



# **JUVENILE BENCH BOOK**

# ADOPTION

## FINAL ADOPTION HEARING

Source: [A.R.S. §8-115](#); [A.R.S. §8-116](#); [Ariz. R.P. Juv. Ct. 416 84](#); [25 U.S.C. §1913](#) (consent to adopt or voluntary adoptions); and [25 U.S.C. §1915](#) (placement of Indian Children).

### CALL THE CASE:

1. Identify case number, case name, and the nature of the hearing. (Use caution when identifying the parties to a closed adoption.)
2. Identify those who are present.

### RECEIVE EVIDENCE:

1. Swear in adoptive parents, adoption examiner or caseworker, and child (12 or older).
2. Take testimony from adoptive parents.
3. If a child is 12 or older, determine whether child consents to the adoption.
4. Take recommendation from adoption examiner or caseworker.
5. Receive, as applicable, social study pursuant to [A.R.S. § 8-112](#); consent pursuant to [A.R.S. § 8-106](#); accounting pursuant to [A.R.S. § 8-114](#); fingerprint clearance (DPS; CPS and FBI); evidence of termination of parental rights; birth certificate and certification for adoption.
6. Review any post-placement agreements.

### FINDINGS AND ORDERS:

THE COURT FINDS that it has jurisdiction and that all requirements of Title 8 of the Arizona Revised Statutes have been met.

THE COURT FURTHER FINDS that the child was born on \_\_\_\_\_ at \_\_\_\_\_.

THE COURT FURTHER FINDS that the child is free for adoption as the natural parent's/parents' rights have been terminated or the natural parent/parents have consented to the adoption.

THE COURT FURTHER FINDS that the Indian Child Welfare Act ("ICWA") [applies/does not apply].

:

[WHEN ICWA APPLIES AND PURSUANT TO 25 U.S.C. § 1951 and Ariz. R.P. Juv. Ct. 416 (e)(2):  
]

THE COURT FURTHER FINDS BY CLEAR AND CONVINCING EVIDENCE that:

1. The tribe was notified of the proceedings and the right to intervene;
2. If a parent consented to the adoption, the consent was taken in accordance with ICWA § 1913\*;
3. The placement complies with the placement preferences set forth in ICWA § 1915 or good case exists to deviate from the placement preferences provided in ICWA § 1915 and 25 C.F.R. § 23.130 through 23.132; and
4. The parental rights of the parent were terminated in accordance with ICWA § 1912, 25 C.F.R. §§ 23.121 through 23.122 and Rule 351. ~~outlined below.~~

IT IS ORDERED that the clerk provide the Secretary of the Interior a copy of the final adoption decree along with the following information:

1. The name and tribal affiliation of the child
2. The names and address of the biological parents
3. The names and addresses of the adoptive parents
4. Contact information for DCS or any agency having files or information relating to the adoptive placement.]

THE COURT FURTHER FINDS that the petitioner(s) is/are a fit and proper person(s) to adopt this child.

THE COURT FURTHER FINDS that adoption is in the best interest of the child.

[CHILD 12 OR OLDER: THE COURT FURTHER FINDS that the child is willing to be adopted by petitioner(s).]

FOR THESE REASONS,

[WHERE APPLICABLE: IT IS ORDERED approving the Accounting]

[WHERE APPLICABLE: IT IS ORDERED approving the written communication agreement signed by petitioner(s)]

IT IS ORDERED granting the petition for adoption [and the change of name].

[FOR NAME CHANGES: IT IS FURTHER ORDERED that henceforth the child shall bear the name of \_\_\_\_\_ (spelled \_\_\_\_\_)]

Henceforth the petitioner(s) and the child shall bear toward each other the relationship of parent and child.

[FOR CASES INVOLVING A DEPENDENCY PENDING IN THE SAME COURT: IT IS FURTHER ORDERED, as to this child only, dismissing dependency action \_\_\_\_\_ [, relieving counsel of all further obligations, terminating the responsibilities of the Foster Care Review Board and vacating any remaining hearings]Congratulations! Yes, you may take some photos.

The court shall provide the adoptive parent or parents with written notice of the sibling information exchange program established pursuant to [A.R.S. § 8-543](#).

\*NOTE: In cases where the Indian Child Welfare Act applies, where the adoption is based on consent, there must be clear and convincing evidence that the following consequences were explained to the parent in his/her language and that he/she understood the same pursuant to ICWA § 1913 (a), (c), & (d):

1. Consent may be withdrawn at any time prior to the entry of the adoption decree.
2. The adoption may be set aside only upon proof of fraud or duress.
3. Adoption terminates the parent/child relationship, including all rights of inheritance.

# DELINQUENCY

## DETENTION/RELEASE

The first time each victim in a case appears in court on that case, the judge shall read the following statement:

“If you are the victim of a delinquent act with a case pending before this court, you are advised that you have rights to justice and due process under Arizona law that, among others, include the right be treated with fairness, respect and dignity, to a speedy disposition and a prompt and final conclusion of the case, to be present at court proceedings, to choose whether or not to be interviewed by the juvenile’s attorney, to be heard before the court makes a decision on release, negotiation of a plea, scheduling and disposition and to seek restitution from a person who is adjudicated as causing your loss. If you have not already been provided with a written statement of all victims’ rights, please contact the victim services division of the prosecutor’s office.” [A.R.S. § 8-421](#); [Ariz. R.P. Juv. Ct. 21](#).

The victim has a right to be heard at the detention hearing. Source: [Ariz. R.P. Juv. Ct. 23\(D\)](#).

Detention can only be based upon a finding of (a) probable cause to believe the offense alleged was committed and the juvenile committed the offense and (b) probable cause to believe one of grounds met as set forth in [Ariz. R.P. Juv. Ct. 23\(D\)\(1-5\)](#).

### **A. DETERMINE PROBABLE CAUSE**

1. Verified petition (including petition alleging violation of probation), certified citation (if shows facts and circumstances), sworn police report with affidavit (if shows facts and circumstances and would be admitted as exhibit) or sworn testimony.
2. Probable cause must be based on sworn facts and circumstances. *In re Otel H.*, 208 Ariz. 312, 93 P.2d 512 (App 2004).
3. Determine and make findings concerning probable cause. NOTE: Acceptance of disposition or finding of delinquency or incorrigibility following adjudication constitutes a finding of probable cause.

### **B. DETENTION/TERMS AND CONDITIONS OF RELEASE**

1. Receive recommendations from probation officer.

2. Hear from county attorney, [defense counsel], [victim], juvenile and juvenile's parents/guardian/custodian.
3. Make decision to release or detain the juvenile.

**IF A DECISION IS MADE TO DETAIN THE JUVENILE:**

1. Make findings under [Ariz. R.P. Juv. Ct. 23\(D\)](#):
  - a. There is probable cause to believe the juvenile committed the alleged offense(s) and;
  - b. One or more of the following:
    - Juvenile will otherwise not be present at any hearing,
    - Likely to commit an offense injurious to self or others,
    - Must be held for another jurisdiction,
    - Interests of juvenile or public require custodial protection;

**OR**

    - Must be held pending filing of complaint pursuant to [A.R.S. §13-501](#).
2. Determine and make written findings pursuant to [42 U.S.C. §672](#) that it is in the best interest of the juvenile and the community for the juvenile to be placed outside the juvenile's home and that continuation in the home would be contrary to the welfare of the juvenile, including the factual circumstances that would support this finding. NOTE: ***This finding must be made in the court's first order that detains the juvenile/orders removal of a juvenile from the home and the order must be signed in ink by a judicial officer. See Ariz. R.P. Juv. Ct. 19.1(2).***
3. Order any appropriate detention services.

**IF A DECISION IS MADE TO RELEASE THE JUVENILE:**

1. Determine to whom the juvenile should be released.
2. Order terms and conditions of release.
3. If charged with an offense listed in [A.R.S. §13-610\(O\)\(3\)](#), order that the juvenile report within five days to the arresting law enforcement agency or its designee and submit a sample of buccal cells or other bodily substances for DNA testing and provide proof of compliance at the next hearing and advise the juvenile that willful failure to comply with this order may result in revocation of release, including arrest and confinement for violation of a condition of release. [A.R.S. §8-238](#). NOTE: *Mario W. v. Superior Court, 230 Ariz. 122, 281*

[P.3d 476 \(2012\)](#) held that pre-adjudication buccal swab sample requirement was constitutional but placed limits on extracting DNA profile from the buccal swab before adjudication or absent a failure to appear.

**IF THE JUVENILE IS RELEASED FROM DETENTION TO DEPARTMENT OF CHILD SAFETY OR ANY OUT OF HOME PLACEMENT FOR THE FIRST TIME:**

1. Receive any additional evidence.
2. Make written findings pursuant to [42 U.S.C. §672](#) that it is in the best interest of the juvenile and the community for the juvenile to be placed outside the juvenile's home. Continuation in the home would be contrary to the welfare of the juvenile, including the factual circumstances that would support this finding. NOTE: ***This finding must be made in the court's first order that orders removal of a juvenile from the home and the order must be signed in ink by a judicial officer.***

(See also [Ariz. R.P. Juv. Ct. 19.1 \(2\)](#))

**ADMONISH JUVENILE RELEASED FROM CUSTODY THAT FAILURE TO APPEAR AT NEXT HEARING MAY RESULT IN THE ISSUANCE OF A WARRANT FOR THE JUVENILE'S ARREST AND FAILURE TO ABIDE BY TERMS AND CONDITIONS OF RELEASE COULD RESULT IN DETENTION IN ADVANCE OF NEXT HEARING.**

**ENSURE NOTICE OF THE NEXT HEARING:**

Make a record advising the parties of the next hearing date, time and location.

## **ADVISORY HEARING**

Source: [Ariz. R.P. Juv. Ct. 28](#)

### **CALL THE CASE:**

1. Identify the case number, case name and the nature of the hearing.
2. Identify those present.
3. Read Victim Notice if victim is appearing for the first time in court on the case.

[The court may at this time determine that the juvenile is indigent and appoint counsel. The recitations of a formal advisory pursuant to [Ariz. R.P. Juv. Ct. 28\(C\)\(1-4\)](#) may be waived, if minor's counsel has already provided the information to the minor.]

### **ADVISE JUVENILE OF:**

1. The charges
2. Juvenile's constitutional rights:
  - To counsel free or at reduced charge [if applicable] and to retain private counsel at the juvenile's own cost. If juvenile requests counsel, and is entitled to court-appointed counsel, counsel will be appointed. If counsel is not available to proceed at that time, set continued date for advisory hearing. [Pima County: trial review hearing 15/30 days]
  - To an adjudication hearing (trial) on the charges,
  - Burden of proof,
  - To confront and cross-examine witnesses,
  - To call witnesses on juvenile's behalf, including use of subpoena/court's power to compel attendance and
  - To remain silent without consequence.
3. The possible consequences of a delinquency, incorrigibility or violation of probation finding.
4. If the juvenile is at least seventeen years old and the state filed a notice of intent to retain jurisdiction, the consequences can extend to the juvenile's nineteenth birthday ([A.R.S. § 8-202\(H\)](#)).
5. Determine juvenile's understanding and competency.
6. If a transfer hearing is requested, set hearing and order a probation investigation and determine if a psychological evaluation is necessary and, if so, order that evaluation and proceed to Detention/Release Section.
7. If no transfer hearing is requested, determine if the juvenile wishes to admit or deny the allegations.

8. Determine whether the victim of the offense has requested to be present, or requested to be heard regarding any disposition (plea) agreement that may be offered by the state. Ariz. R.P. Juv. Ct. Rule 28(C)(6).

**IF JUVENILE DENIES AND REQUESTS A FURTHER HEARING (TRIAL, PRE-TRIAL, OR NON-WITNESS SETTING), THEN SCHEDULE FURTHER HEARING AND PROCEED TO THE DETENTION/RELEASE SECTION, IF JUVENILE IS DETAINED.**

If juvenile is released, advise juvenile that if he/she is not present on date of future hearing (other than disposition), hearing can occur without his/her presence, and court may issue warrant for his/her arrest. Ariz. R.P. Juv. Ct. Rule12(D).

**IF JUVENILE WISHES TO ACCEPT A DISPOSITION OR WISHES TO ADMIT TO THE CHARGE(S), THEN PROCEED TO THE DISPOSITION AGREEMENT SECTION.**

## **DISPOSITION (PLEA) AGREEMENT**

### **CALL THE CASE:**

1. Identify the case number, case name, and nature of the hearing.
2. Identify those present.

### **DISPOSITION AGREEMENT:**

1. Review the terms of the disposition agreement with the parties to ensure it is clear. Alternatively, have counsel state the terms of the agreement. Ensure a knowing and voluntary waiver of counsel, if the juvenile waives counsel.
2. Determine whether victim rights have been complied with. See [Ariz. R.P. Juv. Ct. 28\(C\)\(6\)](#).
3. Read Victim Notice if victim is appearing for the first time in court on this case.
4. Hear victim's views or state's efforts to provide notice to victim.

### **ADDRESS THE MINOR:**

1. Determine minor's age, level of education, and understanding of the English language.
2. Determine whether the minor has consumed any medicine, alcohol, or drugs in the past 24 hours.
3. If yes, identify such medications and determine what (if any) effect they are having on the minor's ability to understand the proceedings. Obtain input from counsel and/or parent(s) and make appropriate findings.
4. Determine whether the minor has spoken with counsel about the disposition agreement.
5. Review all of the terms of the disposition agreement and determine whether the minor understands them. Ensure that all terms of the agreement are either in writing or stated on the record and that there are no additional terms, conditions or promises unstated.
6. Advise the minor regarding the possible consequences:
  - Probation (Summary, if available, Standard or Intensive Probation);

- Fines, restitution, community service, drug testing, loss of driving privileges;
- Detention for up to one year;
- Commitment to the Arizona Department of Juvenile Corrections up to age 18 (for felony counts); and
- Other consequences, including but not limited to possible driving privilege suspension (A.R.S. § 28-3320) and sex offender registration (A.R.S. § 13-3821(D)).

**IF MINOR IS PLEADING TO FIRST-TIME FELONY [A.R.S. § 8-341(C)]:**

Do you understand that, if your disposition is accepted, you will be a first-time juvenile felony offender?

**PROVIDE FOLLOWING WARNING TO JUVENILE VERBALLY AND IN WRITING:**

This is your first felony offense. If you commit another felony offense and you are fourteen years of age or older, any of the following could happen to you:

1. You could be tried as an adult in adult criminal court.
2. You could be committed to the department of juvenile corrections.
3. You could be placed on juvenile intensive probation, which could include incarceration in a juvenile detention center.

**IF THE MINOR IS PLEADING TO A SECOND OR SUBSEQUENT FELONY [A.R.S. § 8-341(D) & 8-341(E)]:**

Do you understand that, if your disposition is accepted, you will be a repeat juvenile felony offender?

**PROVIDE FOLLOWING WARNING TO JUVENILE VERBALLY AND IN WRITING:**

You are now a repeat felony offender. This means:

1. You will be tried as an adult in adult criminal court if you commit another felony offense and you are fifteen years of age or older.
2. You could be tried as an adult in adult criminal court if you commit another felony offense when you are at least fourteen years of age.
3. You could be incarcerated in the state department of corrections if you are convicted as an adult in adult criminal court.

7. Advise minor of his/her rights:

Do you understand that you don't have to admit any of these charges/allegations? If you proceed with this disposition, you are giving up your rights. Let me explain them to you.

You have a right to a trial/hearing on the charges/violations against you.

You are presumed innocent; it is the state's burden of proving the charges against you by proof beyond a reasonable doubt (or for a violation of probation petition, by a preponderance of the evidence.)

You have the right to be represented by a lawyer at trial.

You have the right to have your lawyer confront and question the people who testify against you, to call people to testify for you, to use the court's power to bring people to court to testify and to present other evidence on your behalf.

You have the right to testify yourself if you want to, but you also have the right to remain silent, and if you choose not to testify, that fact would not be held against you.

