

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF <COUNTY>**

Date:
Judicial Officer:
Deputy Clerk:

In the matter of: _____ No. _____

PRELIMINARY PROTECTIVE HEARING

Parties Present:

<Party>
<Party>

This is the time set for the **PRELIMINARY PROTECTIVE HEARING** on a dependency petition filed <date of petition filing>.

Open Proceedings:

The Court advises the parties that the proceeding is presumptively open to the public.

- The Court determines that the proceeding is to remain open to the public and admonishes attendees that they must not disclose identifying information (which includes posting anything on social media or the internet) about the child, siblings, parents, guardians or caregivers, or other persons identified in the proceeding. The Court explains contempt of court to all attendees and possible consequences of violating a court order.
- The Court orders that the proceeding be closed based on the following: <reason(s) that proceeding should be closed>.

ICWA:

- The Court has inquired whether any party or participant has reason to know that the child is an Indian child.
- The Indian Child Welfare Act <does/does not> apply or <there is reason to know that ICWA applies> or <ICWA is undetermined>.
- There is insufficient evidence to determine whether the child is an Indian child; therefore, the Court orders that petitioner use due diligence to identify and work with all tribes where there is reason to know the child may be a member or eligible for membership, to verify whether the child is a member or if a biological parent is a member and the child is eligible for membership.

- The Court orders the petitioner to notify the parent, Indian custodian, the child's tribe, or the Secretary of the Interior by registered or certified mail as required by ICWA, [25 U.S.C. § 1912\(a\)](#).

If ICWA applies or there is reason to know the child is an Indian child, the Court finds with regard to imminent harm pursuant to ICWA:

- A judicial officer <did/did not> make a finding that removal of the child was necessary to prevent imminent physical damage or harm to the child.
- The imminent harm finding and placement are affirmed.
- The Court finds that probable cause <does/does not> exist to believe that removal or placement was necessary to prevent imminent physical damage or harm to the child.
- If the Court finds that emergency removal was **not** necessary to prevent imminent physical damage or harm, the Court:
 - o Orders immediate return to the physical custody of <parent/guardian/Indian custodian>, or
 - o Affirms placement, finding by a preponderance of the evidence that return would subject the child to substantial and immediate danger or threat of such danger under [25 C.F.R. § 23.114](#).

Service: The Court determines that service <is/is not> complete as to <name of parent, guardian, or Indian custodian>.

- The Court finds that parent had notice of the hearing and that the notice advised of their rights and the consequences of not appearing at this hearing.
- The State of Arizona, by and through the Arizona Department of Child Safety, is authorized to initiate this dependency proceeding pursuant to [Title 8 A.R.S.](#)
- The Court has exclusive original jurisdiction over the subject matter and venue is appropriate in <County> County. [A.R.S. § 8-202](#), [A.R.S. § 8-206](#)
- The Court has jurisdiction over the <parent, guardian or Indian custodian> and finds that service of process is complete as to the <parent, guardian or Indian custodian>. [A.R.S. § 8-841](#), [Ariz. R.P. Juv. Ct. 328 and 329](#)
- The Court orders the <Petitioner/DCS> to effectuate service by publication because the party cannot be reasonably located.

Attorney/GAL Meeting with the Child, Notification and Right to be Heard:

- The Court determines that the attorney/GAL for the child met with the child before the preliminary protective hearing.

OR

- The Court determines that the counsel/GAL for the child did not meet with the child before the preliminary protective hearing. It is therefore, ordered the meeting must occur no later than 14 days after the preliminary protective hearing and that the attorney/GAL must advise the child of their rights.

OR

- The Court finds that extraordinary circumstances exist and modifies the duty of counsel/GAL to meet with the child as follows:

- The Court determines that the child has been informed of and understands his/her right to attend their Court hearings and speak to the judge.
- The Court determines that the attorney for the parent communicated with their client before the Preliminary Protective Hearing.
- The Court determines that the <foster parents, shelter care facility, receiving foster home, pre-adoptive parents, or members of the child's extended family with whom the child has been placed> <was/were or was not/were not> notified of this hearing.
- The Court informs the <foster parents, shelter care facility, receiving foster home, pre-adoptive parents, members of the child's extended family with whom the child has been placed/a relative identified as a possible placement for the child> of the right to be heard in any proceeding to be held with respect to the child.

