reports, including reports

from a “child safety worker,” i.e., a case worker. Rule 104(d)(10) addresses a recurring issue: the meaning of “unavailable for cross-examination.”

Part I also includes a new rule, Rule 110, concerning “virtual proceedings; declared emergencies.” Rule 110 might be the first Arizona court rule on procedures for conducting a proceeding when the governor declares a statewide emergency, such as the current COVID-19 pandemic. Under the provisions of Rule 110, evidentiary hearings would presumptively be conducted in person in the absence of an emergency; but during a declared emergency, evidentiary hearings would presumptively be conducted virtually. The rule provides exceptions for overcoming the presumption in either situation.

- **Part II: Delinquency (Rules 201 - 227).** Although there are very few incorrigibility cases compared to the number of delinquency actions, the current delinquency rules often use the couplet “delinquency or incorrigibility.” Rule 201 (“Scope of the Delinquency Rules”) eliminates the need for these repeated references by simply saying, “The delinquency rules apply to incorrigibility proceedings.” Similarly, Rule 202 (“Referral; Diversion”) defines “parent” for the delinquency rules as including “parent or guardian.” This avoids the need to say “and guardian” every time the rules refer to a parent. See further the definitions of “parent” in Rules 102 and 302 (“Definitions”) and Rule 402 (“Meaning of Terms”).

The sequence of the delinquency rules has changed. The current delinquency rules begin with provisions such as the appointment of counsel and the attendance of witnesses, i.e., rules that apply after a proceeding has been initiated. The proposed rules remediate this cart-before-the-horse approach by starting with rules on referrals to juvenile court and the filing and service of a delinquency petition.

Rule 208(e) is a concise new provision about determining a juvenile's competence in a delinquency proceeding; the process is statutory, and this section refers to the pertinent statutes. Rule 215 ("Records and Proceedings") retains the terms "legal file" and "social file" used in current Rule 19. However, Rule 215(a)(1)(D) adds a new term, "disposition file," which includes the disposition report and any documents from the legal or social file attached to that report. A rule in Part VI ("Appeals") requires transmission of the disposition file to the appellate court as a component of the record on appeal. See Rule 604(a)(1)(A). Part II includes a new Rule 220 ("Admission or Change of Plea"), which permits the court to enter an admission at several stages of a case. By comparison, current Rule 28(C)(7) ("Advisory Hearing") unintentionally implies that entry of an admission can occur only at that stage of the proceeding.

- **Part III: Child Dependency and Guardianship; Termination of Parental Rights (Rules 301- 351).**

In both the current and proposed rules, the general provisions in Part III apply to child dependency, Title 8 guardianship, and termination of parental rights proceedings. Proposed Part III has separate five sub-headings: “general provisions: parties and participants,” “general provisions on proceedings and procedures,” “dependency proceedings,” “guardianship proceedings,” and “proceedings for termination of parental rights.”

*“Parties and Participants.”* Rule 301 contains separate sections on “application” and “interpretation.” The latter section requires the court to interpret the rules not only to protect the child’s best interests, but also to protect the rights of the parties. Subsequent rules require the court to appoint an attorney for a child in any dependency or termination case. See Rule 303(c) (“Appointment of an Attorney for a Child”). Task Force members were not unanimous on this new provision, because some courts prefer to appoint only a guardian ad litem (“GAL”), for example, when the child is an infant and cannot express needs and wishes to an attorney. Although the proposed rules require every child to have a court-appointed attorney, court appointment of GAL for the child would be discretionary and would be in addition to appointed counsel. See Rule 305 “Appointment of a GAL.” A GAL appointed under Rule 305 must also be an attorney. The proposed Task Force

provisions are consistent with statutory changes enacted by SB 1391 (2021 Laws, Ch. 228).

Proposed Rule 306, “Duties and Responsibilities of an Attorney and GAL for a Child,” contains a more detailed explanation of the attorney’s role as counsel for a child than is currently found in Rule 40.1(B). The proposed rule includes guidance on the “Relationship” and on the subjects of “Diminished Capacity” and “Substituted Judgment.” It also includes a cross-reference to Ethical Rule 1.14 (“Client with Diminished Capacity”).