Those are your rights. If you admit these charges, you are giving up your rights. There will be no trial. The State will not have to prove anything. The Court will find you delinquent/incorrigible/in violation of probation based only on what you tell me today.

Do you understand all that? And is that what you want to do?"

8. Determine voluntariness:

Has anyone forced you or threatened you in any way to get you to enter into this disposition?

Has anyone promised you anything to get you to enter into this disposition (other than what's set forth in the written terms of any disposition agreement)?

9. For charges involving a victim, determine whether victim's rights have been complied with; whether the victim wishes to address the court and whether the disposition can proceed. [A.R.S. § 8-403](#); [Ariz. R.P. Juv. Ct. Rule 28\(C\)\(6\)](#).

10. Take factual basis from the minor/counsel and determine if it is sufficient.

11. If a proper showing has been met,

- find that disposition is supported by a factual basis;

- find the disposition is voluntary; is made knowingly and intelligently and with an understanding of the possible consequences of the disposition;
- accept the disposition;
- find the minor delinquent/incorrigible/violated probation on specified charge(s);
- dismiss other charge(s) as agreed in the disposition agreement; and

12. Proceed to disposition or schedule disposition hearing. Can proceed directly to disposition on a violation of probation without a disposition report. [Ariz. R.P. Juv. Ct. 32\(E\)\(5\)](#). Can proceed directly to disposition after accepting a disposition to a delinquent or incorrigible act only if the parties waive their right to have a written disposition report and if the victim did not provide a written impact statement as provided by law. [Ariz. R.P. Juv. Ct. 30\(A\)\(1\)\(a\) & \(A\)\(3\)](#). If disposition is set for another hearing:

- Set date and time: within 30 days of adjudication (detained); 45 days of adjudication (not detained). [Pima County: 15/30 days.]
- If the minor admitted a felony, then consider ordering the minor to submit a set of fingerprints to the probation department prior to the disposition. [A.R.S. §8-341\(P\)](#).
- If the minor admitted to a sex offense, then consider ordering the minor to complete as many of the requirements of [A.R.S. §8-341\(O\)](#) as can be done prior to the disposition.
- If restitution is an issue, set the next hearing to address restitution and consider setting a deadline for restitution claims to be filed prior to the disposition hearing.
- Advise minor of importance of appearing at hearing and that a warrant may issue for the minor's arrest if he/she fails to appear at the hearing. Admonish parent regarding consequences of failure to appear, such as contempt of court. [Ariz. R.P. Juv. Ct. Rule 26\(C\) and \(D\)](#).
- Proceed to Detention/Release Section to address detention or release, if juvenile detained.

## **TRIAL REVIEW HEARING (Pima County)**

### **CALL THE CASE:**

1. Identify the case name, case number, and the nature of the hearing.
2. Identify those present.
3. Read the Victim Notice if the victim is in court for the first time on this case.

### **IF MINOR APPEARS WITH COUNSEL, IMPOSE FINANCIAL ASSESSMENT IF:**

1. Counsel is court-appointed.
2. Assessment was not previously imposed.
3. Assessment is supported by guidelines.
4. Victim is not a family member.

### **DETERMINE STATUS OF CASE:**

1. Proceed with Change of Plea, if there is a plea agreement; OR
2. Set adjudication hearing (45 days from advisory hearing, detained; 21 days, out of custody probation revocation; 60 days from advisory hearing, out of custody delinquency); Ariz. R.P. Juv. Ct. Rules 32(E)(1) and 29(B)  
OR
3. Continue trial review on motion for good cause (disposition negotiations, diversion interview, completion of diversion, request for additional disclosure).
4. Obtain waiver of time limits, if applicable.
5. Order minor [and parents] to appear at future hearing(s) and warn of consequences of failure to appear, to include having adjudication in minor's absence and warrant issued for arrest if failure to appear.
6. If Department of Child Safety is the guardian, direct DCS be present at future hearings unless good cause provided not to be present. Copy DCS case manager on distribution list.

## **ADJUDICATION**

Source: [Ariz. R.P. Juv. Ct. 29](#)  
[Ariz. R.P. Juv. Ct. 32\(E\)](#)

### **CALL THE CASE:**

1. Identify the case number, case name, and the nature of the hearing.
2. Identify those present.
3. Read the Victim Notice if this is the first time the victim is in court on this case.

### **DETERMINE IF THE PARTIES ARE READY TO PROCEED:**

1. Hear any preliminary motions.
2. Determine if either party invokes rule of exclusion of witnesses. [AZ. R. EV. 615](#):
  - Have counsel identify all witnesses,
  - Have the clerk swear all witnesses,
  - Identify victim[s], investigating officers, or other persons who may remain in the courtroom and
  - Admonish the excluded witnesses.

“The rule excluding witnesses has been invoked. This means that you are to remain outside the courtroom until you are called to testify. It also means that you are not to discuss the case or your testimony with anyone except the attorneys until after you have testified. You are also not to listen to, read, or watch anything revealing what is happening inside the courtroom during trial before you testify. If there is media coverage of this trial, you should also avoid seeing, listening to or watching anything regarding the trial until after the trial has been completed [In the judge’s discretion, the judge may reference specific forms of traditional media, social media or other forms of technology that the witness must refrain from listening to, reading or watching.] ”

### **HEAR OPENING STATEMENTS (IF ANY)**

### **HEAR TESTIMONY:**

1. State’s evidence.

2. Hear and decide any motion for judgment of acquittal pursuant to [Ariz. R.P. Juv. Ct. 29\(D\)\(2\)](#).
3. Juvenile's evidence, if any.
4. State's rebuttal evidence, if any.
5. Closing arguments.

### **MAKE FINDINGS:**

1. Enter finding with respect to each count that the facts alleged in the petition were proven beyond a reasonable doubt (preponderance of the evidence for violation of probation counts) and adjudicate minor delinquent or incorrigible (or having violated probation)
2. Enter findings with respect to each count the facts alleged in the petition were not proven beyond a reasonable doubt (or preponderance of the evidence for violation of probation counts) and dismiss each such count.
3. Proceed to disposition (if can do so and wish to do so<sup>1</sup>) or schedule disposition in the future. If disposition is set for another hearing:
  - a. Set date and time: 30 days (detained); 45 days (not detained). [Pima County: 15/30 days.] [Ariz. R.P. Juv. Ct. 30](#)
  - b. If the minor adjudicated delinquent of a felony, then consider ordering the minor to submit a set of fingerprints to the probation department prior to the disposition. [A.R.S. §8-341\(P\)](#).
  - c. If the minor adjudicated delinquent of a sex offense, then consider ordering the minor to complete as many of the requirements of [A.R.S. §8-341\(O\)](#) as can be done prior to the Disposition.
  - d. If restitution is an issue, set the next hearing to address restitution and consider setting a deadline for restitution claims to be filed prior to the disposition hearing.
  - e. Proceed to Detention/Release Section to address detention or release, if juvenile detained.
  - f. Advise minor of importance of appearing at hearing and that a warrant may issue for the minor's arrest if he/she fails to appear at the hearing. Admonish parent regarding consequences of failure to appear, such as contempt of court. [Ariz. R.P. Juv. Ct. Rule 26\(C\) and \(D\)](#).

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<sup>1</sup> Can proceed directly to disposition on a violation of probation without a disposition report. [Ariz. R.P. Juv. Ct. 32\(E\)\(5\)](#). Can proceed directly to disposition after adjudication only if the parties waive their right to have a written disposition report and if the victim did not provide a written impact statement as provided by law. [Ariz. R.P. Juv. Ct. 30\(A\)\(1\)\(a\) & \(A\)\(3\)](#).

## **DISPOSITION**

Source: [A.R.S. §8-241](#) *et seq.*, [A.R.S. §8-341](#) *et seq.*; [Ariz. R.P. Juv. Ct. 30](#)

### **CALL THE CASE:**

1. Identify the case number, case name, and the nature of the hearing.
2. Identify those present.
3. Read the Victim Notice if the victim is in court for the first time on this case.
4. If acceptance of disposition was deferred, make appropriate findings.
5. Identify the charges on which the minor was adjudicated delinquent, incorrigible or for violating probation.

### **RECOMMENDATIONS:**

1. Identify materials reviewed (predisposition report, evaluations, letters, etc.).
2. Hear recommendations of:
  - Defense counsel
  - Juvenile
  - Parents
  - County Attorney
  - Probation officer
  - Victim[s]
  - Other interested parties
  - Defense counsel rebuttal

### **FINDINGS AND ORDERS:**

1. If probation is ordered:
  - State length,
  - Identify person to have physical custody,
  - Review conditions with minor and make sure minor understands them,
  - If detained, order release if appropriate,
  - Review conditions imposed on parents
  - Have minor and parents sign conditions.

- Before a minor can be placed on Juvenile Intensive Probation Supervision (JIPS), the Court must find, on the record, one or more of the following:
    - The minor would otherwise have been recommended for commitment to the Arizona Department of Juvenile Corrections or placement in an out-of-home institutional or residential setting; AZ Code of Jud Admin §6-302(H)(5)(a) or (b)
    - The minor is fourteen years of age or older and adjudicated as a repeat felony juvenile offender under [A.R.S. §8-341\(D\)](#). AZ Code of Jud Admin §6-302(H)(5)(d); **or**
    - After evaluating the needs of the minor and the minor's risk to the community, including the nature of the offense, the delinquent history of the minor, the minor's history of referrals and adjustments and the recommendation of the minor's parents, based on the nature of the offense and the delinquent history of the minor, the minor should be placed on JIPS. [A.R.S. §8-352\(B\)](#); Ariz. Code of Jud. Admin § 6-302(H)(5)(c).
    - **NOT** for incorrigible offenses. *In re Sheree M.*, 197 Ariz. 524, 4 P.3d 1067 (App. 2000).
2. If the minor is detained and/or placed in a foster home, group home, shelter, or residential treatment facility:
- Receive evidence,
  - Determine and make written findings pursuant to [42 U.S.C. §672](#) whether it is in the best interest of the minor and the community for the minor to be placed outside the minor's home (continuation in the house would be contrary to the welfare) and
  - Within sixty days from removal, determine and make findings whether reasonable efforts were made to prevent or eliminate the need to remove the minor and to return the minor home. See [Ariz. R.P. Juv. Ct. 19.1\(3\)](#).
  - NOTE: Before the Court may order the minor placed in a level one residential treatment facility (other than psychiatric acute care services as defined in A.R.S. §8-271) as a condition of probation, a the order must meet the requirements of [A.R.S. §8-341.01\(A-B\)](#).
3. Commitment to the Arizona Department of Juvenile Corrections:
- State reasons why minor is being committed, including that consideration has been given to the nature of the offense and risk to the community; less restrictive alternatives and whether further efforts at rehabilitation need to take place in a secure facility for the protection of the community.

- State the delinquent offense(s) for which the minor is being committed and any minimum length of time (30 days) the court is ordering the minor be held in a secure facility,
- Identify any recommended programs, e.g., substance abuse or sexual offender,
- Order minor transported and
- Assess fees.

NOTE: The Arizona Department of Juvenile Corrections Length of Stay Guidelines specified in [A.R.S. § 41-2816\(C\)](#) can be found on [adjc.az.gov](http://adjc.az.gov) under [Publications > Policy and Procedure > Policy # 2302.06G](#).

Generally, the effective minimum stay at Arizona Department of Juvenile Corrections is 30 days and shall conclude upon the minor's release, but the stay shall be no later than the minor's eighteenth birthday, unless juvenile court jurisdiction was extended to the juvenile's nineteenth birthday pursuant to [A.R.S. § 8-202\(H\)](#). Unlike sentencing ranges in adult criminal court, these Guidelines have historically **not** set forth suggested commitment times for various offenses.

4. Order restitution pursuant to [A.R.S. §8-344](#):
  - Determine the amount by stipulation based on evidence or set hearing.
  - Determine manner of payment.
  - Determine whether custodial parents are responsible for payment of restitution.
  
5. In all cases:
  - Order parents to pay probation or Arizona Department of Juvenile Correction fees,
  - Order parents to pay victim fee[s], unless victim is a family member, then the fee is waived.
  - Order minor's right index finger print (thumbprint) for each new felony adjudication and
  - Order Automatic Fingerprint Identification System fingerprints (first time felonies only).
  
6. Make a finding, on the record, regarding the minor's ability to carry or possess a firearm. (Discretionary and for misdemeanors only). [ARS §8-341\(R\)](#).
  
7. If applicable, determine whether the juvenile's driving privileges should be suspended ([ARS § 28-3320](#)).

**ADMONISH FIRST-TIME FELONY JUVENILE OFFENDER [A.R.S. § 8-341(C)] AND REPEAT FELONY JUVENILE OFFENDER [A.R.S. § 8-341(E)] [BOTH IN WRITING AND VERBALLY AS NOTED IN CHANGE OF DISPOSITION SECTION]:**

[Dispositional issues for adjudicated sex offenders are addressed by [A.R.S. § 8-350](#), [§ 8-350.01](#), and [§ 13-3821\(D\)](#)]

Have minor sign, file in court file, and provide a copy to minor of [Notice of Important Rights](#), pursuant to [A.R.S. Sections 8-348\(A\) and 8-349\(G\)](#) (effective August 27, 2019). This form (form AOC JVPA1F) can be located on [www.azcourts.gov/selfservicecenter/Juvenile-Law/Juvenile-Law-Forms](http://www.azcourts.gov/selfservicecenter/Juvenile-Law/Juvenile-Law-Forms).

**ADVISE MINOR OF APPEAL RIGHTS:**

1. Notice of appeal must be written and filed with the Clerk of the Court within 15 days of the date the signed order from the disposition hearing is filed with the Clerk of the Court.
2. Right to counsel; appointed if indigent.
3. Right to transcript.

# TRANSFER

## TRANSFER HEARING

Source: [A.R.S. §8-327](#); [Ariz. R.P. Juv. Ct. 34 & 35](#)

### CALL THE CASE:

1. Identify the case number, case name and nature of the hearing.
2. Identify those present.
3. Read the Victim Notice if the victim is in court for the first time on this case.
4. Determine juvenile's competence (court shall not transfer a juvenile who is incompetent). [Ariz. R.P. Juv. Ct. 34\(E\)\(3\)](#).

### PROBABLE CAUSE DETERMINATION:

Determine whether juvenile waives the probable cause hearing.

1. If juvenile wishes to waive probable cause hearing, waiver must be in writing signed by the juvenile, the juvenile's counsel and the prosecutor and, prior to acceptance of waiver, court shall inform the juvenile of the consequences of the waiver and the rights, pursuant to [Ariz. R. Crim. P. 5.3](#) and [Ariz. R. Crim. P. 5.4\(c\)](#), that the juvenile is waiving. See: [Ariz. R.P. Juv. Ct. 34\(F\)\(1\)\(a\)](#). Court shall make written findings as to the waiver.
2. If juvenile does not properly waive probable cause hearing, hear the State's case pursuant to [Ariz. R. Crim. P. 5.3](#) and [Ariz. R. Crim. P. 5.4](#) and [Ariz. R.P. Juv. Ct. 34 \(F\)\(2\)](#).
3. If State does not show probable cause for the offense(s) charged or lesser included offense(s) by the juvenile, dismiss the petition without prejudice. [Ariz. R.P. Juv. Ct. 34\(F\)\(2\)\(c\) - \(d\)](#).
4. If State shows probable cause to believe that the offense(s) charged has been committed and that the juvenile committed the offense(s) charged, hear any offer of proof offered by the juvenile.
5. Unless the offer of proof is insufficient to rebut probable cause showing, hear evidence offered by the juvenile.
6. If probable cause is not rebutted, make probable cause findings and proceed with public safety determination.

