

AZ JUDICIAL CONFERENCE

*Juvenile Law
Update:
Dependency*



Juvenile Law Update

2025 - 2026

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PIMA COUNTY SUPERIOR COURT

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Overview

- 1. CASE LAW UPDATES:** The Court of Appeals has been busy with juvenile cases during the 2025-2026 term. As of mid-May 2026, the appellate courts have issued 12 opinions covering a wide range of issues.
- 2. PROCEDURAL RULE CHANGES:** A few procedural ARJP rule changes have been adopted, covering issues such as restoration of a parent-child relationship, required documentation for an adoption, change of judge, sanctions regarding disclosure, and the provision of mental-health services for juveniles.
- 3. STATUTORY REVISIONS:** As of mid-May 2026, the Legislature has not amended the statutes governing juvenile, but some bills are winding through the process.

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Juvenile Case Law Updates

2025-2026 TERM

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1) *IN RE G.L., K.L, D.L, G.L., and J.L.* 259 Ariz. 463, 567 P.3d 764 (Ct. App. 2025)

Background:

DCS filed petition to terminate father's parental rights to five minor children. The trial court terminated father's parental rights. Father timely appealed but passed away after appellate briefing was complete and before decision on appeal.

Facts:

The Department then moved to **terminate** Father's **parental rights** based on a history of chronic substance abuse and because the children had been in an out-of-home placement for more than nine months. See [A.R.S. §§ 8-533\(B\)\(3\), \(B\)\(8\)\(a\)](#).

Two weeks before severance trial, parents moved to continue the trial, which the trial court denied.

Father timely appealed and challenged the denial of the Motion to Continue. After briefing was complete, the Department filed a death certificate, indicating the Father has passed away.

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IN RE G.L., K.L, D.L, G.L., and J.L.
259 Ariz. 463, 567 P.3d 764 (Ct. App. 2025)

Holding:

“[A] parent's death during such an appeal does not automatically moot it. Rather, the focus remains on whether **termination** is still in the child's best interests, including considering any property interests that have arisen from the parent's death. If, as is the case here, the record lacks sufficient information to resolve that issue, this court will stay the appeal and revest jurisdiction in the juvenile court to take additional evidence and argument and make a new best-interests finding.”

Reasoning:

“Although a deceased parent’s appeal will no longer affect their personal parental rights, it could affect a child’s property interests. And that, in turn, may alter the best-interests analysis— the ‘paramount’ consideration in termination cases.”

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2) In re Dependency as to L.P.,
259 Ariz. 548, 569 P.3d 411 (Div. 1 2025)

Issue: Whether the juvenile court erred by finding L.P. dependent as to Braydon P. without **first determining** Braydon P.’s paternity.

Procedure: Mother and Father appealed from trial court order adjudicating child dependent as to both parents.

Order: Affirmed in part (as to Mother), vacated and remanded in part (as to Father because paternity was not established at the time of adjudication).

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Facts

- The parents were unmarried and suffered issues of housing instability, mental illness, and child neglect. DCS filed a dependency petition and alleged it was unknown whether Father established paternity or met a presumption.
- The parents engaged in some court-ordered services. In addition, the Court ordered Father to submit to a genetic test. The results of the genetic test were unavailable at the time of the trial.
- At the trial, Father claimed that his name was on the child's birth certificate, and he stated that he was not contesting paternity. The birth certificate was not offered into evidence. Father's counsel asked whether the Court wanted to await the DNA testing results or proceed with the trial.

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Facts (Cont'd)

- The trial proceeded, and the Court adjudicated the Child dependent as to both parents. The Court made no finding regarding Father's paternity.
- Two months later, the Court granted DCS summary judgment on Father's paternity. Both parents appealed.
- On appeal, Father argued that the Court erred by adjudicating prior to a paternity determination. DCS argued that Father invited error by urging the Court to resolve the dependency.

8

Facts (Cont'd)

- The COA held that paternity must **first** be determined, as a person who is not a legal parent has no parental rights. Establishing paternity is a jurisdictional requirement. The dependency statutes (see § 8-201(15)(a)(i)) requires a parent to be **unable or unwilling** to parent. The COA found insufficient the trial court's separate order issued two months later establishing paternity.
- The paternity determination needed to be made at the time of adjudication. Invited error requires active defense of an issue and not mere acquiescence. Father could not waive the jurisdictional issue either. Sufficient evidence supported Mother's adjudication.