Counsel:

Appointment of counsel is made/affirmed for the following:

- <Counsel>, <attorney/Guardian ad Litem> for <child>;
- <Counsel>, <attorney/Guardian ad Litem> for <parent, guardian, or Indian custodian>;
- <Counsel>, <attorney/Guardian ad Litem> for <parent, guardian, or Indian custodian>.

<Parent, guardian, or Indian custodian> is to pay <monthly assessment> per month for the cost of counsel.

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The Court advises the parents that appointment of counsel is for one year and that new financial information will be required prior to reappointment.

The Court confirms that the <parent, guardian or Indian custodian> has/have met with their counsel and have been advised of their trial rights. [A.R.S. § 8-843\(B\)](#), [A.R.S. § 8-824\(D\)](#)

- Pursuant to DCS agreement with the dependency petition, the Court orders that DCS be substituted as the petitioner in this matter.

Documents Reviewed: The Court has received and reviewed the following documents: <names of specific documents, including substantiated findings of abuse and neglect from another state>.

- The Court determines that DCS <has/has not> filed an initial case plan. [A.R.S. § 8-824](#)

Paternity: Paternity for <child> <has been established by <how established>/has not been established>.

- The Court, therefore, orders <parent/guardian/Indian custodian> to <how paternity is to be established> to establish paternity in this matter.

Prehearing Conference: The Court <has/has not> received a report from the facilitator regarding the agreements reached at the Prehearing Conference.

Placement and Custody: <Parent, guardian or Indian custodian> has <waived/requested> the Review of Temporary Custody hearing.

- Continued temporary custody <is/is not> clearly necessary to prevent abuse or neglect.
- Continuation of <child> in the home would be contrary to their welfare and placement would be in their best interests. This finding is based on <factual basis>.
- The Court orders that the child remain a ward of the Court in the legal care, custody and control of the Arizona Department of Child Safety.
- The Court affirms placement as set forth in its placement orders.
- The Court determines that DCS is making reasonable efforts to place the child with the child's siblings.
- The Court affirms that the child and siblings <are/are not> placed together.
- The DCS report to the Court identifies specific reasons why the siblings are not placed together, what efforts were made to facilitate contact between siblings, and a plan for frequent visitation or contact between the siblings.

OR

- The Court finds that frequent visitation or contact between siblings is contrary to the sibling's safety or well-being.
- The Court affirms that DCS is attempting to identify and assess placement of the child with the child's grandparent, siblings, or another member of the child's extended family, including a person who has a significant relationship with the child.
- If ICWA applies, the child was placed pursuant to ICWA placement preferences. [25 USC § 1915, Ariz. R.P. Juv. Ct. 321 or](#)
 - There was good cause to deviate from ICWA placement preferences including <factor(s) considered in making this determination>.
- The Court orders the parent, guardian, or Indian custodian to provide the names, types of relationships, and all available information necessary to locate persons related to the child who have a significant relationship with the child, including any absent parent. The parent or guardian is further ordered to inform DCS immediately if the parent or guardian becomes aware of new information relating to the existence or location of a relative or person with a significant relationship with the child.
- The Court orders the parties to inform the Court if they obtain information that the child is an Indian child as defined by ICWA.

Parenting Time and Visitation:

It is ordered that parenting time or visitation with the parents and siblings will be as follows: <parenting time or visitation agreements or notation that parenting time or visitation agreements are in separate order attached to this minute entry>.

- Frequent visitation and/or ongoing contact between the siblings will be arranged by DCS as the siblings are not currently placed together.
- The Court determines that visitation and/or contact between the siblings is contrary to the safety or well-being of the child.

Services:

- The Court finds that the services proposed are appropriate, necessary, and reasonable to facilitate <permanency plan>.
- The Court orders DCS to provide reunification services.
- The Court orders the parties to participate in the proposed services.

- As DCS is now substituting as the petitioner, the Court orders DCS to prepare a case plan consistent with the services proposed in this hearing.
- DCS is not required to provide reunification services. [A.R.S. § 8-846\(D\)](#).
- DCS arranged for the assembly of the medical records of the child, a medical assessment of the child, the implementation of referrals and communication of recommendations and results as provided by law.