The current continuing education requirements for court-appointed attorneys, GALs, and counsel for parents contain overlap. See current Rules 40.1(J) and 40.2(G). These requirements have been consolidated in a new Rule 309 (“Education Requirements for Court-Appointed Attorneys and GALs”). Members added as subjects of later training “issues in the child welfare system related to race, ethnicity, disability, sexual orientation, gender identity and expression, disproportionate involvement, [and] implicit bias.” Part III also contains freestanding rules on a child’s rights (Rule 310) and participants’ rights (Rule 311).

***“Proceedings and Procedures.”*** The next portion of Part III, which concerns “proceedings and procedures,” includes a new rule on change of venue to another county (Rule 314). It also includes a new Rule 317 on motions to alter or amend a final order, which addresses an issue involving omitted findings of fact and

conclusions of law that arose in *Francine C. v. DCS*, 249 Ariz. 289 (App. 2020), *review denied*. (See ¶ 22 of that opinion: “[T]he Juvenile Rules applicable to a dependency do not authorize a party to challenge a dependency order by filing a motion for reconsideration or clarification.”) Motions to alter or amend a final order under Rule 317 are limited to correcting clerical errors or mistakes arising from oversight or omission, or to remedy insufficient findings or conclusions. Rule 318(c) (“Motion to Set Aside a Final Order”) derives from current Rule 46(E) and concerns motions to set aside a final order on grounds specified in Civil Rule 60. Motions under Rule 317 or Rule 318(c), when filed no later than 12 days after entry of a final order, extend the time for appealing from the order. See further Rule 603(a)(3) (“Effect of Certain Post-Judgment Motions on the Time for Filing a Notice of Appeal”).

New Rule 319 (“Motion for Judgment as a Matter of Law”) allows a party other than the petitioner to move for judgment as a matter of law after the petitioner has concluded presenting evidence in a dependency, termination, or guardianship adjudication hearing. A Rule 319 motion is analogous to a JMOL motion under Civil Rule 50, but the latter occurs in the context of a jury trial whereas the new juvenile rule would apply in bench trials. Current Juvenile Rule 50.1 (“Deviation from ICWA Placement Preferences”) is now Rule 321. There is a new but related rule, Rule 320 (“Placement Preferences”), which is based on A.R.S. § 8-514 and

describes placement preferences for non-Indian children. New Rule 322 provides a procedure for transferring a case to a tribal court.

Rule 323 (“Simultaneous Dependency and Legal Decision-Making/Parenting Time Proceedings”) is new and an analog of Family Law Rule 5.1. If there are pending family and juvenile cases involving the same child, Rule 323 provides that the judge presiding over the juvenile case makes decisions regarding the children unless the juvenile court refers certain matters to the family court. Rule 324 (“Providing Notice of a Change in a Child’s Placement”) is also new. It requires DCS to provide timely notice to the child’s attorney and GAL of the child’s new placement address, and to provide notice of the placement, without the address, to the parent’s attorney. A strong majority of members agreed that “prompt” meant “within 24 hours,” but some members preferred a longer period. Rule 326 (“Required Admonitions and Findings”) would consolidate in one location the admonition provisions that are currently included in various dependency, guardianship, and termination rules. If public comments favor the Rule 326 approach, petitioner will remove the duplicative admonition provisions in those other rules in the version petitioner submits with a reply.

***“Dependency Proceedings.”*** Current Rule 48 on filing and service of a dependency petition is now two rules: Rule 328 on the content of the petition and ancillary documents, and Rule 329 on service of those documents. Rule 329(f) is a

new provision for service on an incarcerated person that is based on Family Law Rule 41(g).

Current Rule 49, titled “Pre-Hearing Conference,” becomes Rule 331 and has the more descriptive title, “Preliminary Protective Conference.” Current Rule 50, which concerns the preliminary protective hearing, has been significantly reorganized in Rule 332. The proposed rule more clearly outlines what occurs at the preliminary protective hearing and specifies the findings and orders that are required at the conclusion of the hearing.