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Holding

The juvenile court **lacks jurisdiction** to find a child dependent as to an alleged biological father without first finding the alleged father's paternity. Even if an alleged father is not disputing paternity at a contested hearing, the court must **first** find the paternity of the child before an adjudication as to the father.

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3) *In re Termination of Parental Rights as to C.J.*, 572 P.3d 597 (Div. 1 2025)

Issue: Does Arizona law require the court to conduct an *Anders v. California* and *State v. Clark* review in parental termination proceedings?

Procedure: Father appealed from the termination order based on abandonment and length of incarceration.

Order: Affirmed.

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Facts

- The Father was incarcerated at the time of the child's birth and remained incarcerated during the pendency of the case. Mother divorced Father and filed a **private petition** to terminate his rights on abandonment and length of incarceration.
- In June 2024, the juvenile court terminated on both grounds.
- The Father appealed. In his opening brief, appellate counsel cited *Anders* as a basis for Father's appeal. The brief asked the Court to "independently review the transcript of the proceedings and case file to determine whether any possible error exists". The attorney also asked permission to withdraw.

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Facts (Cont'd)

- The COA directed supplemental briefing to determine whether Arizona law required review under *Anders* and *Clark* in TPR proceedings.
- *Anders* is relevant where those convicted of a crime have a **constitutional right to counsel** (6th Am., applied to the states via the 14th Am.) in certain proceedings. When counsel wishes to withdraw, counsel must file a brief referring to anything in the record that might **arguably support the appeal**, allowing a defendant time to raise any points they choose to after receiving that brief. *Anders* balances the indigent criminal defendant's **constitutional right to counsel** and counsel's **ethical obligation to the client and the court**.

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Facts (Cont'd)

- *Clark* requires that when counsel finds **no arguable issue for appeal** and wishes to withdraw, counsel must first file an *Anders* brief referring to the record and a detailed case history. The defendant then has an opportunity to file a brief as an SRL. The Court then reviews the entire record for reversible error.
- Some states extend *Anders* **fully** to TPR proceedings (*e.g.*, IL, SD, LA, CT) to level the field for indigent parents.
- Some states have extended *Anders* where a **statutory right to counsel in TPR proceedings exists** (*e.g.*, UT, TX, AR, KY).

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Facts (Cont'd)

- Some states have extended *Anders* in an effort to **balance rights** of indigent parents and ethical duties of counsel (*e.g.*, PA, MT, NY)
- Several states have **declined** to extend *Anders* because parents have no federal-constitution-based right of counsel in TPR proceedings (*e.g.*, WA, CO, VT, FL, CA)
- Some states having previously extended *Anders* have **reversed course** (*e.g.*, WY, AL). Alabama found extending *Anders* a hinderance to swift adjudication. The U.S. Supreme Court has declined *certiorari* in **two** cases (1997 and 2003).

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Facts (Cont'd)

- In Arizona, the Court **declined to extend *Anders*** in 1998 finding a TPR “clearly civil in nature” (*Denise H.*).
- In lieu of *Anders*, **Rule 607(e)** balances a parent’s statutory right to counsel and counsel’s ethical obligations to the indigent parent and the Court.

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Facts (Cont'd)

- **Rule 607(e)** provides that counsel may file a **Notice and Avowal in Lieu of Opening Brief** avowing that counsel has attempted to locate the appellant unsuccessfully, appellant has abandoned the appeal, and/or counsel has reviewed the record and finds **no non-frivolous issue** to raise. Counsel must also inform the appellant of intent to file notice an option to file a brief as a SRL.
 - The Court may still review a Notice and a SRL brief, strike the Notice, and direct counsel to file a **merits brief** addressing all non-frivolous issues in the case.

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Facts (Cont'd)

- Here, Father's appellate counsel conceded he found no arguable issue meriting reversal. Father's counsel asked the COA to conduct an independent review of any arguable issue. Counsel relied on *Anders* and *State v. Clark*, two criminal cases, as the basis for the request. No Arizona court had found an *Anders* review to extend TPR proceedings.

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Holding

- The COA **declined to extend** *Anders* and *State v. Clark* to termination proceedings. Therefore, the termination order was **affirmed**.
- **Left for another day:** The court left to the Arizona Supreme Court whether an independent review by the COA for reversible error after counsel files an affidavit and avowal is **necessary**.

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4) *IN RE C.E.* 573 P.3d 101 (Ariz. Ct. App. 2025)

Background:

Child's mother petitioned to terminate child's father's parental rights to child. Trial Court denied mother's petition, finding that father had abandoned child, but that termination was not in child's best interests. Mother appealed.