## **PUBLIC SAFETY DETERMINATION:**

1. Hear the State's evidence/argument.
2. Hear the juvenile's evidence/argument.
3. Hear the State's rebuttal evidence/argument.
4. Consider the factors set forth in [A.R.S. §8-327\(D\)](#):
  - Seriousness of the offense involved,
  - Record and previous history of the juvenile, including previous contacts with courts and law enforcement, previous periods of probation and results of probation;
  - Any previous commitments to residential placements and secure institutions;
  - Whether the juvenile was previously committed to the Arizona Department of Juvenile Corrections for a felony offense;
  - Commission of another felony while a ward of the Arizona Department of Juvenile Corrections;
  - Commission of the alleged offense while participating in, assisting, promoting or furthering the interests of a criminal street gang, criminal syndicate or racketeering enterprise;
  - Views of victim of the offense;
  - Degree of juvenile's participation in the offense;
  - Juvenile's mental and emotional condition; and
  - Likelihood of juvenile's reasonable rehabilitation through the use of services and facilities currently available to juvenile court.
5. Considering these factors, determine in writing whether the State has shown by a preponderance of the evidence that transfer of the juvenile for adult criminal prosecution would best serve the public safety (minute entry should contain this determination). "The court shall not defer the decision as to the transfer." [A.R.S. § 8-327\(E\)](#).
6. Ensure you have stated reasons for transferring or not transferring on the record, whether State has shown by preponderance of the evidence that probable cause exists to believe the juvenile committed the offense, and if so, that public safety would best be served by the transfer of the juvenile for criminal prosecution. If cause for transfer established, order juvenile be transferred for criminal prosecution to the appropriate court. [A.R.S. § 8-327\(C\) and \(E\)](#).
7. If transfer is not ordered, dismiss the motion for transfer and set a contested adjudication within 30 days from of the order of dismissal. Ariz. R.P. Juv. Ct. 34(F)(5); [A.R.S. § 8-327\(E\)](#). [Pima County: 15 days if detained]

8. If transfer is ordered, order holding the juvenile to answer the identified charges in adult criminal court as if the juvenile was an adult. Order that no further preliminary hearing or grand jury indictment shall occur, and order that the complaint shall not be amended to add additional or different charges unless the juvenile consents. [Ariz. R.P. Juv. Ct. 35\(A\)\(1\) and \(2\)](#).
9. Set the arraignment date, time and court.
10. Conduct the initial appearance pursuant to [Ariz. R. Crim. P. 4.2](#).

#### **INITIAL APPEARANCE:**

1. Appoint counsel to represent the juvenile in adult criminal court.
2. Advise the juvenile of the right to remain silent.
3. Determine whether the charges transferred are bondable. [A.R.S. § 13-3961](#); [Ariz. R. Crim. P. 7.2\(b\)](#).
4. If the charges transferred are not bondable, order juvenile to remain detained until the arraignment.
5. If the charges transferred are bondable, take evidence/argument and parties' and victim's views on bond and release conditions.
6. If detained, enter order transferring custody of the juvenile to the appropriate law enforcement officer.
7. If subject to release, set the amount of bond or order released on own recognizance and set other release conditions.
8. If released, advise juvenile of rights and release conditions:

- Right to be present at future hearings; that future hearings (including trial) may proceed in juvenile's absence; that juvenile's failure to appear at future hearings may result in new charges being filed and/or an arrest warrant being issued,
- Promise to appear for all scheduled hearings,
- Not leave the state without prior court approval,
- Commit no criminal offenses,

If charged with an offense listed in [A.R.S. § 13-610\(O\)\(3\)](#), order that the juvenile report within five days to the arresting law enforcement agency or its designee and submit a sample of buccal cells or other bodily substances for DNA testing and provide proof of compliance at the arraignment and advise the juvenile that willful failure to comply with this order may result in revocation of release, including arrest and confinement for violation of a condition of release, [A.R.S. §8-238](#). NOTE: [Mario W. v. Superior Court, 230 Ariz. 122, 281 P.3d 476 \(2012\)](#) held that pre-

adjudication buccal swab sample requirement was constitutional but placed limits on extracting DNA profile from the buccal swab before adjudication or absent a failure to appear, and

- Comply with all other release conditions.

9. Advise juvenile that failure to appear or to comply with release conditions may result in juvenile's arrest.
10. Provide juvenile with a copy of the conditions of release and the date, location and time of next court appearance and have juvenile sign a copy of the conditions of release containing the next hearing date in the presence of the court. Ariz. R.P. Juv. Ct. 35(A)(5)
11. Order preparation of the probable cause hearing transcript within 10 days after the completion of the hearing.
12. Advise juvenile of appeal rights.

# DEPENDENCY

## RULE 330 INITIAL IN-HOME INTERVENTION HEARING

The Court may order in-home intervention even if it was not requested by the petitioner in the original dependency petition if the Court makes all of the findings required by Rule 330.

The Court may order in-home intervention as to one parent and still adjudicate the child(ren) dependent as to another parent not subject to the in-home intervention.

[Oscar F. v. Dep't of Child Safety, 235 Ariz. 266, 268-69, ¶ 11 \(App. 2014\).](#)

Source: [ARS § 8-841, ARS § 8-525, ARS § 8-891, ARS § 8-892, Az.R.Juv.Ct. 308, Az.R.Juv.Ct. 311, Az.R.Juv.Ct. 328, Az.R.Juv.Ct. 330, 25 USC §1903\(1\), 25 CFR §§ 23.2, 23.11](#)

### PRELIMINARIES:

1. Call the case: identify case number, case name, and nature of the hearing.
2. Inform parties that this is the time and date set for the Initial In-Home Intervention Hearing. These hearings are presumptively open. They can be closed for good cause shown. By being present you are subjecting yourself to the jurisdiction of the court and you are not to reveal any identifying information concerning this matter, which would include not posting anything on social media regarding the matter.
3. Parties:
  - a. Identify parties and others present.
  - b. Identify parties not present; determine whether notice has been given.
  - c. Address parties who are subjects of the investigation (parents, guardians or Indian custodian) and advise them that they have the right to request a closed hearing at any point in the proceeding.
  - d. Ask parties if there are reasons the proceeding should be closed. In considering whether to close the proceeding, the Court must consider:
    - i. Whether doing so is in the child's best interests;
    - ii. Whether an open proceeding would endanger the child's physical or emotional well-being or the safety of any other person;
    - iii. The privacy rights of the child, the child's siblings, parents, guardians and caregivers and any other person whose privacy rights the Court determines need protection;
    - iv. Whether all parties have agreed to allow the proceeding to be open;
    - v. If the child is at least 12 years of age and a party to the proceeding, the child's wishes;
    - vi. Whether an open proceeding could cause specific material harm to a criminal investigation.

- e. If the proceeding remains open to the public:
  - i. Admonish 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 person identified in the proceeding;
  - ii. Advise attendees that by being present they are subjecting themselves to the jurisdiction of the Court;
  - iii. Explain contempt to attendees and the possible consequences of violating a court order.

NOTE: The Court may close an open proceeding at any time for good cause shown.

- f. Inquire whether the attorney/GAL for the child met with his/her client before this hearing.

NOTE: If counsel/Guardian ad Litem has not met with the child, they must do so no later than 14 days after the PPH unless there is a showing of extraordinary circumstances and, in that case, the judge may modify this requirement. [ARS § 8-221\(H\)](#), [Az.R.Juv.Ct. 306](#)

- g. Inquire if any party or participant knows or has reason to know that the child at issue is subject to ICWA and instruct every participant that they must update the Court if they receive information that the child is an Indian child as defined by [25 CFR § 23.107\(a\)](#). The Act applies in any proceeding, other than an emergency proceeding, that may culminate in a foster-care placement, termination of parental rights, or adoption. The Court, parties, or participants have reason to know that a child is an Indian child if:
  - i. Any participant, officer of the Court, Tribe, or agency informs the Court that the child is an Indian child;
  - ii. Any participant informs the Court that it has discovered information indicating that the child is an Indian child;
  - iii. The child gives the Court reason to know that he/she is an Indian child;
  - iv. The domicile/residence of the child, parent, or Indian custodian is on a reservation or an Alaskan native village;
  - v. The child is or has been a ward of a tribal court; or
  - vi. The parent or child possesses an identification card indicating membership in an Indian Tribe. [25 CFR § 23.107\(c\)](#)

#### 4. Service:

- a. Determine the status of service on the parties who are present, or whether they submit to the jurisdiction of the Court.
- b. Determine status of service on parties not present and determine what type of subsequent hearing is set.
- c. If ICWA applies, determine whether notice has been provided by certified or registered mail and whether the Tribe waives 10-day notice of hearing.
- d. If ICWA status unknown, ORDER petitioner to obtain verification.

- i. If ICWA status is undetermined but the Court has reason to know that the child is an Indian child, the Court must apply ICWA until it is determined on the record that the child does not meet the definition of an “Indian child”. [25 CFR § 23.107\(b\)](#)
  - ii. If the Court has reason to know that the child *may be* an Indian child, the Court must order the petitioner to provide notice to any Tribes in which the child may have or be eligible for membership. [Ariz. Dep’t of Econ. Sec. v. Bernini, 202 Ariz. 562, 48 P.3d 512 \(App. 2002\)](#)
  - e. If the petitions, notice of hearing and temporary orders are provided to the parent at the hearing, service is complete. [Az.R.Juv.Ct. 328 and 329](#)
5. Counsel:
- a. Confirm that in-home parties have been advised of their rights. The Court may read and/or provide to the parties a copy of Form 2. The record should reflect that the admonitions from Form 2 have been given. Have the parents/guardians sign the Form 2 and return to court staff for docketing.
  - b. Confirm the appointment of counsel for indigent parties and that attorneys have met with clients.
  - c. Advise parties that appointment is for one year and a new financial affidavit is required for continued appointment. Assess fees based on affidavit.
  - d. Determine whether counsel/Guardian ad Litem informed the child of their right to attend all Court hearings in the case and speak to the judge.
6. Identify materials received and reviewed prior to hearing.
7. Determine whether DCS has filed an initial case plan.

NOTE: If a proposed case plan was submitted to the Court, the required services may be itemized in the order. The Court should then memorialize the order on the record and into minute entry form.

**CASE PLAN:**

- 1. Review and determine the services that are consistent with the basis for the in-home intervention.
- 2. Assign responsibilities and time frame; review with parents.
- 3. ORDER DCS to provide services as set forth in the case plan.

**ADDITIONAL ORDERS:**

- 1. Determine necessity of and enter protective orders.
- 2. Determine whether Guardian ad Litem should be appointed for child or parent.  
[Az.R.Juv.Ct. 305](#)

3. ORDER releases of information and disclosure as needed.
4. Determine whether to set initial dependency for in-home intervention or regular dependency to achieve service on absent parties.
5. Set Review Hearing on an IHI no later than 12 months after filing of the petition.

**FINDINGS:**

If an In-Home Intervention is ordered by Court, make specific factual findings:

1. Child has not been removed pursuant to Article 9 of this Chapter.
2. In-home intervention appears likely to resolve the risk issues described below.
3. The parent, guardian or Indian custodian agrees to a case plan and participation in services.
4. One of the following conditions exists:
  - a. The child is at risk of harm due to the inability or unwillingness of the parent, guardian or Indian custodian to provide food, clothing, shelter or medical care.
  - b. The parent, guardian or Indian custodian is unable to provide proper care, control and supervision of the child.
5. The in-home intervention order may include a training or treatment plan for the parent, guardian or Indian custodian and the child.
6. Set a specific time for completion of the in-home intervention, which must not exceed one year without review and approval by the Court. Dismiss the dependency petition if the specific time for completion of the in-home intervention has expired without being extended by the Court and a Dependency Adjudication Hearing has not been set. [ARS § 8-892](#)
7. If in-home intervention will not be dismissed prior to the twelve-month hearing, order DCS to provide progress reports at least two weeks before the twelve-month hearing.
8. Consider the child's safety as a paramount concern.
9. The Court may read and/or provide to the parent, guardian or Indian custodian a copy of Form 2. The Court can then request that the parent, guardian or Indian custodian sign and return a copy of the form and note on the record that the form was provided.

If an In-Home Intervention is not ordered by the Court, rescind temporary order granting the In-Home Intervention. If contested, order the filing of an amended petition.

**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. \_\_\_\_\_

**INITIAL IN-HOME INTERVENTION HEARING**

**Parties Present:**

<Party>  
<Party>

This is the time set for the **INITIAL IN-HOME INTERVENTION HEARING** on a petition filed <date of in-home intervention dependency 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 (including posts 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 the 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 finds, based upon the assertions of the parties, the Indian Child Welfare Act, [25 USC § 1901](#), <may/does/does not> apply.

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

- The Court finds that <parent, guardian, or Indian custodian> had notice of the hearing and was advised of their rights and the consequences of not appearing at this hearing.
- The Court confirms that <parent, guardian, or Indian custodian> has met with their counsel and has been advised of their trial rights pursuant to [ARS § 8-843\(B\)](#).

- The Court finds that counsel/Guardian ad Litem met with the child and that the child understands their right to attend all Court hearings and speak to the judge. [ARS § 8-221\(H\), Az.R.Juv.Ct. 306](#)
- The Court orders counsel/Guardian ad Litem to meet with the child no later than 14 days after this hearing and advise them of their rights. [ARS § 8-par\(H\),   
http://westlaw.com/find/default.wl?rs=da3.0&vr=2.0&cite=AZJUVCTR306&sp=AZWendell-1001](#)Az.R.Juv.Ct. 306
- The Court finds extraordinary circumstances exist and modifies the duty of counsel/Guardian ad Litem to meet with the child as follows:  
\_\_\_\_\_  
\_\_\_\_\_.
- The State of Arizona, by and through the Arizona Department of Child Safety, is authorized to initiate this dependency proceeding pursuant to Title 8 ARS.
- The Court has exclusive original jurisdiction over the subject matter and venue is appropriate in <County name> County pursuant to [http://westlaw.com/find/default.wl?rs=da3.0&vr=2.0&cite=AZSTT8&sp=AZWendell-1001](#)Title 8 ARS.
- The Court has jurisdiction over the <name of parent, guardian, or Indian custodian> and finds that service of process is complete as to the <parent, guardian or Indian custodian> pursuant to [ARS § 8-841](#) and [Az.R.Juv.Ct. 328 and 329](#).

**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.

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

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

**Documents Reviewed:**

The Court has received and reviewed <documents reviewed>.

**Plea and Findings:**

The Court finds that:

- The child has not been removed pursuant to Article 9, [Chapter 4, Title 8 of the ARS](#).
- In-home intervention appears likely to resolve the risk issue(s) described above.
- <Parent, guardian or Indian custodian> agrees to a case plan and to participate in services.
- One of the following conditions exists:
  - The child is at risk of harm due to the inability or unwillingness of <parent, guardian or Indian custodian> to provide food, clothing, shelter or medical care.
  - <Parent, guardian or Indian custodian> is unable to provide the proper care, control and supervision of the child.
- The Court has considered the child's safety as a paramount concern.
- <Parent, guardian or Indian custodian> has not agreed to the case plan and to participate in services. The Court, therefore, orders the petitioner to file an amended dependency petition.

**Orders:**

- The Court orders that <parent, guardian or Indian custodian> participate in the following: <specific training or treatment plans for the parent>.
- The Court orders that the in-home intervention must be completed by <date no later than 1-year after current date>.

**Future Hearings:**

The Court sets/affirms the following hearings:

- An In-Home Intervention Review Hearing is set for <date, time and location of this hearing>.

The petitioner must file a status report with recommendations at least two weeks prior to the In-Home Intervention Review Hearing.

**Admonition:**

- The Court admonishes <parent, guardian or Indian custodian> that:
  - Should they violate the in-home intervention order, the Court may take whatever steps it deems necessary to obtain compliance or may rescind the order and set the Dependency Adjudication Hearing;
  - 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 Court finds that <parent, guardian, or Indian custodian> was advised of the consequences of their failure to attend future hearings or participate in the in-home intervention services.
  
- A copy of Form 2 has been signed by <parent, guardian, or Indian custodian> and returned to the Court file.