Proposed Rule 333 (“Contested Review of Temporary Custody”) and Rule 334 (“Initial Dependency Hearing”) permit a parent at the initial dependency hearing who had not been served prior to, and who did not appear at, the preliminary protective hearing, to request a temporary custody hearing at the parent’s first court appearance. Agreement on those new provisions was not unanimous, but they were supported by a strong majority of the members. The Task Force discussion of this issue included the Court of Appeals’ opinion in [\*DCS v. Stocking-Tate \(Mark R.\)\*](#), 247 Ariz. 108 (App. 2019). The extensive discussion of Rules 332, 333, and 334 addressed pertinent provisions of A.R.S. Title 8 and ICWA, particularly 25 C.F.R. §§ 23.113 and 23.114, which contain additional requirements for the removal of an Indian child from the family home.

Rule 335 (“Qualified Residential Treatment Programs; Judicial Review”) also was the subject of extensive discussion. This new rule requires initial and ongoing reviews for a child placed in a qualified residential treatment program (“QRTP”), as provided by the FFPSA. Rule 335 requires a September 1, 2021 effective date to assure the provisions are operational concurrently with the federal legislation. Please see Section 12 of this petition.

*“Guardianship Proceedings” and “Proceedings for Termination of Parental Rights.”* The remaining Part III rules respectively concern guardianship and termination proceedings. The proposed rules clarify the process when a parent fails to appear at one of these proceedings. The rules also restyle provisions regarding Indian children. There are frequent citations to specific ICWA statutes and regulations throughout the Part III rules. This filing includes a table of ICWA authorities cited in the proposed rules.

- **Part IV: Adoptions (Rules 401 - 418).** The Task Force bifurcated and also combined rules in current Part IV. For example, current Rule 79 (“Petition to Adopt”) has become separate Rules 410 (“Petition to Adopt”) and 411 (“Service of the Petition to Adopt and Notice of Hearing”). Conversely, two current rules (Rule 75 on “Release of Information” and Rule 86 on “Adoption Records”) would become a single rule, Rule 403 (“Confidentiality; Release of Information”).

Unlike current Rule 77 (“Certification to Adopt”), which begins with a section on “dismissal of application” but does not provide for the filing of an application, proposed Rule 408 more logically begins with a new section on “application for certification.” If an application is incomplete, then in lieu of dismissing the application, the proposed rule allows the court to permit the prospective parent to supplement the application.

As provided by Arizona case law (see [\*Denia L. v. DCS\*](#), 248 Ariz. 36 (App. 2019), *review denied*), the Task Force modified the provision concerning motions to set aside an adoption judgment in Rule 407 (“Motions”), section (f) (“Motion to Set Aside”) by allowing a challenge to an allegedly void judgment at any time. A person who seeks to set aside a final adoption order must also follow the procedures in Rule 417 (“Setting Aside an Adoption”).

- **Part V: Emancipation (Rules 501 - 505).** There are currently 15 emancipation rules. The Task Force consolidated and reorganized many of the current provisions into only 5 emancipation rules. The proposed rules were modified to conform to Senate Bill 1332 (2021 Laws, Ch. 144). Otherwise, Part V contains no notable substantive changes.

- **Part VI: Appeals (Rules 601-610).** The rules on appeals, which apply to both delinquency and non-delinquency appeals, have substantial changes that increase their comprehensibility and functionality.

Current Rule 103 states only that an aggrieved party may appeal from a final order of the juvenile court. It does not specify orders that are final. The proposed corresponding rule, Rule 601 (“Right to Appeal”), section (b) (“Final Orders”) now identifies orders that Arizona appellate courts have recognized as final appealable orders. Following a list of 4 final orders in delinquency cases and 13 final orders in non-delinquency cases, catch-all provisions respectively allow an appeal from “any other order that is final pursuant to Arizona case law.” A new comment to this rule recognizes that a provision in Rule 601(b)(2)(E), which permits an appeal from “an order entered in a dependency removing a child who has been adjudicated dependent from a parent’s physical custody,” might be inconsistent with certain Arizona case law, including a 2020 opinion by the Court of Appeals, *Jessicah C. v. DCS*, 248 Ariz. 203 (App. 2020). The Court’s adoption of the rule would provide clarity and guidance.