Facts:

In 2021, Mother petitioned the family court to establish legal decision making and parenting time. The parties reached a temporary agreement which made Mother the primary residential parent and granted Father parenting time every other Saturday, supervised by his mother. The agreement required Father to complete random drug testing for six months before he could exercise unsupervised parenting time. In May 2022, the family court issued an order, modifying the parties' existing parenting-time agreement to require Father to exercise his parenting time at a supervised facility.

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IN RE C.E.
573 P.3d 101 (Ariz. Ct. App. 2025)

Facts Cont'd:

Father did not undergo drug testing in 2022 because he still used drugs at the time. He began testing in May 2023. Father did not test positive for any prohibited substances but did have several missed, diluted, or incomplete tests.

Father had not seen Child since May 2022 and did not attempt to visit Child or attempt to arrange phone or video contact until after Mother petitioned to terminate Father's parental rights in 2023. In her petition, Mother alleged grounds of abandonment and substance abuse.

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IN RE C.E.
573 P.3d 101 (Ariz. Ct. App. 2025)

Reasoning:

Juvenile Court erred by applying the wrong legal standard by pitting Child's interests against Father's, articulating its goal as "balanc[ing] the child's rights against those of the unfit parent."

The juvenile court also erred by applying the incorrect standard and resting its conclusion on Father's subjective desire to *create a potential future relationship*. Court should look at whether the child's interests are best served by "termination or *maintenance* of the parent-child relationship."

Court erred by relying on incorrect factual findings to support its best-interests findings. In concluding the benefit of a potential future relationship with Father "outweighs the benefit to be gained by [child] through [S]tepfather's adoption." Court mistakenly believed that Father had contact with from birth until May 2023, when his last contact was in May 2022.

Remanded and directed to order the termination of Father's parental rights as to Child.

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5) *IN RE E.C.* **579 P.3d 452 (Ariz. Ct. App. 2025)**

Background:

Mother petitioned to terminate father's parental rights as to minor child based on abandonment. The Superior Court denied mother's petition based on best interests alone, without addressing abandonment. Mother appealed.

Holding:

The superior court must conduct a two-step analysis when considering a petition to terminate a parent's rights. The superior court must resolve statutory ground for termination before it considers the child's best interests, even if it ultimately denies the petition on best interests.

The court reversed the denial of mother's petition to terminate father's parental rights. On remand, the superior court must conduct a sequential two-step analysis by first finding whether mother established father abandoned the child and then if father did abandon the child, finding whether terminating father's parental rights is in the child's best interests.

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6) *In re Termination of Parental Rights as to M.L.,* **581 P.3d 748 (Div. 1 2025)**

Issue: Whether a prospective adoption by a parent's fiancée may be used to find that termination is in a child's best interests. Whether the juvenile court may use facts and evidence supporting an abandonment finding when considering whether termination is in the child's best interest.

Procedure: Mother petitioned to terminate Father's parental rights. The juvenile court found the child to be adoptable because the child would be at risk if in Father's care due to his instability. Mother's fiancée wished to adopt the child. Father challenged the Court's best-interest finding.

Order: Affirmed.

24

Facts

- The child was born in 2018, at which time Mother and Father resided together. Mother had Father removed from the home due to **domestic violence**. Following removal, Father did not respond to Mother's email and co-parenting application contact attempts regarding the child. Father did contact Mother in 2020 asking to see the child, but Mother refused because of COVID-19. Three years passed and Father **did not contact Mother**. In July 2023, Mother sought a TPR.

25

Facts (Cont'd)

- The juvenile court held a trial. By that time, **Father had not had contact with the child in 5 years**. Mother testified that her fiancée, whom she would marry in 6 months, had an **established relationship** with the child and wished to adopt the child. Father testified that he could provide a safe home for the child and that he'd paid "80%" of his owed child support.
- The juvenile court **terminated on abandonment**. Father appealed. On appeal, Father argued that TPR was not in the child's best interest because Mother and Fiancée were unmarried, rendering the child not adoptable.

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Facts (Cont'd)

- Adoptability is a **fact-specific inquiry** as to the child. It is whether it is **more probable than not** that a child will be adopted by **someone** upon termination.
- Here, Mother had been in a relationship with Fiancée for over 2 years and Fiancée had lived with the child for 18 months. Mother had a wedding date and venue identified.