Dated: \_\_\_\_\_

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

## PRELIMINARY PROTECTIVE HEARING - DCS CASES

Hearing explanation for parent - *In today's hearing, I will decide if your child should remain out of your home for his/her protection. I will enter orders about where he/she is placed, the visits that should occur, and the types of services that your family will need.*

Source: [45 CFR § 1356](#), [42 USC § 672](#), [25 USC § 1912](#), [25 USC § 1913](#), [25 USC § 1915](#), [ARS § 8-525](#), [ARS § 8-815](#), [ARS § 8-824](#) - [ARS § 8-829](#), [ARS § 8-843](#), [ARS § 8-846](#); [Az.R.Juv.Ct. 305](#), [Az.R.Juv.Ct. 310 - 312](#), [Az.R.Juv.Ct. 320 – 321](#), [Az.R.Juv.Ct. 332 - 335](#)

At any dependency hearing, the Court's primary consideration must be the protection of the child from abuse or neglect. [ARS § 8-843\(A\)](#), [Az.R.Juv.Ct. 325](#)

The Court's priority at temporary custody hearings is the protection of the child from abuse or neglect. [ARS § 8-829\(A\)](#)

The purpose of the hearing is to determine whether continued temporary custody is necessary and to enter appropriate orders as to custody, placement, visitation and provision of services. [Az.R.Juv.Ct. 325](#)

NOTE: If the court entered temporary orders upon the filing of a dependency petition regarding the child's out-of-home placement, the court cannot review any *ex parte* removal order entered prior to the petition. [Dep't of Child Safety v. Stocking-Tate, 247 Ariz. 108, 114, ¶ 15 \(App. 2019\)](#)

### PRELIMINARIES:

1. Call the case – identify the case number, case name, and the nature of the hearing.
2. Inform parties that this is the time and date set for the Preliminary Protective Hearing. These hearings are presumptively open. They can be closed for good cause shown. By being present you are subjecting yourself to the jurisdiction of the court and you are not to reveal any identifying information concerning this matter, which would include not posting anything on social media regarding the matter.
3. Determine whether petitioner notified 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, of the date, time and location of this hearing.
4. Inquire whether the attorney/GAL for the child met with their client before the hearing. If not, order that the meeting occur no later than 14 days after the hearing, unless there is a showing of extraordinary circumstances and, in that case, the Court may modify this requirement. [ARS § 8-221\(H\)](#), [Az.R.Juv.Ct. 306](#)

5. Determine that the attorney for the parent communicated with the parent before the hearing. If the attorney has not yet communicated with the parent, they should do so soon after the hearing. [Az.R.Juv.Ct. 307](#)
6. Determine whether the child has been informed of and understands the right to attend Court hearings and speak to the judge. [Az.R.Juv.Ct. 310\(a\)](#)
7. Parties:
  - a. Identify parties and others present.

NOTE: The Office of Child Welfare Investigations representative may attend both the Preliminary Protective Conference and the Preliminary Protective Hearing, along with the DCS case manager. [ARS § 8-824\(B\)](#)

- b. Identify parties not present and determine whether notice has been given.
- c. Read and provide to the parent/guardian/Indian custodian a copy of Form 1.
- d. Ask parties if there are reasons the proceeding should be closed. In determining whether to close the proceeding, consider:
  - i. Whether doing so is in the child's best interests;
  - ii. Whether an open proceeding would endanger the child's physical or emotional well-being or the safety of any other person;
  - iii. The privacy rights of the child, the child's siblings, parents, guardians and caregivers and any other person whose privacy rights the Court determines need protection;
  - iv. Whether all parties agree to allow the proceeding to be open;
  - v. The child's wishes if he/she is at least twelve years of age;
  - vi. Whether an open proceeding could cause specific material harm to a criminal investigation. [Az.R.Juv.Ct. 312\(c\)](#)
- e. If the proceeding remains open to the public:
  - i. Admonish 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 person identified in the proceeding;
  - ii. Advise attendees that by being present they are subjecting themselves to the jurisdiction of the Court;
  - iii. Explain to attendees contempt and possible consequences of violating a court order. [Az.R.Juv.Ct. 312\(f\)](#)  
NOTE: Under [A.R.S. § 8-525](#), court hearings concerning dependent children, permanent guardianships of children, and termination of parental rights are open to the public, except as required by [A.R.S. § 8-537](#).  
[Az.R.Juv.Ct. 312\(b\)](#)
- f. Inform a foster parent, pre-adoptive parent or a member of the child's extended family with whom the child has been placed, of their right to be heard in any proceeding. [Az.R.Juv.Ct. 311\(b\)](#)
- g. If a relative is identified as a possible placement for the child, notify the relative of the right to be heard in any proceeding to be held with respect to the child.

- h. Inquire if any party or participant knows or has reason to know that the child at issue is subject to Indian Child Welfare Act and instruct every participant that they must update the Court if they receive information that the child is an Indian child as defined by the Act. [25 CFR § 23.107\(a\)](#). The Act applies in any proceeding, other than an emergency proceeding, that may culminate in a foster-care placement, termination of parental rights, or adoption. [25 CFR § 23.2](#)

The Court, parties, or participants have reason to know that a child is an Indian child if:

- i. Any participant, officer of the Court, Tribe, or agency informs the Court that the child is an Indian child;
- ii. Any participant informs the Court that it has discovered information indicating that the child is an Indian child;
- iii. The child gives the Court reason to know that he/she is an Indian child;
- iv. The domicile/residence of the child, parent, or custodian is on a reservation or an Alaskan native village;
- v. The child is or has been a ward of a tribal court or;
- vi. The parent or child possesses an identification card indicating membership in an Indian Tribe. [25 CFR § 23.107\(c\)](#)

7. Paternity:

- a. Confirm or determine whether paternity has been established by marriage, birth certificate or special paternity proceeding.
- b. If paternity has not been established, ORDER parties to establish paternity by acknowledgment/testing.
- c. Question mother regarding the identity and location of potential fathers and question all parents present regarding the location of parents who are not present.

8. Service:

- a. Have petitioner serve parties present then deem service complete as to anyone properly served. Determine the status of service on the parties who are present, or whether they submit to the jurisdiction of the Court.
- b. Determine status of service on parties not present and affirm subsequent hearings and order petitioner to make additional efforts to obtain service.
- c. In ICWA cases, determine whether notice has been provided to the Parent/Indian Custodian and the Tribe and whether the Parent/Indian Custodian and/or Tribe waives the 10-day notice of hearing by certified or registered mail. [Az.R.Juv.Ct. 329\(h\) and \(i\)](#)

NOTE: No foster care proceeding may be held until at least 10 days after the parent, custodian, and Tribe receive notice, and the parent, custodian, or Tribe may request an additional 20 days to prepare. The only exception is for emergency proceedings. If the Court determines that this is an emergency proceeding under ICWA, the Court must make a finding on the record that the emergency removal or placement is necessary to prevent imminent physical damage or harm to the child and must immediately terminate the emergency

proceeding as soon as there is no longer a risk of imminent physical damage or harm. [25 USC § 1922](#), [25 CFR § 23.113](#)

- d. In ICWA cases, order petitioner to obtain verification if the child's Indian status is undetermined.

9. Counsel:

- a. Confirm that parents have been advised of their trial rights pursuant to [ARS § 8-843\(B\)](#) and [ARS § 8-824\(D\)](#).
- b. Confirm the appointment of counsel for indigent parents and for the child and confirm that attorneys have met with clients. [Az.R.Juv.Ct. 306 - 308](#)
- c. Advise parents that appointment is for one year; new financial affidavit is required for continued appointment.

10. Identify materials received and reviewed prior to hearing.

11. Determine whether DCS has filed an initial case plan pursuant to [ARS § 8-824\(H\)](#) and whether the services are appropriate.

NOTE: The Court is required to consider a substantiated finding of abuse or neglect from another state (UCCJEA).

**RESULTS OF PREHEARING CONFERENCE:**

1. Take report from facilitator or parties.
2. Identify areas of agreement and disagreement regarding:
  - a. placement;
  - b. visitation; and
  - c. case plan services.

**PLACEMENT (Temporary Custody Hearing):**

1. If requested by the parent, guardian, or Indian custodian, conduct a hearing to determine whether there is probable cause to believe that continued temporary custody is clearly necessary to prevent abuse or neglect pending the dependency adjudication hearing. [Az.R.Juv.Ct. 333](#)

NOTE: Hearsay is permitted at a Temporary Custody Hearing. [333\(c\)\(2\)](#)

2. If there is a stipulation, no witnesses are required. Ensure that the written record reflects the Court's finding that continuation of the child's residence in the home would be contrary to the welfare of the child. Also ensure that the factual basis for this finding has been included in the written record.

Removal of siblings can be linked to the removal of one child if independent probable cause exists to believe that temporary custody is clearly necessary to protect the child from suffering abuse or neglect. [ARS § 8-821\(C\)](#)

3. Determine whether DCS is making reasonable efforts to place the child with the child's siblings or, if that is not possible, to maintain frequent visitation or other ongoing contact between the child and the child's siblings, unless the Court determines such placement or contact would be contrary to the safety or well-being of the child or the siblings.
4. If the child and siblings are not placed together, confirm that DCS's court report addresses:
  - a. Specific reasons why the siblings are not placed together;
  - b. Efforts made to facilitate contact between siblings and;
  - c. A plan for frequent visitation or contact between siblings, unless contact is not recommended. If frequent visitation or contact between siblings is not recommended, the report must set forth reasons why it is contrary to the siblings' safety or well-being.
5. If not placed together, order that DCS establish a plan for frequent visitation between siblings unless frequent visitation or ongoing contact between siblings is contrary to the child's or a sibling's safety or well-being.
6. Consider educational stability of the child in determining placement.
7. Make a record to reflect any amendments to the pleadings that may be required by the stipulated factual basis for the finding of probable cause or a finding of dependency. Make findings of probable cause, if necessary.
8. Identify reasonable efforts that were made to prevent removal or make determination that reasonable efforts were not required. [45 CFR § 1356.21\(b\)\(1\)](#), [\(b\)\(3\)](#), [ARS § 8-829\(A\)\(3\)](#), [Az.R.Juv.Ct. 325\(c\)\(2\)](#)
9. Determine whether the child can be returned home with services.
  - If returning the child to the home, determine the conditions and timeframe and enter appropriate orders.
  - If not returning the child to home, consider placement.
10. Determine whether DCS is attempting to identify and assess placement of the child with grandparents or another member of the child's extended family or a person who has a significant relationship with the child.

OPTION: If placement is not with a grandparent, extended family member or a person with a significant relationship with the child, the Court must:

- a. ORDER a written report;
- b. Make findings supporting the placement;

- c. Review evidence of attempts to make such a placement;
  - d. Set hearings necessary to ensure that no later than 60 days after removal there is a record why such placement is not in the best interest of the child.
11. If the proposed or recommended placement is not licensed as a foster care provider, then either take the testimony needed to certify the placement or order the appropriate home studies and services to qualify the placement. Instruct the placement accordingly. [ARS § 8-845](#)
  12. In ICWA cases, determine whether the placement is in accordance with the placement preferences. Any party asserting that good cause exists to deviate from the placement preferences bears the burden of proving good cause by clear and convincing evidence. Any good cause finding must be stated on the record or in writing. A placement may not depart from the preferences based on the socioeconomic status of any placement relative to another placement or based solely on ordinary bonding and attachment that flowed from time spent in a non-preferred placement made in violation of ICWA. [25 USC § 1915](#), [25 CFR § 23.131](#), [Az.R.Juv.Ct. 321](#)

#### **PARENTING TIME AND VISITATION:**

1. Determine frequency, duration, location, supervision (if any) and responsibility for transportation for parenting time or visitation between the child, parents, and siblings.

NOTE: The Court should determine whether a criminal court order prohibits contact between the parent and child.

2. Consider relative, CASA or other resources for location, supervision, and/or transportation.
3. Enter appropriate orders.

#### **CASE PLAN:**

1. Review and determine the appropriate case plan, establish a concurrent plan if necessary, and confirm that services are consistent with the basis for the dependency.
2. ORDER DCS to make reasonable efforts to provide services to the child and parent to facilitate reunification of the family, unless the Court finds that provision of these services would be contrary to the minor's best interests. In an ICWA case, order that active efforts be made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family. [25 USC § 1912\(d\)](#), [45 CFR § 1356.21\(b\)\(3\)](#), [ARS § 8-846](#)

NOTE: Acknowledge on the record supplemental services offered though the Court. <http://westlaw.com/find/default.wl?rs=da3.0&vr=2.0&cite=AZSTS8-846&sp=AZWendell-1001>ARS § 8-846(B)

NOTE: When a child has been removed from the home, order DCS to provide reunification services unless it finds that, by clear and convincing evidence, aggravating circumstances exist. [ARS § 8-846\(D\)](#), [45 CFR § 1356.21\(b\)\(3\)](#)

The statute expands the cessation of reunification services by including the definition of “serious physical injury”, e.g., significant physical pain or injury that causes the protracted impairment of an organ or limb, etc. [ARS § 8-201\(34\)](#)

If the case is subject to ICWA, an order relieving DCS of providing reunification services under [ARS § 8-846](#) does not eliminate the need for active efforts to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family. See [81 Fed. Reg. 38,778, 38,814 \(June 14, 2016\)](#) (“The ‘active efforts’ requirement is a vital part of ICWA’s statutory scheme and the statute does not contain any exceptions. The final rule’s definition of ‘active efforts,’ however, specifies that what constitutes sufficient active efforts may be based on the facts and circumstances of a particular case, including, for example, consideration of whether circumstances exist that other Federal laws have recognized as excusing the mandatory requirement for reasonable efforts to preserve and reunify families.”)

NOTE: An adjudication of dependency is not a prerequisite to a case plan of guardianship. If all parties consent to the guardianship, the Court may enter a permanent guardianship prior to dependency adjudication. [ARS § 8-871\(A\)\(1\)](#)

3. Assign responsibilities and timeframe and review with parents.
4. Court must inform the parent that substantially neglecting or willfully refusing to remedy the circumstances that caused the child to be in an out-of-home placement, including refusing to participate in reunification services, is grounds for termination of parental rights and can change the case plan to severance and adoption or permanent guardianship.
5. If a dependency petition was filed pursuant to [ARS § 8-874\(J\)](#) (“Successor Guardianship”), the Court may direct DCS not to provide reunification services to the parent unless the Court finds by clear and convincing evidence that there has been a significant change of circumstances indicating the parent may be able to care for the child and these services would be in the child’s best interests.

#### **ADDITIONAL ORDERS:**

1. Determine necessity of and enter protective orders.

2. Determine whether a Guardian ad Litem should be appointed for child or parent.  
[Az.R.Juv.Ct. 305](#)
3. If the child is out of the home, ORDER social security, child support or other income received on behalf of minor be turned over to the placement.
4. ORDER release of information and disclosure as needed.
5. ORDER the parent or guardian to provide the Court the names, type of relationship, and all available information necessary to locate persons related to the child or who have a significant relationship with the child.
6. ORDER the parent or guardian to inform DCS immediately of new information related to the existence or location of a relative or person with a significant relationship to the child.
7. ORDER that notice of future proceedings be provided to the foster parents, shelter care facility (which had the child more than 10 days), receiving foster home (which had the child more than 10 days), pre-adoptive parents, or the child's extended family member with whom the child has been placed.

OPTION: ORDER placement addresses be provided to clerk for blind endorsement on minute entry and/or order a party to effectuate notification.