Rule 602 (“General Provisions”), section (b) (“Caption on the Notice of Appeal”) prescribes a caption that requires only the type of the proceeding and the child’s name; the caption need not include names of parents or other parties. The caption would state, for example, “In re the Dependency of A.B.,” or “In re the Delinquency of C.D.” This should eliminate issues concerning the proper alignment of parties in the captions of dependency and severance appeals. Rule 602(f) (“Arizona Rules of Civil Appellate Procedure”) contains ARCAP provisions

identified in current Rule 103(G), with certain modifications, but in an easy-to-read list format.

Although the trial court generally loses jurisdiction to rule on motions after a party files a notice of appeal, proposed Rule 603 (“Notice of Appeal”), section (a) (“Time for Filing a Notice of Appeal and Notice of Cross-Appeal”) includes 3 time-extending motions: a motion to alter or amend a final order under Rule 317, a motion under Rule 318 to set aside a final order in a dependency or termination proceeding, and a motion under Rules 407(f) and 417 to set aside a final adoption order. Although a notice of appeal from one of these final orders must be filed no later than 15 days after entry of the order, the filing of one of these motions no later than 12 days after entry of the final order extends the time for filing the notice of appeal pending the court’s disposition of the motion. This provision would allow a trial court to timely remedy a final order without the delay required for the appellate court to revest jurisdiction in the trial court. (ARCAP Rule 9(e) contains a similar provision.) Rule 603(b) (“Content of the Notice of Appeal or Cross-Appeal”), subpart (4), contains the avowal of counsel currently found in Rule 104(B).

Rule 604 (“The Record on Appeal”) describes what is contained in a presumptive record on appeal. The rule allows either party to designate supplemental documents or transcripts for the appellate record. Buried in current Rule 104(C)(2) is a provision allowing a party to file a notice advising that the party

will not “participate actively” in the appeal. This untitled provision has been relocated to a freestanding Rule 605 (“Notice of Non-Participation”). The notice that the record on appeal is complete, which is untitled in current Rule 105(F), is now more visible and titled as “Notice of Completion of the Record” in Rule 606(e).

Rule 607 (“Briefing in the Court of Appeals; Transfer to the Supreme Court”) has a notable modification of an untitled provision in current Rule 106(G) that allows appellant’s counsel to file an affidavit affirming that counsel has lost contact with the client or that there is no colorable issue for counsel to raise on appeal. This provision has been restyled and was relocated to Rule 607(e) (“Notice and Avowal in Lieu of Opening Brief; Pro Se Brief”). This new section requires counsel who finds no non-frivolous issue to raise on appeal to then notify the client of that finding and advise the client of the opportunity to file a pro se brief. If the client requests to file a pro se brief, counsel must include that information in a court filing, and the court then must allow the client a specified time to file the pro se brief. The client does not have this opportunity under the current rules. If the client does not request to file a pro se brief, or if the client does not timely file a brief, this new section permits the court to accelerate its issuance of the mandate.

Proposed Rule 608, which is new, has four sections derived from various provisions in the current rules: (a) Dismissal; (b) Action by the Appellate Court; (c) No Motion for Reconsideration; and (d) Motion for Publication. Rule 609 is a

lengthy but essential rule on petitions for review. A party has 30 days to file a petition for review, although parties infrequently file petitions for review in juvenile appeals. To allow the Court of Appeals to issue its mandate without waiting a full 30 days, a new provision requires the filing of a Notice of Intent to File a Petition for Review within 15 days after a disposition by the Court of Appeals. Rule 610, which is the final rule and that concerns the appellate court mandate, contains a corresponding provision.

**8. Tables and Forms.** Appendix A contains two new tables. The first table is a derivation table that shows the current source of each proposed rule. Petitioner requests that the Court adopt the derivation table, as well as the previously noted ICWA table, for inclusion at the beginning of the new set of rules.