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Holding

The juvenile court may make **predictive judgments** about future events. Several grounds require it (*e.g.*, chronic substance abuse or mental illness, length of sentence, etc.). These are **factual findings** that can be supported by reasonable evidence and inferences. Here, reasonable evidence supported the finding that Mother and Fiancée would soon wed. The juvenile court properly considered conflicting evidence regarding Father's ability to care for the child. Mother and Fiancée had a **concrete** wedding plan and a plan for Fiancée to adopt the child.

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7) *IN RE V.M.*
581 P.3d 757 (Ariz. Ct. App. 2025)

Background:

Mother petitioned to terminate Father's parental rights to their two children. The Superior Court denied petition, and Mother appealed.

Facts:

The children lived with Mother since the parties separated in 2020. When the parties divorced in 2021, they agreed Mother would be the primary residential parent with sole legal decision-making authority and Father would pay no child support. Father had limited contact with the children after August 2020, and no contact or attempts to contact since April 2022.

Mother filed the petition to terminate Father's parental rights in January 2025. Father signed a consent to "relinquish and give up all rights to the care, custody and control" of his children. The court denied Mother's petition, finding she had not satisfied the best-interests requirement.

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IN RE V.M.
581 P.3d 757 (Ariz. Ct. App. 2025)

Holding:

"The juvenile court erred by failing to make a definitive finding that grounds for termination existed before analyzing whether termination was in the best interests of the children, but we conclude that this record nevertheless establishes Father's abandonment. We also conclude that under circumstances such as these, a respondent parent's consent to the other parent's petition for termination is evidence that termination is in the child's best interests."

"Because the record establishes that Father presumptively abandoned the children and because the court erred in finding that termination was not in the best interests of the children, we reverse the court's denial and order Father's parental rights terminated."

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IN RE V.M.
581 P.3d 757 (Ariz. Ct. App. 2025)

Reasoning:

“Father’s intent to perpetuate that abandonment is manifest through his consent to termination. Compelling continuation of the undesired parent-child relationship under such circumstances must necessarily have an adverse and detrimental impact on the children.”

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8) *In re Termination of Parental Rights as to D.S.,*
1 CA-JV 25-0094, issued 02/26/26

Issue: Whether **service** of a motion for termination on assigned counsel for a parent, who was **not** the attorney of record for the parent under Arizona Rule of Procedure for the Juvenile Court 303, means the juvenile court’s order granting the motion is **void for lack of personal jurisdiction**.

Procedure: Mother appealed from a TPR order arguing that she was **improperly served** and therefore denied due process.

Order: Vacated and remanded.

32

Facts

- A child was neglected by Mother and was panhandling in the middle of the night without adult supervision. DCS had previously petitioned for dependency regarding Mother's older child. At the PPH for the older child, the Court **appointed** an attorney for Mother. DCS was unable to locate Mother, and the Court approved service by publication.
- Mother did respond to an email from DCS stating she was not in Arizona. DCS then filed a dependency petition as to the child. The Court **assigned** the **same attorney** for Mother that represented her regarding the older child.

33

Facts (Cont'd)

- Mother failed to appear at the hearing and the court continued the hearing due to lack of service. DCS proceeded with **publishing notice** as to Mother. Mother failed to appear at the publication hearing and the court adjudicated the child dependent as to Mother.
- DCS later requested a TPR regarding Mother on the abandonment ground, among others. Mother did not appear at the initial hearing. DCS advised that if Mother's counsel was unable to accept service, then additional time would be needed for publication or personal service. Mother's counsel advised that **service could be completed through counsel** and the court agreed. The hearing proceeded in a default fashion. Mother emailed her attorney during the hearing inquiring about the hearing, but she never accessed the hearing remotely/virtually.

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Facts (Cont'd)

- The court found that Mother was served, failed to appear, waived her legal rights, and granted the TPR request.
- Mother appealed. On appeal, Mother contended that the court lacked personal jurisdiction over her because she was **not properly served** and that she was **deprived of due process** when the court proceeded in her absence at the hearing.
- The COA held the improper service prevents the court from acquiring **personal jurisdiction**, rendering any resulting judgment **void**.

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Facts (Cont'd)

- **Rule 303** governs “assignment” and “appointment” of attorneys and limits the power of “assigned counsel to accept service on behalf of a client during dependency, guardianship, and TPR proceedings.” The rules require the Court to “appoint” counsel for initial termination hearings, among others.
- **Rule 303(a)(3)** dictates that the assigned attorney is **not** the attorney of record for accepting service for a parent who has **never appeared**, unless the parent authorizes that attorney in writing to accept service, or the attorney avows on the record to such authorization.