8. Determine whether DCS made arrangements for the assembly of the medical records of the child, a medical assessment of the child, the implementation of referrals, and the communication of recommendations and results.
9. Determine whether the child is in school/pre-school and if so, where; whether the child has special educational needs (IEP); and who will be responsible for education decisions.
10. Determine the plea:
  - a. If Admission or No Contest:
    - i. Amend petition, if necessary;
    - ii. Advise parent regarding their rights;
    - iii. Advise parent regarding permanency determinations and time frame;
    - iv. Determine if plea is knowing, intelligent, and voluntary;
    - v. Take ICWA testimony, if necessary.
    - vi. Make findings regarding Court's jurisdiction and the factual basis for the dependency.
    - vii. Proceed with Adjudication.
    - viii. Conduct Disposition Hearing or, if desired, set the disposition up to 30 days after Adjudication occurs.
  - b. If Denial:

- i. Set the Settlement Conference or Mediation and the Pretrial Conference.
- ii. Admonish parent that failure to appear without good cause at the Pretrial Conference, Settlement Conference, or dependency Adjudication Hearing may result in an adjudication of dependency and disposition. OR
- iii. If parties consent to guardianship, set Initial Guardianship Hearing within 30 days.

11. Provide an opportunity to be heard for attending foster parents, shelter care facility staff, receiving home foster parents, pre-adoptive parents, extended family with whom the child has been placed, or a relative identified as a possible placement.

#### **OTHER HEARINGS:**

1. Set/affirm/vacate Initial Dependency and Publication Hearings as necessary.
2. For a child under three years of age, set the Permanency Hearing no later than six months after the child's removal. [ARS § 8-862](#)
3. For a child three years of age or older, set the Permanency Hearing no later than 12 months after the child's removal.  
<http://westlaw.com/find/default.wl?rs=da3.0&vr=2.0&cite=AZSTS8-862&sp=AZWendell-1001>ARS § 8-862
4. If the Disposition Hearing occurred, schedule the Review Hearing within six months.  
[ARS § 8-847](#)

#### **ADMONITION:**

1. Admonish parent that failure to appear without good cause at the Pretrial Conference, Mediation, Settlement Conference, or dependency Adjudication Hearing may result in dependency adjudication and disposition.
2. The Court may read and/or provide to the parent, guardian or Indian custodian a copy of Form 1, request that the parent, guardian or Indian custodian sign and return a copy of the form and note on the record that the form was provided.

#### **REASONABLE EFFORTS FINDINGS**

1. Make specific, factual findings as to whether DCS has made reasonable efforts to prevent removal of the child from the home. The reasonable efforts finding must be accompanied by statement of the factual basis for the finding. [42 USC § 672\(a\)\(2\)\(A\)\(ii\)](#), [45 CFR § 1356.21\(d\)](#)

OPTION: Find that it was reasonable to make no efforts to maintain the child in the home or to prevent removal based upon the following (include factual basis of this finding).

1. If ICWA pertains to the case, certify that the:
  - a. Parent or custodian has voluntarily consented to the child's placement in foster care;
  - b. Consent was given more than 10 days after the birth of the child;
  - c. Consent was executed in writing and recorded before the Court;
  - d. Terms and consequences of the consent were fully explained in detail and were fully understood by the parent or custodian; and
  - e. Explanation was understood in English or was interpreted into a language that the parent or custodian understood.

**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 finds that, based upon the assertions of the parties, the Indian Child Welfare Act <does/does not> apply.

**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 ARS](#).
- The Court has exclusive original jurisdiction over the subject matter and venue is appropriate in <County> County. [ARS § 8-202](#), [ARS § 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>. [ARS § 8-841](#), [Az.R.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:

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- 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.

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

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. [ARS § 8-843\(B\)](#), [ARS § 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. [ARS § 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.
- The child was placed pursuant to ICWA placement preferences. [25 USC § 1915, Az.R.Juv.Ct. 321](#)
  - 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. [ARS § 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.

**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>. [ARS § 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>.

Pursuant to ICWA:

- The Court finds that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts were unsuccessful. The Court further finds, by clear and convincing evidence, including testimony from a qualified expert witness, that continued custody of the child by the parent or custodian is likely to result in serious emotional or physical damage to the child.
- The Court finds that the Indian child's emergency removal and placement is necessary to prevent imminent physical damage or harm based on <factual basis for emergency 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

## PRELIMINARY PROTECTIVE HEARING - PRIVATE DEPENDENCY

(Following Preliminary Protective Conference)

Source: [45 CFR § 1356](#), [42 USC § 672](#), [25 USC § 1912](#), [25 USC § 1913](#), [25 USC § 1915](#), [ARS § 8-525](#), [ARS § 8-815](#), [ARS § 8-824](#) - [ARS § 8-829](#), [ARS § 8-841](#), [ARS § 8-843](#), [ARS § 8-846](#), [Az.R.Juv.Ct. 305](#), [Az.R.Juv.Ct. 310\\_312](#), [Az.R.Juv.Ct. 320 – 321](#), [Az.R.Juv.Ct. 332 - 335](#)

### PRELIMINARIES:

1. Call the case: identify case number, case name and nature of the hearing.
2. Inform parties that this is the time and date set for the Preliminary Protective Hearing. These hearings are presumptively open. They can be closed for good cause shown. By being present you are subjecting yourself to the jurisdiction of the court and you are not to reveal any identifying information concerning this matter, which would include not posting anything on social media regarding the matter.
3. Determine whether foster parents, pre-adoptive parents or a member of the child's extended family with whom the child has been placed were notified of date, time and location of this hearing. DCS to do notifications if DCS is a party.

NOTE: If child has been adjudicated delinquent, is awaiting delinquency adjudication or disposition, or has been released from the Department of Juvenile Corrections within the last six months, an interested party who files a dependency petition must give notice of the intent to file the petition to DCS at least 14 days before filing. The court may not issue temporary orders regarding DCS without a hearing and the court must provide DCS and the interested party at least 72 hours written or electronic notice of the hearing. If DCS is provided proper notice and fails to appear, the court may proceed with the hearing. [ARS § 8-841\(B\), \(H\)](#)

4. Parties:
  - a. Identify parties and others present.
  - b. Identify parties not present; determine whether notice has been given.
  - c. Ask parties if there are reasons the proceeding should be closed. In considering whether to close the proceeding, the Court must consider:
    - i. Whether doing so is in the child's best interests;
    - ii. Whether an open proceeding would endanger the child's physical or emotional well-being or the safety of any other person;
    - iii. The privacy rights of the child, the child's siblings, parents, guardians and caregivers and any other person whose privacy rights the Court determines need protection;
    - iv. Whether all parties have agreed to allow proceeding to be open;
    - v. If the child is at least 12 years of age and a party to the proceeding, the child's wishes;

- vi. Determine whether the child has been informed of and understands the right to attend all Court hearings and speak to the judge;
- vii. Whether an open proceeding could cause specific material harm to a criminal investigation.
- d. If the proceeding remains open to the public:
  - i. Admonish 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;
  - ii. Advise attendees that by being present they are subjecting themselves to the jurisdiction of the Court;
  - iii. Explain to attendees contempt and consequences of violating court order.

NOTE: The Court may close an open proceeding at any time for good cause.

- e. Inform a foster parent, shelter care facility, receiving foster home, pre-adoptive parent of a member of the child's extended family with whom the child has been placed of the right to be heard in any proceeding to be held with respect to the child.
- f. If a relative is identified as a possible placement for the child, notify the relative of the right to be heard in any proceeding to be held with respect to the child.
- g. Inquire if any party or participant has reason to know that the child at issue is subject to ICWA and instruct every participant that they must update the Court if they receive information that the child is an Indian child as defined by the Act. [25 CFR § 23.107\(a\)](#). The Act applies in any proceeding, other than an emergency proceeding, that may culminate in a foster-care placement, termination of parental rights, or adoption. The Court, parties, or participants have reason to know that a child is an Indian child if:
  - i. Any participant, officer of the Court, Tribe, or agency informs the Court that the child is an Indian child;
  - ii. Any participant informs the Court that it has discovered information indicating that the child is an Indian child;
  - iii. The child gives the Court reason to know that he/she is an Indian child;
  - iv. The domicile/residence of the child, parent, or Indian custodian is on a reservation or an Alaskan native village;
  - v. The child is or has been a ward of a tribal court; or
  - vi. The parent or child possesses an identification card indicating membership in an Indian Tribe. [25 CFR § 23.107\(c\)](#), [25 CFR § 23.2](#)
- 5. Service:
  - a. Have petitioner serve parties present, then deem services complete as to anyone properly served.
  - b. Determine status of service on parties not present and ORDER petitioner to make additional efforts.
  - c. Question mother regarding the identity and location of potential fathers and question all parents regarding the location of parents who are not present.

- d. In ICWA cases, determine whether notice has been provided by certified or registered mail.

NOTE: No foster-care proceeding may be held until at least 10 days after the parent or Indian custodian and the Tribe receive notice, and the parent, Indian custodian, or Tribe may request an additional 20 days to prepare. The only exception is for emergency proceedings. If the Court determines that this is an emergency proceeding under ICWA, the Court must make a finding on the record that the emergency removal or placement is necessary to prevent imminent physical damage or harm to the child and must immediately terminate the emergency proceeding as soon as there is no longer a risk of imminent physical damage or harm. [25 USC § 1922](#), [25 CFR § 23.113](#)

- e. In ICWA cases, order petitioner to obtain verification of child's Indian status if undetermined.

6. Counsel:

- a. Confirm that attorneys have met with clients.
- b. Inquire whether the attorney/GAL for the child met with the child before the PPH and informed the child of their right to attend court hearings and speak to the judge. If not, order that the meeting occur no later than 14 days after the PPH.

NOTE: The Court may modify the requirement that the attorney/GAL for the child meet with the child client if the attorney/GAL demonstrates extraordinary circumstances. [ARS § 8-221\(H\)](#), [Az.R.Juv.Ct. 306](#)

- c. Confirm that parents have been advised of their trial rights. The Court may read and/or provide the parties with a copy of Form 1. Reflect in the record that the admonitions of Form 1 have been given and request that the parent/guardian sign the Form 1 and return it to Court staff for docketing. [ARS § 8-843](#), [ARS § 8-824](#)
- d. Obtain financial affidavits from parents; confirm appointment of counsel and assess attorney's fees, if appropriate.
- e. Advise parents that appointment is for one year and that a new financial affidavit will be required for new appointment.

6. Admonish parent, guardian or Indian custodian that:

- a. Failure to attend future hearings without good cause shown may result in a finding that parent has waived their legal rights and is deemed to have admitted to the allegations in the petition.
- b. The hearing may go forward in their absence and may result in a finding of dependency.
- c. Failure to appear in court or to participate in reunification services may result in termination of their parental rights or the establishment of a permanent guardianship.
- d. If the child is under three years of age, admonish the parent that the Court will hold a Permanency Hearing no later than six months after the child's removal. At that hearing, the Court will determine 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. Further admonish the parent 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 parental rights.

7. Read and provide the parent a copy of Form 1, request that the parent sign and return a copy of the form and note on the record that the form was provided.
8. Make specific finding that the parent was advised of the consequences of failure to appear or participate in reunification services.
9. Identify materials received and reviewed prior to the hearing.
10. If DCS has been ordered to investigate, take testimony from investigative worker.
11. Determine and enter orders as to whether DCS should substitute as petitioner.

#### **PATERNITY:**

1. Confirm or determine whether paternity has been established by marriage, birth certificate, or special paternity proceeding.
2. ORDER parties to establish paternity by acknowledgment or testing if necessary.

#### **RESULTS OF PREHEARING CONFERENCE:**

1. Take report from facilitator or parties.
2. Identify areas of agreement and disagreement.

#### **PLACEMENT:**

1. If requested by the parent at the preliminary protective hearing, or at the initial dependency hearing if the parent was not served and did not appear for the preliminary protective hearing, conduct a hearing to determine if probable cause exists to believe that continued temporary custody is clearly necessary to prevent abuse or neglect pending the hearing on the dependency petition. [Az.R.Juv.Ct. 333\(a\) and \(b\)](#)
2. Identify efforts made to prevent removal.
3. Determine whether child can be returned home with services. If yes, determine and enter appropriate orders regarding who will provide and/or pay for services and the conditions and timeframe for the services.

4. If the child is to remain in care, find that continuation of the child in the home is contrary to their welfare and enter the factual basis for this finding.
5. If the child is to remain in care, consider relative placement and inquire whether siblings may be placed together, unless this would be contrary to a child/sibling's safety or well-being.
6. Determine if DCS is attempting to identify and assess placement of the child with the child's grandparent or another member of the child's extended family, including a person who has a significant relationship with the child.
  - a. If relative is identified, swear and take testimony.
  - b. Determine services needed to support placement and who will provide and/or pay for services.
  - c. If no home study has been completed, determine whether the child can be placed with their relative as a person of good moral character.
  - d. If relative placement is appropriate, order that placement contingent upon relative's compliance with court orders.
7. In ICWA cases, determine whether the placement is in accordance with ICWA placement preferences. Any party asserting that good cause exists to deviate from the placement preferences bears the burden of proving good cause by clear and convincing evidence. A placement may not depart from the placement preferences based on the socioeconomic status of any placement relative to another placement or based solely on ordinary bonding and attachment that flowed from time spent in a non-preferred placement made in violation of ICWA. If the child is not placed pursuant to placement preferences, enter the factor(s) considered in determining that there is good cause to deviate from those preferences. [25 USC § 1915](#), [Az.R.Juv.Ct. 321](#). Alternatively, determine whether the child's emergency placement is necessary to prevent imminent physical damage or harm. [25 CFR § 23.113](#); [25 USC § 1922](#)
8. If relative placement is not appropriate, determine whether the child should remain in the current placement and, if so, who will provide for services.
9. If there is probable cause, enter findings, supported by a specific factual basis, that continued temporary custody is clearly necessary to prevent abuse or neglect.
10. Allow foster parents, shelter care facility, receiving foster homes, pre-adoptive parents or a member of the child's extended family with whom the child has been placed an opportunity to be heard.
11. ORDER parent or guardian to provide the names, types of relationships, and all available information necessary to locate relatives or others who have a significant relationship with the child. ORDER the parent or guardian to inform DCS immediately if they become aware of new information related to the existence or location of a relative or person with a significant relationship to the child.

## **PARENTING TIME AND VISITATION:**

1. Determine frequency, duration, location, supervision, and responsibility for transportation for parenting time or visitation between the child, the child's parents, and the child's siblings.
2. If any of the siblings have not been placed together, determine what efforts can be made for frequent visitation and/or contact between the siblings who have not been placed together unless visitation is determined by the Court to be contrary to a child/sibling's safety or well-being.

NOTE: If DCS has substituted in, ask this of the case manager.

3. Consider relative, CASA, or other resources for location, supervision, and/or transportation.

## **REUNIFICATION SERVICES:**

1. If DCS is not a party, determine whether there are reasonable services that will facilitate reunification of the family or another permanent plan and order the parties to participate and determine who pays. In ICWA cases, order that active efforts be made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family. [25 USC § 1912\(d\)](#)
2. If DCS agrees to be substituted as petitioner, order the preparation of a case plan.

## **ADDITIONAL ORDERS:**

1. Enter protective orders if needed.
2. Determine whether a Guardian ad Litem should be appointed for the child or the parent. [Az.R.Juv.Ct. 305](#)
3. ORDER social security, child support or other income received on behalf of the minor turned over to placement if the child is out of home.
4. ORDER releases of information and disclosure as needed.
5. Determine the plea:
  - a. If Admission or No Contest:
    - ix. Amend petition, if necessary;
    - x. Advise parent regarding their rights;
    - xi. Advise parent regarding permanency determinations and timeframe;
    - xii. Determine if plea is knowing, intelligent, and voluntary;
    - xiii. Take ICWA testimony, if necessary.

- xiv. Make findings regarding Court's jurisdiction and the factual basis for the dependency.
  - xv. Proceed with Adjudication.
  - xvi. Conduct Disposition Hearing or, if desired, set the disposition up to 30 days after Adjudication occurs.
- b. If Denial:
- iv. Set the Settlement Conference or Mediation and the Pretrial Conference.
  - v. Admonish parent that failure to appear without good cause at the Pretrial Conference, Settlement Conference, or dependency Adjudication Hearing may result in an adjudication of dependency and disposition. OR
  - vi. If parties consent to guardianship, set Initial Guardianship Hearing within 30 days.
6. Admonish the parent that, if reunification cannot be achieved, their parental rights may be terminated.