There are currently 6 forms that follow the concluding Juvenile Rules. The proposed forms would be renumbered to avoid gaps in the numbering sequence. The proposed forms are in Appendix D.

Current Forms 1, 1A, 2, and 3 are notices to a parent in, respectively, dependency, in-home intervention, guardianship, and termination actions. The Task Force is proposing revised Forms 1 through 4 to replace the current forms.

Current Form 4 (“Counsel’s Certification of Diligent Search”) would be subsumed in the requirements of the juvenile appellate rules. Accordingly, the Task Force recommends abrogation of current Form 4.

Current Form 5 is a sample notice of appeal. The Task Force proposes two new forms to replace Form 5. Form 5(a) would be the notice of appeal in a delinquency proceeding. Form 5(b) would be the notice of appeal in any other juvenile case.

As noted above, the restyled appellate rules provide for a presumptive record on appeal and specify what would be included in the presumptive record. The Task Force proposes a new Form 6, which a party would use to make a supplemental designation of the record on appeal.

Although the forms are appended to the current rules, Petitioner proposes that the forms be removed and, instead, that they be located on the Self-Service page of the Arizona Judicial Branch website. Doing so would provide easy access to these forms and facilitate future modifications. A new Rule 114 (“Forms”) informs readers of the location of these forms on the website and the process for revising the forms. Family Law Rule 97 adopted a similar but not identical approach for the family forms. Petitioner therefore asks the Court to approve Forms 1 through 6 as recommended forms, i.e., forms that meet the requirements of the Juvenile Rules, and to permit the posting of these forms on the Arizona Judicial Branch website.

**9. Amendments to Civil Rule 81.1.** Surprisingly, there is a Civil Rule concerning emancipations. This short and often unnoticed rule, Rule 81.1, says that “these [civil] rules apply to juvenile emancipation proceedings except as provided

in Part V, Rules of Procedure for Juvenile Court.” By virtue of the amendments proposed by this petition, that statement would be incorrect because the Civil Rules generally do not apply in juvenile proceedings. The Task Force accordingly requests to amend Rule 81.1 to instead say, “The rules that apply to juvenile emancipation proceedings are located in Part V of the Rules of Procedure for the Juvenile Court.”

Please see Appendix E.

**10. Pre-filing Comments.** On February 17, 2021, the Task Force sent its 240-page draft set of rules, with an invitation to comment, to the following organizations and individuals:

Children’s Action Alliance  
Arizona Center for Law in the Public Interest  
Arizona Council of Human Service Providers  
Governor’s Legal Staff  
Arizona Public Defender Association  
Arizona Court of Appeals, Division One and Division Two  
State Bar of Arizona Juvenile Law Section  
Committee on Superior Court  
Committee on Juvenile Court  
Rita Meiser (a fellow of the American Academy of Adoption Attorneys)

The Task Force received 20 thoughtful and extensive comments, which necessitated the Task Force’s second request to extend the filing date for this rule petition. Members discussed many of those pre-filing comments at its March 5, 2021 meeting and made appropriate changes to its draft. However, the volume and scope of those comments also required further review by Task Force workgroups, which conducted 9 meetings over the ensuing month. The Task Force met again on April

12 to discuss workgroup recommendations and to further modify the proposed rules. The Editorial Group met twice after the April 12 Task Force meeting (April 14 and 21) to finalize the Task Force work product.

**11. Consideration of this Petition at the December 2021 Rules Agenda and a Proposed Effective Date.** Given the number and complexity of the proposed rules, the belated April filing of this petition, and the desirability of having further public comments, Petitioner requests the Court to consider this petition at its December 2021 rules agenda, rather than at its customary summer rules agenda. In the second motion for an extension of time, Petitioner proposed that public comments be due July 23, 2021, and that Petitioner's reply be due September 30, 2021.