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Facts (Cont'd)

- Here, counsel was **assigned**, but not the attorney of record for service purposes. Although the minute entry indicated that the court appointed counsel at the hearing, the transcript revealed **no such appointment occurred**. Mother's counsel therefore could not accept service barring explicit authority from Mother. The Court did not find that Mother ever entered a general appearance – which would otherwise deem Mother properly served. Also, actual notice does not mean lack of proper service is overlooked.

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Holding

Because Rule 303 **prohibits** assigned counsel from accepting service if a parent has not appeared in the proceeding ((a)(3)), and the record does not otherwise show Mother's assigned counsel was authorized to accept service under Rule 303, **Mother was not properly served**. Therefore, the juvenile court **lacked personal jurisdiction** over Mother and the order is vacated as **void**.

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9) *IN RE M.P.*
573 P.3d 564 (Ariz. Ct. App. 2025), review granted
(Nov. 4, 2025)

Background:

DCS petitioned for termination of mother's parental rights based on neglect. After mother moved for summary judgment, the Superior Court granted DCS's motion to strike mother's motion as untimely and subsequently granted the termination petition. Mother and DCS both appealed, and appeals were consolidated.

Mother argued her constitutional rights were violated because the court terminated her parental rights without considering her compliance with the case plan and participation in reunification services. Mother and child also challenged the sufficiency of the evidence to support the court's best-interests finding.

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IN RE M.P.
573 P.3d 564 (Ariz. Ct. App. 2025), review granted
(Nov. 4, 2025)

Facts:

In September 2023, Mother called 9-1-1 after M.P. refused to eat. Seven-month-old M.P. weighed approximately seven pounds at the hospital and was diagnosed with severe malnutrition. Mother reported that she was breastfeeding M.P. and that she and M.P.'s father had adopted "a more holistic approach to life." The Department took custody of M.P., and Mother was arrested for child abuse.

Child was adjudicated dependent as to Mother, case of family reunification was affirmed and DCS offered reunification services. Court found Mother compliant at permanency hearing and review hearing.

DCS filed a Petition to terminate, based on neglect.

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IN RE M.P.
573 P.3d 564 (Ariz. Ct. App. 2025), review granted
(Nov. 4, 2025)

Facts Cont'd:

After severance trial, the juvenile court granted DCS's petition for termination based on neglect. The court explained, that Mother had neglected M.P. by causing malnourishment and that she "was aware that she was producing limited breast milk" but "took no steps to obtain timely medical care for" M.P. The court also found that termination was in M.P.'s best interests. The court considered Mother's completion of various reunification services but found she had not "demonstrated any significant behavioral changes or understanding of how to protect [M.P.] from future abuse or neglect, including domestic violence."

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IN RE M.P.
573 P.3d 564 (Ariz. Ct. App. 2025), review granted
(Nov. 4, 2025)

[§ 8-533\(B\)\(2\)](#) provides, as a ground for **termination**, "[t]hat the parent has neglected or willfully abused a child." Neglect is defined as "[t]he inability or unwillingness of a parent ... of a child to provide that child with supervision, food, clothing, shelter or medical care if that inability or unwillingness causes substantial risk of harm to the child's health or welfare." [A.R.S. § 8-201\(25\)\(a\)](#).

[§ 8-533\(B\)\(2\)](#) does not require DCS to provide reunification services. The text of [§ 8-533](#) requires DCS to make diligent efforts to provide appropriate reunification services for **terminations** from out-of-home placement under [§ 8-533\(B\)\(8\)](#) and [\(B\)\(11\)](#). See [§ 8-533\(D\)](#). No such language appears in subsection (B)(2).

Neglect is "a malleable concept based on the individual circumstances of the case...we are simply giving meaning to the necessarily broad language of [§ 8-201\(25\)\(a\)](#), which is intended to reach numerous types of neglect, from willful to, as in Maria's case, unintentional."

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IN RE M.P.
573 P.3d 564 (Ariz. Ct. App. 2025), review granted
(Nov. 4, 2025)

Holding:

The juvenile court erred in failing to consider Mother’s “participation in and benefit from services—which were offered by DCS as part of the related dependency proceeding with a case plan goal of family reunification—in its finding of parental unfitness under § 8-533(B)(2). It is important to note that we are not suggesting reunification services or a case plan of family reunification are required, even in cases of unintentional neglect. We simply conclude that when DCS seeks to terminate a parent's rights based solely on neglect while also offering services as part of a court-ordered family reunification plan, the parent's performance in and benefit from those services must be considered as part of the court's determination of parental unfitness.”