#### **OTHER HEARINGS:**

1. Affirm/vacate/set initial and published dependency hearings as necessary.
2. For a child under three years of age, set the Permanency Hearing no later than six months after the child's removal. [ARS § 8-862](#)
3. For a child three years of age or older, set the Permanency Hearing no later than 12 months after the child's removal.  
<http://westlaw.com/find/default.wl?rs=da3.0&vr=2.0&cite=AZSTS8-862&sp=AZWendell-1001>ARS § 8-862
4. Enter orders to ensure foster parents, shelter care facility, receiving foster homes, pre-adoptive parents or a member of the child's extended family with whom the child has been placed are notified of any future proceedings.

OPTION: ORDER placement addresses be provided to the Clerk for blind endorsement on the minute entry and/or order a party to effectuate notification.

5. The Court may read and/or provide the parent, guardian or Indian custodian with a copy of Form 1, request that the parent, guardian or Indian custodian sign and return a copy of the form and note on the record that the form was provided.

#### **ICWA FINDINGS**

Determine whether active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts were unsuccessful. Based on determinations, find whether, by clear and convincing evidence, including testimony from a qualified expert witness, that continued custody of the child by the parent or Indian custodian is likely to result in serious

emotional or physical damage to the child. The Arizona Supreme Court has held that the expert language testimony need not parrot the language of the statute, so long as the expert testimony addresses the issue that continued custody of the Indian child by the parent is likely to result in emotional or physical harm and that subsection 1912(e) has been satisfied. [25 USC § 1912](#), *Steven H. v. Ariz. Dep't of Econ. Sec.*, 218 Ariz. 566, 190 P.3d 180 (2008.)

NOTE: In some cases, a qualified expert witness may not be available at the time of the preliminary protective hearing (particularly if the Tribe has not yet been served). In that case, you may have to set an additional hearing to receive ICWA testimony.

**OR**

Certify that the parent or Indian custodian has voluntarily consented to the child's placement in foster care; that the consent was given more than 10 days after the birth of the child; that the consent was executed in writing and recorded before the Court; that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian; and that the explanation was understood in English or was interpreted into a language that the parent or Indian custodian understood. [25 USC § 1913](#)

**OR**

Determine that the child's removal or placement was necessary to prevent imminent physical damage or harm to the child and order the petitioner to insure that the emergency removal or placement terminates immediately when it is no longer necessary to prevent imminent physical damage or harm to the child or to expeditiously initiate a child custody proceeding or transfer the child to the jurisdiction of the appropriate Indian tribe. [25 USC § 1922](#)

## INITIAL DEPENDENCY HEARINGS (DCS CASES)

Hearing explanation for parent - *In today's hearing, I will determine whether you have received a copy of the dependency petition and if you agree or disagree with the statements made within that document.*

Source: [4 CFR § 1356](#), [25 USC § 1921](#), [25 USC § 1913](#), [25 USC §1915](#), [ARS § 8-525](#), [ARS § 8-829](#), [ARS § 8-824](#), [ARS § 8-842](#), [ARS § 8-843](#), [ARS § 8-846](#), [Az.R.Juv.Ct. 310 - 312](#), [Az.R.Juv.Ct. 320 – 321](#), [Az.R.Juv.Ct. 334](#), [Az.R.Juv.Ct. 416](#)

To be used for parties who were not yet served or who failed to appear at the Preliminary Protective Hearing or if the child was not removed from the home at the time the petition was filed. Must be held no later than 21 days after the filing of the petition.

### CALL THE CASE:

1. Identify the case number, case name, and the nature of the hearing.
2. Inform parties that this is the time and date set for the Preliminary Protective Hearing. These hearings are presumptively open. They can be closed for good cause shown. By being present you are subjecting yourself to the jurisdiction of the court and you are not to reveal any identifying information concerning this matter, which would include not posting anything on social media regarding the matter.
3. Determine whether petitioner provided notice of the date, time, and location of this hearing to the foster parents, shelter care facility, receiving foster home, pre-adoptive parents or a member of the child's extended family with whom the child has been placed.
4. Identify those present.
  - a. If a party requests that the proceeding be closed, the Court must consider:
    - i. Whether doing so is in the child's best interests;
    - ii. Whether an open proceeding would endanger the child's physical or emotional well-being or the safety of any other person;
    - iii. The privacy rights of the child, the child's siblings, parents, guardians and caregivers and any other person whose privacy rights the Court determines need protection;
    - iv. Whether all parties have agreed to allow the proceeding to be open;
    - v. The child's wishes if the child is at least twelve years of age and a party to the proceeding;
    - vi. Whether an open proceeding could cause specific material harm to a criminal investigation.
  - b. If the proceeding remains open to the public:

- i. Admonish attendees that they must not disclose identifying information, including social media or internet posts, about the child, siblings, parents, guardians or caregivers, or other person identified in the proceeding;
  - ii. Advise attendees that by being present they are subjecting themselves to the jurisdiction of the Court;
  - iii. Explain to attendees contempt and possible consequences of violating a court order.
4. Determine whether the child's attorney/GAL met with them prior to the hearing and explained to the child their right to attend all Court hearings and speak to the judge.

NOTE: Attorney/GAL must meet with the child no later than 14 days after the PPH unless there was a showing of extraordinary circumstances and, in that case, this requirement may have been modified.

5. Inquire if any party or participant has reason to know that the child at issue is subject to ICWA and instruct every participant that they must update the Court if they receive information that the child is an Indian child as defined by the Act. The Act applies in any proceeding, other than an emergency proceeding, that may culminate in a foster-care placement, termination of parental rights, or adoption. The Court, parties, or participants have reason to know that a child is an Indian child if:
  - i. Any participant, officer of the Court, Tribe, or agency informs the Court that the child is an Indian child;
  - ii. Any participant informs the Court that it has discovered information indicating that the child is an Indian child;
  - iii. The child gives the Court reason to know that he/she is an Indian child;
  - iv. The domicile/residence of the child, parent, or Indian custodian is on a reservation or an Alaskan native village;
  - v. The child is or has been a ward of a tribal court; or
  - vi. The parent or child possesses an identification card indicating membership in an Indian Tribe. [25 CFR § 23.107\(c\)](#), [25 CFR § 23.2](#)
6. Provide an opportunity to be heard for foster parents, shelter care facility, receiving foster homes, pre-adoptive parents or a member of the child's extended family with whom the child has been placed.

### **SERVICE:**

Determine whether respondents have been timely served.

1. Have the petitioner serve the parties present, if not previously served, and then deem service complete as to parties properly served.
2. In ICWA cases, determine whether the parent, Indian custodian, and Tribe have been notified in accordance with federal law. [25 USC § 1912\(a\)](#), [Az.R.Juv.Ct. 329\(h\)](#)

NOTE: No foster-care proceeding may be held until at least 10 days after the parent or Indian custodian and the Tribe receive notice, and the parent, Indian custodian or Tribe may request an additional 20 days to prepare. The only exception is for “emergency proceedings”. If the Court determines that this is an emergency proceeding under ICWA, the Court must make a finding on the record that the emergency removal or placement is necessary to prevent imminent physical damage or harm to the child and must immediately terminate the emergency proceeding as soon as there is no longer a risk of imminent physical damage or harm. [25 USC § 1922](#), [25 CFR § 23.113](#)

3. If service is not complete, continue the hearing and order the petitioner to complete service.

**IF PARENT APPEARS WITH COUNSEL AND ADMITS OR DOES NOT CONTEST:**

1. Advise parent of their trial rights. [ARS § 8-843\(B\)](#)
2. Admonish parent, guardian or Indian custodian that:
  - a. Failure to attend future hearings without good cause shown may result in a finding that the parents have waived legal rights and are deemed to have admitted the allegations in the petition.
  - b. 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.
  - c. Failure to appear in court or to participate in reunification services may result in termination of parental rights or establishment of permanent guardianship.
3. The Court may read and/or provide the parties with a copy of Form 1. Request that the parent, guardian or Indian custodian sign and return a copy of the form and note on the record that the form was provided.
4. Ensure that the minute entry reflects that the parent, guardian or Indian custodian was advised of consequences of failure to appear or participate in reunification services.
5. Determine whether admission is knowing, intelligent, and voluntary.
6. Take ICWA testimony, if necessary.
7. Findings:
  - a. Jurisdiction
  - b. Factual basis
  - c. Dependency
  - d. Reasonable efforts to prevent removal:
    - i. To prevent or eliminate the need for removal of child from home.
    - ii. Whether services are available, that would eliminate the need for continued removal.

- e. ICWA findings:
    - i. The Court is satisfied that active but unsuccessful efforts were made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family.
    - ii. The Court finds by clear and convincing evidence, including testimony from a qualified expert witness, that the parent's/Indian custodian's continued custody is likely to result in serious emotional or physical damage to the child. The Arizona Supreme Court has held that the expert language testimony need not parrot the language of the statute, so long as the expert testimony addresses the issue that continued custody of the Indian child by the parent is likely to result in emotional or physical harm and that subsection 1912(e) has been satisfied. [Steven H. v. Ariz. Dep't of Econ. Sec., 218 Ariz. 566, 190 P.3d 180 \(2008.\)](#)
    - iii. Determine whether placement is in accord with preferences detailed in ICWA. If there is good cause to deviate from this requirement, clearly state, on the record or in writing, the reason(s) for the good cause. The party asserting that good cause exists to deviate from the placement preferences bears the burden of proving good cause by clear and convincing evidence. A placement may not depart from the preferences based on the socioeconomic status of any placement relative to another placement or based solely on ordinary bonding and attachment that flowed from time spent in a non-preferred placement made in violation of ICWA. [25 USC § 1915, 25 CFR § 23.131, Az.R.Juv.Ct. 321](#)
    - iv. Determine whether DCS is attempting to identify and assess placement of the child with the child's grandparents or another member of the child's extended family, including a person who has a significant relationship with the child.
  - f. Determine whether DCS is attempting to identify and assess placement of the child with siblings, unless it is determined to be contrary to the child/siblings' safety or well-being.
3. Adjudicate the child dependent.
  4. Review the initial case plan, make modifications, enter a determination as to whether the services are necessary and appropriate, and approved the plan.
  5. Establish concurrent plan if appropriate.
  6. ORDER DCS to make reasonable efforts to provide services to the child and parent to facilitate reunification of the family, unless the Court finds that provision of these services would be contrary to the minor's best interests. [45 CFR § 1356.21\(b\)\(3\), ARS § 8-846](#)

NOTE: Where a child has been removed from the home, the Court must order DCS to provide reunification services unless it finds, by clear and convincing evidence, that aggravating circumstances exist.

NOTE: An order relieving DCS of providing reunification services does not eliminate the need for active efforts to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family if the case is subject to ICWA. (“The ‘active efforts’ requirement is a vital part of ICWA’s statutory scheme, and the statute does not contain any exceptions. The final rule’s definition of ‘active efforts,’ however, specifies that what constitutes sufficient active efforts may be based on the facts and circumstances of a particular case, including, for example, consideration of whether circumstances exist that other Federal laws have recognized as excusing the mandatory requirement for reasonable efforts to preserve and reunify families.”)

<http://westlaw.com/find/default.wl?rs=da3.0&vr=2.0&cite=AZSTS8-846&sp=AZWendell-1001>ARS § 8-846, [81 Fed. Reg. 38,778, 38,814 \(June 14, 2016\)](#)

7. Determine whether DCS has made reasonable efforts to place siblings together or establish a plan for frequent visitation between siblings, unless frequent visitation or ongoing contact between siblings is contrary to the child’s safety or well-being.
8. Consider educational stability of the child in determining placement.
9. If parties agree, proceed with the Disposition Hearing. The Disposition Hearing can also be held on a different date no later than 30 days after adjudication. If the Disposition Hearing is to be held on a later date, consider ordering the petitioner to file a written report five days prior to the hearing containing dispositional recommendations.
10. For a child under three years of age, set the Permanency Hearing no later than six months after the child’s removal. [ARS § 8-862](#)
11. For a child three years of age or older, set the Permanency Hearing no later than 12 months after the child’s removal.  
<http://westlaw.com/find/default.wl?rs=da3.0&vr=2.0&cite=AZSTS8-862&sp=AZWendell-1001>ARS § 8-862

#### **IF PARENT APPEARS WITH COUNSEL AND DENIES:**

1. Enter the parent’s denial on the record.
2. Advise parent of their rights. Read and provide to the parent, guardian or Indian custodian a copy of Form 1 and request that they sign and return to the Court a copy of the form. Note on the record that the form was provided. [ARS § 8-843\(B\)](#)

3. Set a Settlement Conference or Mediation and a Pretrial Conference.
4. Admonish parent, guardian or Indian custodian that:
  - a. Failure to attend future hearings without good cause shown may result in a finding that the parents have waived legal rights and are deemed to have admitted the allegations in the petition.
  - b. The hearing may go forward in their absence and may result in a finding of dependency.
  - c. Failure to participate in reunification services may result in termination of parental rights or establishment of permanent guardianship.
  - d. Make a specific finding that parent, guardian or Indian custodian was advised of consequences of failure to appear or participate in reunification services.
5. Determine if reasonable efforts were made to prevent or eliminate the need for removal of the child from the child's home, and if services are available that would eliminate the need for continued removal. Enter a factual basis for the reasonable efforts determination.
6. ORDER DCS to make reasonable efforts to provide reunification services, unless the Court finds that provision of these services would be contrary to the minor's best interests.

NOTE: Where a child has been removed from the home, the Court must order DCS to provide reunification services unless it finds, by clear and convincing evidence, aggravating circumstances. [45 CFR § 1356.21\(b\)\(3\)](#), [ARS § 8-846\(D\)](#)

#### **IF PARENT APPEARS WITHOUT COUNSEL:**

1. Advise parent of their rights. Read and provide to the parent, guardian or Indian custodian a copy of Form 1 and request that they sign and return to the Court a copy of the form. Note on the record that the form was provided. [ARS § 8-843\(B\)](#)
2. Admonish parent, guardian or Indian custodian that:
  - a. Failure to attend future hearings without good cause shown may result in a finding that the parent, guardian or Indian custodian has waived legal rights and is deemed to have admitted the allegations in the petition.
  - b. The hearing may go forward in their absence and may result in a finding of dependency.
  - c. Failure to participate in reunification services may result in termination of parental rights or establishment of permanent guardianship.
3. Make specific finding that parent, guardian or Indian custodian was advised of consequences of failure to appear or participate in reunification services.
4. If the parent denies the petition:
  - a. Advise of them of their right to counsel and, if parent requests, appoint counsel.

- b. Based on financial affidavit, assess attorney fees.
  - c. Advise parent that appointment is good for one year.
  - d. Set continued Initial Dependency Hearing.
5. If the parent admits or does not contest the petition, enter their plea for the record and proceed with the Adjudication Hearing.
  6. Determine whether reasonable efforts were made to prevent or eliminate the need for removal of the child from the child's home and if services are available that would eliminate the need for continued removal.
  7. ORDER DCS to make reasonable efforts to provide reunification services, unless the Court finds, by clear and convincing evidence, that provision of these services would be contrary to the minor's best interests. [45 CFR § 1356.21\(b\)\(3\)](#), [ARS § 8-846\(D\)](#)

NOTE: Where a child has been removed from the home, the Court must order DCS to provide reunification services unless it finds, by clear and convincing evidence, aggravating circumstances. [45 CFR § 1356.21\(b\)\(3\)](#), [ARS § 8-846\(D\)](#)

**FAILURE TO APPEAR (Dependency in Absentia):**

1. Determine whether parent was properly served and whether notice of hearing advised as to the consequences of their failure to appear. Confirmation of service:
  - a. Affidavit of personal service;
  - b. Affidavit of service by certified mail;
  - c. Affidavit of publication and circumstances warranting service by publication.
2. If no good cause is shown for the parent's failure to appear, proceed with adjudication. [Az.R.Juv.Ct. 334\(f\)](#)
  - a. Enter finding regarding:
    - i. Service;
    - ii. Jurisdiction;
    - iii. Existence of a dependency;
    - iv. Factual basis for the dependency;
    - v. Reasonable efforts to prevent or eliminate need for removal;
    - vi. Identification and assessment of placement with relative or significant person in the child's life;
    - vii. Availability of services to eliminate need for continued removal.
  - b. If ICWA applies:
    - i. Take ICWA testimony.
    - ii. Enter finding pursuant to ICWA:
      - a) Active efforts were made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family.