If the Court adopts this schedule, including consideration of this petition in December, Petitioner proposes that the effective date of the newly adopted rules be deferred until July 1, 2022. Because of the extensive changes proposed by these rules, it would be desirable to have a significant amount of time for stakeholder training and familiarization with the new rules. This later effective date would facilitate judicial and attorney education during the first six months of 2022.

**12. Request for Early Adoption of Rule 335.** Proposed Rule 335 is an exception to the delayed effective date discussed in the preceding paragraph. For

Arizona to comply with the Family First Prevention Services Act, Rule 335 should be adopted with an effective date of September 1, 2021.

For Rule 335 to have a September 1, 2021 effective date, the Court should consider this proposed rule at its August 2021 Rules Agenda. New Juvenile Rule 335 therefore would be effective for 9 months before the effective date of the remaining rules. However, an early-adopted Rule 335 would have (1) a three-digit rule number and (2) 4 three-digit cross-references to other rules that would be incompatible with the numbering scheme of the current Juvenile Rules, which would continue to be effective until July 1, 2022. Petitioner therefore proposes that the rule be assigned a temporary number of Rule 52.1, as it follows, in both the current (Rule 52) and proposed (Rule 334) rules, the rule on the “Initial Dependency Hearing.” The 4 internal three-digit cross references in Rule 335 would be replaced with explanatory text in Rule 52.1. After the adoption of the new set of Juvenile Rules, Rule 52.1 would be abrogated, along with all the other current rules, and Rule 335 would become effective with that three-digit number on July 1, 2022.

**13. Conclusion.** The Task Force makes the following requests:

(a) that the Court abrogate the current Juvenile Rules and, in their place, adopt the proposed new Juvenile Rules shown in Appendix B;

(b) that the newly adopted rules become effective on July 1, 2022, with the exception noted in the next request;

(c) that the Court adopt Rule 52.1, as shown in Appendix C, on an expedited basis, with an effective date of September 1, 2021; and that on July 1, 2022, Rule 52.1 be abrogated and replaced by Rule 335;

(d) that the Court adopt the derivation and ICWA tables in Appendix A for inclusion with the rules in Appendix B;

(e) that the Court approve the forms in Appendix D as recommended forms;

(f) that the Court adopt the proposed amendments to Civil Rule 81.1, as shown in Appendix E, with an effective date of July 1, 2022; and

(g) that the Court open this petition for public comments, with an opportunity for Petitioner to file a Reply, as provided in the schedule set out in section 11 of this petition.

RESPECTFULLY SUBMITTED this 27<sup>th</sup> day of April 2021.

By /s/ Justice Rebecca White Berch  
Rebecca White Berch (Justice, ret.)  
Chair, Juvenile Rules Task Force

## Attachment

### Task Force Membership:

**Hon. Rebecca W. Berch**, Chief Justice (ret.), Task Force Chair  
**Randi Alexander**, DCS, successor to Magdalena Jorquez, DCS  
**Hon. Mark Armstrong**, Superior Court of Arizona, Maricopa County (ret.)  
**Professor Barbara Atwood**, University of Arizona College of Law  
**Beth Beckmann**, Court of Appeals, Division 2  
**Beth Beringhaus**, Maricopa County Attorney's Office  
**Dale Cardy**, Pima County Attorney's Office  
**Kathleen Coughlin**, Pima County Legal Defender's Office  
**Maria C. Fuentes/Steve Selover**, Governor's Office of Youth, Faith, and Family  
**John Gilmore**, Attorney at Law, Tucson  
**Hon. Joseph Kreamer**, Superior Court of Arizona, Maricopa County  
**Tina Mattison**, Pima County Juvenile Court Center  
**Donna McQuality**, Clerk of Superior Court, Yavapai County  
**Eric Meaux**, Superior Court of Arizona, Maricopa County  
**William Owsley**, Office of the Legal Advocate, Maricopa County  
**Christina Phillis**, Maricopa County Office of Public Defense Services  
**Hon. Maurice Portley**, Court of Appeals, Division 1 (ret.)  
**Hon. Kathleen Quigley**, Superior Court of Arizona, Pima County  
**Beth Rosenberg**, Children's Action Alliance (ret.)  
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