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IN RE M.P.
573 P.3d 564 (Ariz. Ct. App. 2025), review granted
(Nov. 4, 2025)

Dissent:

“[T]he majority concludes that due process requires more. Under its opinion, juvenile courts determining whether a statutory ground exists must also consider “all relevant evidence” concerning parental fitness. As applied here, that means Maria’s “participation in and benefit from services.” But the boundaries of “parental fitness” are not for the court to determine. The legislature has already determined them, as set forth in Section 8-533(B). Any other definition amounts to rewriting the statute to substitute the court’s own boundaries.”

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10) *In re Termination of Parental Rights as to B.B.*, 585 P.3d 199 (Div. 2, 2026)

Issue: Whether A.R.S. § 8-533(B)(5), which provides that a parent-child relationship may be terminated when “the **potential father** failed to file a paternity action within thirty days of completion of service of notice as prescribed in” A.R.S. § 8-106(G), permits termination when the potential father **files** a paternity action but fails to comply with the service requirements outlined in § 8-106(G), resulting in a dismissal with prejudice of his paternity action.

Procedure: Father appealed from a TPR order arguing that 8-533(B)(5) only applied when a father **fails to file** a paternity action.

Order: Vacated and remanded.

45

Facts

- The child was born in August 2024, and Mother executed a relinquishment and consent to place the child for adoption.
- Mother indicated that Dustin was a “potential father.”
- The adoptive parents filed a petition to terminate Mother’s and Dustin’s parental rights. The AP’s alleged § 8-533(B)(5) as the ground to terminate Dustin’s rights.

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Facts (Cont'd)

- In September 2024, the AP's served Dustin with notice, as required by § 8-106(G), that Mother identified him as the child's potential father. The notice advised that if Dustin withheld his consent and opposed the adoption, he needed to initiate a paternity action **and** serve Mother within 30 days of receipt of the notice.
- In October 2024, Dustin initiated a paternity action in Pima County. Dustin informally provided Mother with a copy the same day, but Mother did not sign acceptance of service until 34 days after Dustin received the initial notice. The acceptance was filed after 37 days.

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Facts (Cont'd)

- The AP's filed a motion to dismiss Dustin's paternity action, arguing that Dustin **missed the service deadline**. Dustin failed to appear at the hearing as he was **incarcerated**. The court granted Dustin leave to file a response. He failed to respond and the court dismissed the action **with prejudice** in January 2025.
- Dustin attempted to dismiss the termination action, arguing he **filed** within the 30 days. The AP's filed a motion for partial summary judgment, arguing Dustin failed to **serve** within 30 days. The juvenile court denied both motions.

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Facts (Cont'd)

- After a trial, the Court granted the severance. The juvenile court designated the issue as one appropriate for special action review under Rule 13(a), Rules of Procedure for Special Actions. The Court sought clarification of the requirements of § 8-106(G). Dustin filed a notice of appeal.
- On appeal, Dustin argued that § 8-533(B)(5) **only applies** when a father fails to **file** a paternity action. Section 8-533(B)(5) provides for a termination where a father **fails to file** a paternity action within 30 days of service of the § 8-106(G) notice.

49

Facts (Cont'd)

- The COA held that a **potential father** is distinct from a legal father. A legal father's consent must be obtained or his rights terminated for a child to be adopted. A potential father is one identified by a mother whose paternity is not yet established. His consent is not required for an adoption. If a potential father fails to **timely file and serve** a paternity action after receiving notice, his opportunity to establish parental rights is **forever foreclosed**.

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Facts (Cont'd)

- Section 8-106(G)(7) warns that if a potential father fails to act as required, he **waives** his right to be notified of adoption proceedings and his paternity action **must be dismissed**. Only when a potential father fails altogether to file a paternity action, and the time to do so has expired, does § 8-533(B)(5) provide for TPR, because only then is it necessary. That right is already foreclosed to a potential father whose paternity action is dismissed with prejudice and barred under § 8-106(J).
- Here, Dustin had **no legal relationship** with the child to terminate. The COA vacated the ruling.

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Holding

A.R.S. § 8-533(B)(5) does **not** provide a basis for terminating parental rights when a potential father filed a paternity action but did not timely serve it, resulting in dismissal of the action. To be clear, when a potential father files a paternity action, his status, rights, and any parent-child relationship are conclusively determined in that action, rendering § 8-533(B)(5) inapplicable. In this case, Dustin G.'s potential father status **ended** when his paternity action was dismissed with prejudice and he therefore had no other rights requiring termination under § 8-533(B)(5). The Court vacated the termination and remanded the case for the juvenile court to dismiss the termination petition.