- b) Adjudicate child dependent based on a preponderance of the evidence. The Court must find, by clear and convincing evidence, including the testimony of a qualified expert witness, that continued custody of the child by the parent is likely to result in serious emotional or physical damage to the child. [Steven H. v. Ariz. Dep't of Econ. Sec., 218 Ariz. 566, 190 P.3d 180 \(2008.\)](#)
  - c. Adjudicate minor dependent.
  - d. If parties agree, proceed with the Disposition Hearing. The Disposition Hearing can be held on a different date no later than 30 days after adjudication. If the Disposition Hearing is to be held on a later date, consider ordering the petitioner to file a written report five days prior to the hearing containing dispositional recommendations.
3. If service is not complete, set a continued Initial Dependency Hearing and order the petitioner to complete service.

### **ADDITIONAL ORDERS**

1. ORDER that foster parents, shelter care facility, receiving foster homes, pre-adoptive parents or a member of the child's extended family with whom the child had been placed are notified of any future proceedings.

NOTE: If DCS is a party, order them to provide notice; if they are not, order a party to effectuate notification.

2. Determine whether DCS is attempting to identify and assess placement of the child with grandparents, siblings, or another member of the child's extended family, including a person who has a significant relationship with the child.
3. If the siblings are not placed together, determine whether DCS is attempting to identify and assess placement of the child with sibling(s) if it is not contrary to a child/sibling's safety or well-being.
4. ORDER parent or guardian to provide the names, types of relationships, and all available information necessary to locate relatives or others who have a significant relationship with the child. ORDER the parent or guardian to inform DCS immediately if they become aware of new information related to the existence or location of a relative or person with a significant relationship to the child.
5. ORDER the parent or guardian to inform DCS immediately of new information related to the existence or location of a relative or person with a significant relationship to the child.
6. ORDER the parties and participants to advise the Court if they obtain information that the child is an Indian child as defined by ICWA. [25 CFR § 23.107\(a\)](#)

**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.

**INITIAL DEPENDENCY HEARING**

**Parties Present:**

<party>

<party>

This is the time set for the **INITIAL DEPENDENCY HEARING** on a dependency petition filed <Date of petition filing>.

**Open Proceedings:**

- 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 finds that, based upon the assertions of the parties, the Indian Child Welfare Act <does/does not> apply.

**Service and Jurisdiction:**

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

- The Court finds that the parent had notice of the hearing and that the notice advised of the consequences of not appearing at this hearing.
  
- The Court finds that the attorney/GAL has met with the child and informed the child of his/her rights including their right to attend their Court hearings and speak to the judge.

**OR**

- The Court orders the attorney/GAL to meet with the child no later than 14 days after this hearing and advise him/her of their rights.

**OR**

- The Court finds extraordinary circumstances exist and modifies the duty of the attorney/GAL as follows:

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- The State of Arizona, by and through the Arizona Department of Child Safety, is authorized to initiate this dependency proceeding pursuant to [ARS § 8-201](#) et seq., [ARS § 8-501](#) et seq., [ARS § 8-802](#) et seq., and [ARS § 8-453](#) et seq.
- This Court has exclusive original jurisdiction over the subject matter pursuant to [ARS § 8-202](#), and venue is appropriate in <County> County pursuant to [ARS § 8-206](#).
- The Court orders the <Petitioner/DCS> to effectuate service by publication because the party cannot be reasonably located.
- This 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> pursuant to [ARS § 8-841](#) and [Az.R.Juv.Ct. 328 and 329](#).

**Counsel:**

Appointment of counsel is made/affirmed for the following:

- <Applicable counsel>, <counsel type>;
- <Applicable counsel>, <counsel type>;
- <Applicable counsel>, <counsel type>.

The <parent, guardian or Indian custodian> is to pay <Amount assessed per month> per month for the cost of counsel.

The <parent, guardian or Indian custodian> is to pay <Amount assessed per month> per month for the cost of counsel.

- The Court confirms that the <parent, guardian or Indian custodian> has/have met with their counsel and have been advised of their trial rights pursuant to [ARS § 8-843\(B\)](#). The Court advises the parents that appointment is for one year and that new financial information will be required prior to reappointment after that time.
- 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: <documents>.

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

**Paternity:**

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

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

**Services:**

The Court finds that the services proposed <are/are not> appropriate, necessary, and reasonable to facilitate <permanency plan>.

- The Court orders DCS to provide reunification services.
- The Court orders DCS NOT to provide reunification services based on the following condition(s): <conditions>. [ARS § 8-846\(D\)](#)
- The Court orders the parties to participate in the proposed services. <If this is a private petition and a party other than DCS is to provide services, specify the party and who will be responsible for the cost of 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.
- In an ICWA case, the Court orders that active efforts be made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family.

**Additional orders:** <GAL and/or CASA appointment, Protective Orders, Support, etc.>

- The Court finds that the services proposed for the child in the preliminary protective hearing report are/are not necessary and appropriate and makes the following additional orders:

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- DCS is ordered to follow the recommendations and implement the services identified in the 72-hour emergency response assessment.

**Education Issues:**

- 1. The child is:
  - In school (age 6 and older);
  - Enrolled in an early intervention/preschool program (ages birth to 5).

- 2. The child has the following special needs:

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- 3. The educational responsibilities will be divided as follows to ensure that the child’s educational needs are being met and that the child has educational stability:

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NOTE: The DCS report must include efforts made to ensure the educational stability of the child and the Court is to enter orders addressing the child’s educational stability. [Az.R.Juv.Ct. 104\(d\)\(1\)\(G\)](#), [Az.R.Juv.Ct. 341\(c\)\(2\)](#)

**Plea:**

The <parent, guardian or Indian custodian> enters a plea of <plea> to the allegations contained in the <motion/petition>.

- The Court advises the <parent, guardian or Indian custodian> of their rights, including their right to request prior to the hearing that any hearing be open to the public. The Court determines that <parent, guardian or Indian custodian> understands their rights.
- The Court advises the <parent, guardian or Indian custodian> that a Permanency Hearing will be held no later than one year after the child’s removal from their care, or no later than six months if the child is under three. 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 plea of <plea> made by <parent, guardian or Indian custodian> was made knowingly, intelligently and voluntarily.
- The Court provides foster parents, shelter care facility, receiving foster home, pre-adoptive parents or a member of the child’s extended family with whom the child has been placed an opportunity to be heard.

### Adjudication:

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

- The child, <child>, is dependent as to <parent, guardian, Indian custodian>. [ARS § 8-201](#)
- The Court, therefore, orders that <child> be made a ward(s) of the Court as a dependent child 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 plan> is appropriate at this time.

- The Court finds that the concurrent plan on <concurrent plan> is appropriate.
- The Court finds that it is contrary to the child's best interests to remain in the home based on the following: <factual basis for this finding>.
- The Court determines that DCS is attempting to identify and assess placement of the child with the child's grandparent or another member of the child's extended family, including another person who has a significant relationship with the child.
- DCS is attempting to identify and assess placement of the child with the child's siblings if possible and in the child's best interest.
- 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>.

### ICWA:

- The Court finds that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts were unsuccessful. The Court further finds, by clear and convincing evidence, including testimony from a qualified expert witness, that continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. [25 USC § 1912](#)
- The Court finds that the removal and placement of the child was necessary to prevent imminent physical emotional damage or harm. This finding is based on the following facts: <factual basis>. [25 USC § 1922](#)

- The child was placed pursuant to the standards of ICWA. [25 USC § 1915](#)
- There was good cause to deviate from the requirement to place the child pursuant to ICWA: <factor(s) considered, basis for good cause finding>.

**ADDITIONAL ORDERS:**

- The Court finds that DCS <has/has not> arranged for the assembly of the medical records for the child, a medical assessment of the child, the implementation of referrals and the communication of recommendations and results, as provided by law.
- The Court orders notification to the foster parents, pre-adoptive parents or a member of the child's extended family with whom the child has been placed be effectuated by <responsible party or manner by which notice to be provided>.
- The Court finds that the child has been advised of and understands his/her right to attend court hearings and speak to the judge.
- The Court orders the parent or guardian to provide the Court the names, type of relationship and all available information necessary to locate persons related to or who have a significant relationship with the child unless the parent or guardian informs the Court that there is not sufficient information available to locate a person with a significant relationship with the child.
- The Court orders the parent or guardian to inform DCS immediately of new information related to the existence or location of a relative or person with a significant relationship to 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.

**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 <the names of all applicable parties, counsel and professionals who should be attending mediation> attend Mediation set for <date, time and location of mediation>.

- The Court admonishes the <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.
  - Failure to participate in reunification services may result in the termination of their parental rights or the establishment of a permanent guardianship
  
- The Court finds that the parent, guardian, or Indian custodian was advised of the consequences of their failure to attend future hearings or participate in reunification services.
  
- The Court read to and provided the parent a copy of Form 1.

Dated: \_\_\_\_\_

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

## QUALIFIED RESIDENTIAL TREATMENT PROGRAM; JUDICIAL REVIEW

Source: 42 U.S.C. § 672(k), 42 U.S.C. § 675a(c)(1), [Az.R.Juv.Ct. 335](#)

### PROCEDURE

1. A child may be placed in a qualified residential treatment program under the conditions set forth in this Rule 335, subject to approval and review by the court. See [Rule 335](#)
2. DCS must file a notice with the court of the child's placement in the QRTP no later than 5 court days after the placement.  
<http://westlaw.com/find/default.wl?rs=da3.0&vr=2.0&cite=AZJUVCTR335&sp=AZWendell-1001>Rule 335(d)(1)(B)
3. Upon notice by DCS that the child is placed in a QRTP, the court must set a hearing no later than 60 days after the child's placement to assess and review the need for the QRTP placement. [Rule 335\(d\)\(2\)\(A\)](#)
4. 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. 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. [Rule 335\(d\)\(2\)\(B\)](#)
5. The court must make findings based on the factors set forth in [Rule 335\(d\)\(2\)\(C\)](#).
6. If the child remains placed in a QRTP for more than 60 days, the court must review the child's placement and follow the procedures set forth in subparts (d)(2) and (3) of [Rule 335](#) at every subsequent hearing under [Rule 341](#) or [Rule 343](#) or a QRTP placement review set by the court. [Rule 335\(e\)\(1\) and \(2\)](#)

## INITIAL DEPENDENCY HEARINGS (PRIVATE PETITIONS)

Source: [4 CFR § 1356](#), [25 USC § 1921](#), [25 USC § 1913](#), [25 USC § 1915](#), [ARS § 8-525](#), [ARS § 8-829](#), [ARS § 8-842](#), [ARS § 8-843](#), [ARS § 8-846](#), [Az.R.Juv.Ct. 310 - 312](#), [Az.R.Juv.Ct. 334](#)

### CALL THE CASE:

1. Identify the case number, case name, and the nature of the hearing.
2. Inform parties that this is the time and date set for the Initial Dependency Hearing. These hearings are presumptively open. They can be closed for good cause shown. By being present you are subjecting yourself to the jurisdiction of the court and you are not to reveal any identifying information concerning this matter, which would include not posting anything on social media regarding the matter.
3. Determine whether petitioner notified foster parents, shelter care facility, receiving foster home, pre-adoptive parents or a member of the child's extended family with whom the child has been placed of date, time and location of this hearing.
4. Identify those present.
5. Inquire if any party or participant has reason to know that the child at issue is subject to ICWA. Instruct every participant that they must update the Court if they receive information that the child is an Indian child as defined by the Act. The Court, parties, or participants have reason to know that a child is an Indian child if:
  - a. Any participant, officer of the Court, Tribe, or agency informs the Court that the child is an Indian child;
  - b. Any participant informs the Court that it has discovered information indicating that the child is an Indian child;
  - c. The child gives the Court reason to know that he/she is an Indian child;
  - d. The domicile/residence of the child, parent, or Indian custodian is on a reservation or an Alaskan native village;
  - e. The child is or has been a ward of a tribal court; or
  - f. The parent or child possesses an identification card indicating membership in an Indian Tribe. [25 CFR § 23.107\(a\)](#), [25 CFR § 23.107\(c\)](#).
6. Open Proceedings:
  - a. If a party requests that the proceeding be closed, the Court must consider:
    - i. Whether doing so is in the child's best interests;
    - ii. Whether an open proceeding would endanger the child's physical or emotional well-being or the safety of any other person;
    - iii. The privacy rights of the child, the child's siblings, parents, guardians and caregivers and any other person whose privacy rights the Court determines need protection;
    - iv. Whether all parties have agreed to allow the proceeding to be open;

- v. If the child is at least twelve years of age and a party to the proceeding, the child's wishes;
  - vi. Whether an open proceeding could cause specific material harm to a criminal investigation.
- b. If the proceeding remains open to the public:
- i. Admonish 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 person identified in the proceeding;
  - ii. Advise attendees that by being present they are subjecting themselves to the jurisdiction of the Court;
  - iii. Explain to attendees contempt and possible consequences of violating a court order.
6. Inquire whether the attorney/GAL for the child met with the child before the hearing. If the attorney/GAL met with the child before the IDH, determine whether the child has been informed of and understands their right to attend their court hearings and speak to the judge. If the attorney/GAL has not met with the child prior to the hearing, order that the meeting occur before the next substantive hearing, unless there is a showing of extraordinary circumstances and, in that case, the judge may modify this requirement. [ARS § 8-221\(H\)](#), [Az.R.Juv.Ct. 306](#)
7. Determine whether DCS has made reasonable efforts to place siblings together. If any or all of the siblings have not been placed together, determine what efforts DCS has made for frequent visitation and/or contact between the siblings unless visitation is determined by the Court to be contrary to a child's or a sibling's well-being.
8. Allow foster parents, shelter care facility, receiving foster home, pre-adoptive parents or a member of the child's extended family with whom the child has been placed an opportunity to be heard.

**SERVICE:**

1. Determine whether respondents have been timely served.
2. Have petitioner serve parties present if not previously served and then deem service complete as to anyone properly served.
3. If ICWA applies, determine whether the parent, Indian custodian, and Tribe have been notified by certified or registered mail at least 10 days before the hearing in accordance with federal law. [Az.R.Juv.Ct. 329\(h\)](#)

NOTE: No foster-care proceeding may be held until at least 10 days after the parent or Indian custodian and the Tribe receive notice, and the parent, Indian custodian, or Tribe may request an additional 20 days to prepare. The only exception is for emergency proceedings. If the Court determines that this is an emergency proceeding under ICWA, the Court must make a finding on the record that the

emergency removal or placement is necessary to prevent imminent physical damage or harm to the child and must immediately terminate the emergency proceeding as soon as there is no longer a risk of imminent physical damage or harm. [25 USC § 1922](#), [25 CFR § 23.113](#)

4. If service is not complete, continue the hearing and order the petitioner to complete service.
5. Obtain financial affidavits from parents; confirm appointment of counsel and assess attorney's fees, if appropriate.