Plea: <Parent, guardian or Indian custodian> enters a plea of <plea> to the allegations contained in the petition.

- The Court advises <parent, guardian or Indian custodian> of their rights and determines their understanding of these rights.
- The Court advises <parent, guardian or Indian custodian> that a Permanency Hearing will be held no later than one year after the child's removal, or no later than six months if the child is under three years of age. The Permanency Hearing can be expedited if requested by a party or ordered by the Court. If significant progress toward the case plan of reunification has not occurred by the Permanency Hearing, the case plan goal will be changed.
- The Court determines that the <admission/no contest> plea made by <parent, guardian or Indian custodian> was made knowingly, intelligently and voluntarily.
- The Court continues the child as a temporary ward pending adjudication.
- IF ICWA applies:** the Court hears testimony of a Qualified Expert Witness pursuant to ICWA prior to adjudicating any parent, and must find by clear and convincing evidence as follows:
 - DCS has made active but unsuccessful efforts to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family.
 - Continued custody with [name of parent/s] would likely have resulted in serious emotional or physical damage to the child due to [state reasons].
 - Placement is in accordance with ICWA placement preferences or good cause to deviate from placement preferences exists because [state reasons]

Adjudication:

The Court, having considered the verified petition/amended petition dated <petition date>, the reports filed and admitted into evidence, and the plea of <plea> of <parent, guardian or Indian custodian>, finds by <burden of proof> that:

- <Child> is dependent as to <parent, guardian, or Indian custodian>. [A.R.S. § 8-201](#).
- The Court, therefore, orders that <child> be made a ward of the Court as a dependent child as to <parent, guardian, Indian custodian> and placed in the care, custody and control of the Arizona Department of Child Safety.

Disposition:

The Court finds, after consideration of the health and safety of the child, the goal of the placement, and the services offered to the family and the child, that the goal of <permanency goal> is appropriate at this time.

- The Court finds that it is contrary to the child's/children's best interests to remain in the home based on <factual basis>.

Reasonable Efforts:

The Court finds that reasonable efforts <were/were not> made to prevent the removal of <child> from the home and this finding is based upon the following facts: <factual basis for the reasonable efforts finding>.

Additional orders:

<GAL, CASA appointment, Protective Orders, Support, etc.>

Future Hearings:

The Court sets/affirms the following hearings:

- The <Hearing type> Hearing as to <parent, guardian or Indian custodian> is set for <date, time and location of this hearing>.
- The Court vacates** the <hearing type> Hearing set for <date, time and location of this hearing>.

Admonitions:

- The Court orders that <parties, counsel, professionals> attend Mediation set for <date, time and location of mediation>.
- The Court admonishes <parent, guardian or Indian custodian> that:
 - Failure to attend future hearings without good cause shown may result in a finding that they have waived their legal rights and are deemed to have admitted the allegation(s) in the petition.
 - The hearing may go forward in their absence and may result in a finding of dependency, and the Court could make permanent orders by motion.

- Failure to appear in court or to participate in reunification services may result in the termination of their parental rights or the establishment of a permanent guardianship.
- The Court reads and provides to <parent, guardian or Indian custodian> a copy of Form 1 and requests that <parent, guardian or Indian custodian> sign and return a copy of the form.
- Because the child is under three years of age, the Court admonishes <parent, guardian, or Indian custodian> that the Court will review, no later than six months after the child's removal, whether the parent has substantially neglected or willfully refused to remedy the circumstances that caused the child to be in an out-of-home placement, including refusal to participate in reunification services. The Court further admonishes <parent, guardian, or Indian custodian> that substantially neglecting or willfully refusing to remedy the circumstances that caused the child to be in an out-of-home placement is grounds for termination of their parental rights.
- The Court finds that <parent, guardian, or Indian custodian> was advised of the consequences of their failure to attend future hearings or participate in reunification services.
- The Court orders notification be provided to the foster parents, shelter care facility, receiving foster home, pre-adoptive parents or members of the child's extended family with whom the child has been placed be effectuated by DCS of Child Safety (if DCS is not a party, designate a person to give notice and manner by which notice is to be given).

Dated: _____

<Judge/Commissioner/Hearing Officer> of the Superior Court