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11) *IN RE Dependency of M.K.*
No. 2 CA-JV 2025-0038, 2026 WL 1191712, at *1
(Ariz. Ct. App. May 1, 2026)

Issue:

Did the juvenile court err in finding good cause to deviate from the placement preferences of the Indian Child Welfare Act and allowing M.K., an Indian Child, to remain with his current non-relative, non-Indian placement as opposed to his Indian relatives?

Facts:

Baby was placed with non-Indian foster family. Months later DCS identified family placements and filed a motion for change in physical custody. Current placement and prospective placement intervened. The White Earth Nation intervened on first day of the hearing. The court found good cause to deviate from the ICWA placement preferences and denied DCS's motion for change of physical custody, based on concerns about potential trauma to M.K. if removed from current placement and his extraordinary physical, mental, and emotional needs.

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IN RE Dependency of M.K.
No. 2 CA-JV 2025-0038, 2026 WL 1191712, at *1
(Ariz. Ct. App. May 1, 2026)

Holding:

The juvenile court failed to adequately consider evidence and legal standards, including the testimony of experts on the importance of placing Indian children with relatives and the availability of necessary services in Phoenix, where proposed placement resides.

ICWA's placement preferences must be followed unless there is clear and convincing evidence of good cause to deviate. The court found that the juvenile court's reliance on M.K.'s attachment to his current foster family was insufficient. Additionally, the court noted that Raven, M.K.'s mother, preferred placement with proposed placement, which should have been considered under ICWA.

There was no clear and convincing evidence to justify deviating from ICWA's placement preferences. The case was remanded for M.K. to be placed with ICWA compliant proposed placement, in accordance with ICWA's placement preferences.

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IN RE Dependency of M.K.
No. 2 CA-JV 2025-0038, 2026 WL 1191712, at *1
(Ariz. Ct. App. May 1, 2026)

Implications for juvenile courts:

“This is precisely the type of case that ICWA was enacted to address. We have an Indian child with both an extended family member and a non-Indian foster family wishing to serve as placement. Because... no one could reasonably find good cause to deviate by clear and convincing evidence, we are compelled to reverse the juvenile court’s order.”

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12) *IN RE Dependency of E.M.*
No. 1 CA-JV 24-0153, 2026 WL 1030435, at *1
(Ariz. Ct. App. Apr. 16, 2026)

Background:

The case involves the termination of parental rights of Donald P. ("Father") concerning his two children, E.M. and D.M., based on the length-of-felony-sentence statutory ground under A.R.S. § 8-533(B).

Facts:

E.M. and D.M. were born in 2016 and 2018, respectively. In 2019, Father was arrested on various felony charges and later pleaded guilty to three nonviolent felony offenses in 2021, resulting in an 11-year prison sentence with an anticipated release date in 2028.

Father actively engaged with DCS, completed parenting programs in prison, and maintained positive relationships with his children through weekly virtual visits and monthly in-person visits. After two and a half years, DCS moved to terminate Father's parental rights based on the length of his felony sentence, which was granted.

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IN RE Dependency of E.M.
No. 1 CA-JV 24-0153, 2026 WL 1030435, at *1
(Ariz. Ct. App. Apr. 16, 2026)

Facts Cont'd:

Father appealed, arguing that the court misapplied the second *Michael J* factor, which assesses the degree to which the parent-child relationship can be continued and nurtured during incarceration. DCS conceded error, leading to a suspension of the appeal and a remand to the superior court for clarified findings. The superior court reassessed the factor and found that the relationship could be maintained through visitation, but still concluded that termination was appropriate due to the lack of a normal home environment for the children.

Father argued that amended termination ruling focused too narrowly on unavailability of placement with a *relative* without addressing the possibility that Children's foster placements might pursue a permanent guardianship.

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IN RE Dependency of E.M.
No. 1 CA-JV 24-0153, 2026 WL 1030435, at *1
(Ariz. Ct. App. Apr. 16, 2026)

Facts Cont'd:

The fifth Michael J. factor, which addresses “availability of another parent to provide a normal home life,” also includes consideration of the availability of a permanent guardian to provide a normal home life in the absence of another parent. The court thus should consider “whether another person is willing to be the child's permanent guardian,” and if so, whether grounds for a permanent guardianship exist.

