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IN THE ARIZONA SUPREME COURT

In the Matter of PETITION TO ADOPT  
RULE 52.1, RULES OF PROCEDURE  
FOR THE JUVENILE COURT

R-20-0044

COMMENT ON PETITION

The Department of Child Safety (DCS or the Department), by and through undersigned counsel, offers its comment under Rule 28(d), Arizona Rules of the Supreme Court, to the proposed Rule 52.1, Arizona Rules of Procedure for the Juvenile Court (Juvenile Rules). The Department proposes an amendment to the rule to clarify the timing of filing a motion seeking court approval of a minor's placement in a Qualified Residential Treatment Program (QRTP) after completion of the required assessment but before the placement has been made. The Task

Force was not aware of and therefore did not consider situations in which the required assessment is completed *before* the QRTP placement is made.

## **I. Introduction.**

Petitioner, the Juvenile Rules Task Force, drafted a rule to address placement of minors in a new category of treatment program known as a Qualified Residential Treatment Program, a specialized program designed to serve children who cannot be placed in less restrictive, family-like settings due to their specific treatment needs to address serious emotional or behavioral issues.<sup>1</sup> Congress created these placements as part of the federal Family First Prevention Services Act to reduce congregate care of minors in the child welfare system. The Act allows a state to seek reimbursement for QRTP placements under Title IV-E of the Social Security Act, provided that a court approves the placement no later than 60 days after the child's placement in the QRTP. The Department is currently contracting with several agencies to form QRTPs and will begin utilizing QRTP placements on or before October 1, 2021.<sup>2</sup>

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<sup>1</sup> The exact specifications for QRTPs can be found in the Bipartisan Budget Act of 2018, [P.L. 115-123](#) at 254-55, amending [42 U.S.C.A. § 672\(k\)\(4\)](#).

<sup>2</sup> The Task Force is also engaged in a comprehensive restyling of all of the juvenile rules, which are expected to take effect July 1, 2022. The relevant provision in Rule 335 of the proposed new juvenile rules is in essence the same as

The Task Force proposed a new rule 52.1 to create a process for DCS to file a motion seeking court approval of QRTP placements, establish procedures for the court to follow in deciding the motion, and allow for other parties to review the information that DCS considered in its decisions on QRTP placements. Although DCS agrees with the need for—and substance of—the rule in general, there is one provision that is problematic, specifically regarding the timing of the motion to approve a QRTP placement.

The Act itself requires DCS to facilitate an assessment of a minor within 30 days of placement in a QRTP. [P.L. 115-123](#) at 254; [42 U.S.C. § 675a\(c\)\(1\)](#). As written, rule 52.1 requires DCS to file “a motion seeking approval of the child’s placement in the QRTP no later than 10 court days after receipt of the QRTP assessment.” Proposed Rule 52.1(d)(2)(B). The timeframe for filing the motion is based on the receipt of the assessment rather than identification of or placement in the QRTP. This poses an issue because at the time the Task Force drafted rule 52.1, it was anticipated that the assessment would be made only after a minor was

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in proposed rule 52.1. The Task Force has requested that rule 52.1 go into effect early—on September 1, 2021—to permit the court, parties, and DCS to utilize the new QRTP placement category pursuant to the federal rule as soon as such placements are available. In light of that, the court and parties will have the rule 52.1 procedures to follow until rule 335 goes into effect in 2022.

placed in a QRTP. However, in practice DCS may receive assessments prior to identifying an appropriate QRTP and prior to placing the minor in the QRTP. As written, the rule would require DCS to file the motion for placement of the child in the QRTP within ten days of receipt of the assessment regardless of whether a placement had been made or even identified. In the case of a pre-placement assessment, DCS may not be able to file the QRTP motion within the mandated 10-day timeframe because the motion requesting court approval of placement can be filed only after placement is identified or made. Therefore, DCS is proposing alternative language to allow for these instances, as set forth below.

## **II. Proposed Amendment to Rule 52.1**

The proposed amendment affects only subsection (d)(2)(B) of the proposed rule. Amendments below are indicated by ~~striketrough~~ for deleted words and phrases and UNDERLINED ALL CAPS for additions. The Department proposes the following amendment to Rule 52.1:

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**(d) QRTP Placement and Approval.**

...

**(2) Procedure.**

(A) [no change]

(B) DCS must file a motion seeking approval of the child's placement in the QRTP no later than 10 court days after receipt of the QRTP assessment, UNLESS DCS RECEIVES THE ASSESSMENT PRIOR TO PLACING THE CHILD IN A QRTP, IN WHICH CASE THE MOTION MUST BE FILED NO LATER THAN 10 DAYS AFTER THE CHILD'S PLACEMENT IN THE QRTP. The motion must contain supporting documentation, including the QRTP assessment. If no party objects to placing the child in the QRTP, the court may rule upon the motion based on the supporting documentation without a hearing.

...

This proposed amendment will allow DCS to ensure that children requiring QRTP placement are placed in the most appropriate QRTP, by permitting DCS to accept pre-placement assessments for QRTP placements, and ensuring that DCS has the time needed to find such a placement that best meets the child's needs.

**III. Conclusion.**

The Department's proposed amendment to rule 52.1 will provide the necessary framework to implement the QRTP process in a manner that best benefits the children in DCS custody. The Department is committed to working with its stakeholder partners to implement the QRTP process to further the interests

of children requiring this level of treatment. The Department therefore respectfully requests that this Court adopt this amendment.

DATED this 14th day of June, 2021.

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