The juvenile court found that no potential permanent guardian was available, expressly considering relatives as well as Children's foster placements. The only evidence was that no guardian was available; there was no evidence to the contrary.

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Juvenile Procedural Rule Changes

2025-2026 TERM

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ARJP Rule Changes (Cont'd)	
[NEW] RULE 354 – Restoration of a Parent-Child Relationship <i>Currently Effective</i>	ARS § 8-547
RULE 415 – Documentation Required to Adopt <i>Effective January 1, 2026</i>	R-24-0054

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ARJP Rule Changes

RULE 315 – Disclosure and Discovery

Effective January 1, 2026

R-25-0030

RULE 108 – Change of Judge

Effective January 1, 2026

R-25-0043

RULES 701-706 – Mental Health Services

Adopted Effective Immediately

R-24-0055

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Rule 354

Restoration of a Parent-Child Relationship

Allows DCS, the child, an Indian child's tribe, the child's attorney or GAL, or the terminated parent to file a petition to have the parent-child relationship restored, if certain requirements are met:

Child must be in the care of DCS.

Child is unlikely to achieve permanency without relationship being restored.

Two years have passed since parent-child relationship was terminated.

Petition requires an explanation that parent has demonstrated necessary remediations, including the ability and willingness to properly care for the child.

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Rule 415

Adoptions

Modifies documents provided to court prior to adoption finalization hearing

Clarifies who provides documents and widens timeframe for doing so

Requires that Petitioner provide documents 15 days before hearing
[changed from 10 days]

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Rule 315

Disclosure & Discovery

Subsection (g) re: sanctions: Upon a party's motion or on its own, the court may impose sanctions on a party who fails to disclose information in a timely manner.

The court may also impose sanctions on a party who submits evidence that has been materially altered or generated with the intent to deceive the court.

Sanctions may include . . . directing that designated facts be taken as established for purposes of the action, prohibiting the disobedient party from supporting or opposing designated arguments or from introducing designated matters in evidence, striking pleadings in whole or in part, staying further proceedings until the order is obeyed, dismissing the action or proceeding in whole or in part unless dismissal would negatively bear on the child's best interest, scheduling a proceeding to treat the violation as contempt of court, or entering any order the court deems appropriate.

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Rule 108

Change of Judge

Subsection (c)(4) re: without cause and upon remand by appellate court:

- (A) In cases remanded from an appellate court, the right to a change of judge without cause is renewed and no event connected with the first proceeding constitutes a waiver:
- (i) if the appellate decision requires a new proceeding or contested hearing; and
 - (ii) the party seeking a change of judge has not previously filed a notice of change of judge of right.
- (B) Any notice of change of judge filed under this rule must be filed no later than 15 days after issuance of the appellate court's mandate under Rule 602(i)(14) (incorporating ARCAP 24).

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Rules 701 through 706

Mental Health Services

Establishes court rules setting forth the process for obtaining court approval for mental health services to juveniles under A.R.S. §8-272

"Party" for purposes of Rules 701-706 is any entity defined in A.R.S. § 8-271(2), a parent, guardian, Indian custodian, Indian tribe (when the child is an Indian child), and the child.

The court must consider evidence admissible under Rule 104(b) to determine whether to grant the motion for the child to receive inpatient psychiatric acute care services.

[Rule 705] If child is transferred to a new inpatient psychiatric care facility, a new assessment is not required, but a Notice must be file 5 days before transfer.

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Statutory Revisions

2025-2026 TERM

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HB 2661: Parents' rights; guardianship; notice; attestation

- Expands the **rights notice** that DCS must provide to parents, guardians, and custodians during an abuse/neglect investigation.
- Adds a **right to be advised** that a parent or guardian **may delegate temporary guardianship of the child** and a **right to file a complaint or notify** the juvenile court if they believe their rights are being violated.
- Last Action: Passed Senate Third Reading 17-10 (April 16).

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HB 4042: Termination; parent-child relationship; service

- Adds a requirement for a **potential** father to file a paternity action and serve the mother with a copy of the filed paternity action within thirty days after completion of service of notice as prescribed in section 8-106, subsection G.
- Additionally, the proposed changes include a provision that a potential father who fails to meet this requirement **waives** his right to be notified regarding the termination of parental rights and his consent to the termination of parental rights is **not** required.
- Last Action: Passed Senate Rules Committee (March 23).
- In response to *In re TPR as to B.B.* (Div. 2, Jan. 8, 2026).

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Questions?

Thank You!

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