**IF PARENT APPEARS WITH COUNSEL AND ADMITS OR DOES NOT CONTEST:**

Advise parent of trial rights:

- a. Right to counsel (appointed if indigent).
  - b. Right to trial.
  - c. Right to cross-examine the witnesses.
  - d. Right to compel attendance of witnesses. [ARS § 8-843\(B\)](#)
1. Admonish parent, guardian or Indian custodian that:
    - a. Failure to attend future hearings without good cause shown may result in a finding that the parent, guardian or Indian custodian has waived legal rights and is deemed to have admitted the allegations in the petition.
    - b. The hearing may go forward in their absence and may result in the establishment of permanent guardianship.
    - c. Failure to participate in reunification services may result in termination of parental rights or establishment of permanent guardianship.
    - d. May have parent, guardian or Indian custodian sign and return copy of Form 1.
  2. Make specific finding that parent, guardian or Indian custodian was advised of consequences of failure to appear or participate in reunification services.
  3. Determine whether admission is knowing, intelligent and voluntary.
  4. Take ICWA testimony, if necessary.
  5. Findings:
    - a. Jurisdiction
    - b. Factual basis
    - c. Dependency
    - d. Reasonable efforts to prevent removal:
      - i. To prevent or eliminate the need for removal of child from home.
      - ii. Whether services are available that would eliminate the need for continued removal.
    - e. ICWA findings

- i. The Court is satisfied that active but unsuccessful efforts were made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family.
  - ii. The Court finds by clear and convincing evidence, including the testimony of a qualified expert witness, that the parent's/Indian custodian's continued custody is likely to result in serious emotional or physical damage to the child. The Arizona Supreme Court has held that the expert language testimony need not parrot the language of the statute, so long as the expert testimony addresses the issue that continued custody of the Indian child by the parent is likely to result in emotional or physical harm and that subsection 1912(e) has been satisfied. [Steven H. v. Ariz. Dep't of Econ. Sec., 218 Ariz. 566, 190 P.3d 180 \(2008\)](#)
6. Adjudicate minor dependent.
7. Determine whether parties should be ordered to participate in reasonable services that will facilitate reunification of the family or another permanent plan for the child and, if so, who pays. If the case is subject to ICWA, order that active efforts must be made to provide remedial services and rehabilitation programs designed to prevent the breakup of the Indian family.
8. If parties agree, conduct the Disposition Hearing. The Disposition Hearing may be held on a different date no later than 30 days after adjudication. If the Disposition Hearing is to be held on a later date, consider ordering the petitioner to file a written report five days prior to the hearing containing dispositional recommendations.
9. For a child under three years of age, set the Permanency Hearing no later than six months after the child's removal. [ARS § 8-862](#)
10. For a child over three years of age or older, set the Permanency Hearing no later than 12 months after the child's removal.  
<http://westlaw.com/find/default.wl?rs=da3.0&vr=2.0&cite=AZSTS8-862&sp=AZWendell-1001>ARS § 8-862

#### **IF PARENT APPEARS WITH COUNSEL AND DENIES:**

1. Enter denial on the record.
2. Confirm that parents have been advised of their trial rights. ARS § 8-843(B)
  - a. Right to counsel (appointed if indigent).
  - b. Right to trial.
  - c. Right to cross-examine the witnesses.
  - d. Right to compel attendance of witnesses.
3. Set Settlement Conference or Pretrial Conference and Mediation.

4. Admonish parent, guardian or Indian custodian that:
  - a. Failure to attend future hearings without good cause shown may result in a finding that the parents have waived legal rights and are deemed to have admitted the allegations in the petition.
  - b. The hearing may go forward in their absence and may result in a finding of dependency.
  - c. Failure to participate in reunification services may result in termination of parental rights or establishment of permanent guardianship.
  - d. Make specific finding that parent, guardian or Indian custodian was advised of consequences of failure to appear or participate in reunification services.
5. Advise parent of their rights. Read and provide to the parent, guardian or Indian custodian a copy of Form 1 and request that they sign and return to the Court a copy of the form. Note on the record that the form was provided. [ARS § 8-843\(B\)](#)
6. Determine if reasonable efforts were made to prevent or eliminate the need for removal of the child from the child's home and if services are available that would eliminate the need for continued removal.
7. Determine whether parties should be ordered to participate in reasonable services that will facilitate either reunification or another permanent plan for the child. If the case is subject to ICWA, order that active efforts must be made to provide remedial services and rehabilitation programs designed to prevent the breakup of the Indian family.
8. Set a Dependency Adjudication Hearing no later than 90 days after service. The Adjudication Hearing may be set beyond 90 days only upon a finding of extraordinary circumstances. Rule 338(b)

#### **IF PARENT APPEARS WITHOUT COUNSEL:**

1. Advise parent of trial rights.  
<http://westlaw.com/find/default.wl?rs=da3.0&vr=2.0&cite=AZSTS8-843&sp=AZWendell-1001>ARS § 8-843(B)
  - a. Right to counsel; appointed if indigent.
  - b. Right to trial.
  - c. Right to cross-examine the witnesses.
  - d. Right to compel attendance of witnesses.
2. Admonish parent, guardian or Indian custodian that:
  - a. Failure to attend future hearings without good cause shown may result in a finding that the parents have waived legal rights and are deemed to have admitted the allegations in the petition.
  - b. The hearing may go forward in their absence and may result in a finding of dependency.

- c. Failure to participate in reunification services may result in termination of parental rights or establishment of permanent guardianship.
  - d. The Court may read and/or provide parent, guardian or Indian custodian with Form 1 and have him or her sign a copy and return.
  - e. Make specific finding that parent, guardian or Indian custodian was advised of consequences of failure to appear or participate in reunification services.
3. Determine if parent intends to contest petition.
  4. If yes, advise of right to counsel and appoint if parent requests and qualifies.
  5. If no, take admission or no contest plea and proceed with adjudication and disposition.
  6. Assess attorney fees and advise parent that appointment is good for one year.
  7. Set continued Initial Dependency Hearing.
  8. Determine whether reasonable efforts were made to prevent or eliminate the need for removal of the child from the child's home and if services are available that would eliminate the need for continued removal.
  9. Determine whether parties should be ordered to participate in reasonable services that will facilitate either reunification or another permanent plan for the child. If the case is subject to ICWA, order that active efforts must be made to provide remedial services and rehabilitation programs designed to prevent the breakup of the Indian family.

### **FAILURE TO APPEAR: (Dependency in Absentia)**

1. Determine whether parent was properly served and whether notice of hearing advised consequences of failure to appear.
  - a. Affidavit of personal service.
  - b. Affidavit of service by certified mail.
  - c. Affidavit of publication and circumstances warranting service by publication.
2. If good cause for failure to appear is not shown, proceed with adjudication.
 

[Az.R.Juv.Ct. 334\(f\)](#)

  - a. Enter findings:
    - i. Service;
    - ii. Jurisdiction;
    - iii. Factual basis;
    - iv. Existence of a dependency;
    - v. Reasonable efforts to prevent or eliminate need for removal;
    - vi. Availability of services to eliminate need for continued removal.
  - b. Take ICWA testimony, if necessary.

- c. Make ICWA findings, if necessary:
  - i. The Court is satisfied that active but unsuccessful efforts were made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family.
  - ii. The Court finds by clear and convincing evidence including testimony by a qualified expert witness that continued custody is likely to result in serious emotional or physical damage to the child. The Arizona Supreme Court has held that the expert language testimony need not parrot the language of the statute, so long as the expert testimony addresses the issue that continued custody of the Indian child by the parent is likely to result in emotional or physical harm and that subsection 1912(e) has been satisfied. [Steven H. v. Ariz. Dep't of Econ. Sec., 218 Ariz. 566, 190 P.3d 180 \(2008\)](#)
  - iii. If the Court determines that this is an emergency proceeding, the Court must find that the child's removal and placement is necessary to prevent imminent physical damage or harm. [25 USC § 1922, 25 CFR § 23.113](#)

NOTE: No foster-care proceeding may be held until at least 10 days after the Tribe, parent, and/or Indian custodian receives notice by registered or certified mail. [25 CFR § 23.112](#)

- d. Adjudicate minor dependent and proceed immediately with disposition if petitioner agrees.
  - e. Conduct or set Disposition Hearing within 30 days if contested.

OPTION: ORDER petitioner to file written report five days prior to the hearing containing dispositional recommendations.
  - f. Determine whether parties should be ordered to participate in reasonable services that will facilitate reunification of the family or another permanent plan for the child, and if so, who pays. If the case is subject to ICWA, order that active efforts must be made to provide remedial services and rehabilitation programs designed to prevent the breakup of the Indian family.
3. If service not complete, set continued Initial Dependency Hearing and order petitioner to complete service.

### **ADDITIONAL ORDERS**

- 1. Enter orders to ensure foster parents, shelter care facility, receiving foster home, pre-adoptive parents or a member of the child's extended family with whom the child has been placed are notified of any future proceedings.

OPTION: If DCS is a party, order them to provide notice or order placement addresses be provided to clerk for blind endorsement on minute entry and/or order a party to effectuate notification.

2. ORDER parent or guardian to provide the Court the names, type of relationship and all available information necessary to locate persons related to the child or who have a significant relationship with the child unless the parent or guardian informs the Court that there is not sufficient information available to locate a relative or person with a significant relationship with the child. ORDER the parent or guardian to inform DCS immediately if the parent or guardian becomes aware of new information related to the existence or location of a relative or person with a significant relationship to the child.
3. ORDER the parties and participants to inform the Court if they obtain information that the child is an Indian child as defined by ICWA.
4. The Court may read and/or provide the parent, guardian or Indian custodian with a copy of Form 1, request that the parent, guardian or Indian custodian sign and return a copy of the form and note on the record that the form was provided.

## DEPENDENCY ADJUDICATION

Hearing explanation for parent - *In today's hearing, I will decide if those filing the dependency petition have proven the statements made in that document.*

Source: [25 USC § 1912](#), [ARS § 8-201](#), [ARS § 8-525](#), [ARS § 8-826](#), [ARS § 8-829](#); [ARS § 8-844](#), [Az.R.Juv.Ct. 310-312](#), [Az.R.Juv.Ct. 338](#)

### CALL THE CASE:

1. Identify the case number, case name, and the nature of the hearing.
2. Inform parties that this is the time and date set for the Dependency Adjudication Hearing. These hearings are presumptively open. They can be closed for good cause shown. By being present you are subjecting yourself to the jurisdiction of the court and you are not to reveal any identifying information concerning this matter, which would include not posting anything on social media regarding the matter.
3. Determine whether notification effectuated to foster parents, shelter care facility, receiving foster home, pre-adoptive parents or a member of the child's extended family with whom the child has been placed.
4. Identify those present.
  - a. If a party requests that the proceeding be closed, the Court must consider:
    - i. Whether doing so is in the child's best interests;
    - ii. Whether an open proceeding would endanger the child's physical or emotional well-being or the safety of any other person.
    - iii. The privacy rights of the child, the child's siblings, parents, guardians and caregivers and any other persons the Court determines need protection;
    - iv. Whether all parties have agreed to allow the proceeding to be open;
    - v. The child's wishes, if they are at least twelve and a party to the proceeding.
    - vi. Whether an open proceeding could cause specific material harm to a criminal investigation.
  - b. If the proceeding remains open to the public:
    - i. Admonish 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 person identified in the proceeding;
    - ii. Advise attendees that by being present they are subjecting themselves to the jurisdiction of the Court;
    - iii. Explain to attendees contempt and consequences of violating a court order.

7. Determine whether the attorney/GAL met with the child prior to this hearing and informed the child of his/her right to attend all Court hearings in the case and speak to the judge.

NOTE: The Court may modify the requirement that the attorney/GAL for the child meet with the child client if the attorney/GAL demonstrates extraordinary circumstances. [ARS § 8-221\(H\)](#), [Az.R.Juv.Ct. 0306](#)

8. Inquire if any party or participant knows or has reason to know that the child at issue is subject to Indian Child Welfare Act and instruct every participant that they must update the Court if they receive information that the child is an Indian child as defined by the Act. The Court, parties, or participants have reason to know that a child is an Indian child if:
  - a. Any participant, officer of the Court, Tribe, or agency informs the Court that the child is an Indian child;
  - b. Any participant informs the Court that it has discovered information indicating that the child is an Indian child;
  - c. The child gives the Court reason to know that he/she is an Indian child;
  - d. The domicile/residence of the child, parent, or Indian custodian is on a reservation or an Alaskan native village;
  - e. The child is or has been a ward of a tribal court; or
  - f. The parent or child possesses an identification card indicating membership in an Indian Tribe. [25 CFR § 23.107\(c\)](#)

#### **IF PARENT(S) FAILS TO APPEAR:**

1. Determine if parent was advised of consequences of failure to appear. [ARS § 8-826](#)
2. Determine whether absence is voluntary.
3. If voluntary, find that the parent has waived his/her legal rights and is deemed to have admitted the allegations of the petition, and proceed with the presentation of evidence.
4. If involuntary, continue the hearing.

#### **ADMISSION OR NO CONTEST:**

1. Determine if there is agreement to proceed with adjudication and disposition via admission or no contest.
  - a. Amend petition, if necessary.
  - b. Advise parent regarding rights.
  - c. Advise parent regarding permanency determinations and time frames.
  - d. Determine if plea is knowing, intelligent, and voluntary.
  - e. Take ICWA testimony, if necessary.

- f. Make findings regarding jurisdiction (including any UCCJEA considerations) and factual basis for dependency.
- g. Set Disposition Hearing within 30 days unless all parties agree to proceed immediately after adjudication.

OPTION: ORDER petitioner to file a written report five days prior to the hearing containing dispositional recommendations.

OPTION: Conduct Disposition Hearing.

#### **DETERMINE IF PARTIES ARE READY TO PROCEED:**

1. Hear any preliminary motions.
2. Determine if either party invokes [Az.R.Evid. 615](#):
  - a. Have counsel identify all witnesses to the clerk.
  - b. Have the clerk swear all witnesses.
  - c. Identify those persons who may remain in the Courtroom.
  - d. Admonish the witnesses: “The rule excluding witnesses has been invoked. This means that you are to remain outside the Courtroom until you are called to testify. It also means that you are not to discuss the case or your testimony with anyone except the attorneys until after you have testified.”

#### **PRESENTATION OF THE CASE:**

1. Hear opening statements.

OPTION: The petition serves as basis for dependency and opening is generally waived.

2. Hear the Petitioner’s case.
3. In ICWA cases, hear qualified expert testimony. [25 USC § 1912\(e\)](#) The Arizona Supreme Court has held that the expert language testimony need not parrot the language of the statute, so long as the expert testimony addresses the issue that continued custody of the Indian child by the parent is likely to result in emotional or physical harm and that subsection 1912(e) has been satisfied. [Steven H. v. Ariz. Dep’t of Econ. Sec., 218 Ariz. 566, 190 P.3d 180 \(2008\)](#)

NOTE: No foster-care proceeding may be held until at least 10 days after the parent or custodian and the Tribe receive notice, and the parent, custodian, or Tribe may request an additional 20 days to prepare. [25 CFR § 23.112](#)

4. Hear evidence presented on behalf of the child, if any.
5. Hear evidence presented on behalf of the parent.

6. Hear rebuttal testimony, if any.
7. Hear closing arguments.
8. Allow foster parents, shelter care facility, receiving home, pre-adoptive parent or a member of the child's extended family with whom the child has been placed an opportunity to be heard.

#### **FINDINGS AND ORDERS:**

1. Jurisdiction (including any UCCJEA considerations).
2. The Court has considered the availability of reasonable services to the parent or guardian to prevent or eliminate the need for removal of the child and the effort of the parent or guardian to obtain and participate in these services.
3. The Court finds DCS has/has not made reasonable efforts to place siblings together or establish a plan for frequent visitation between siblings exists unless frequent visitation or ongoing contact between siblings is contrary to the child's safety or well-being.
4. The Court is required to consider a substantiated finding of abuse or neglect from another state.
5. If Petitioner proves the dependency by a preponderance of the evidence:
  - a. Find that there is a factual basis for the dependency and note the factual basis.

NOTE: The definition of neglect has been expanded to include prenatal drug use or alcohol use "if the child, at birth or within a year after birth, is demonstrably adversely affected by the use". [ARS § 8-819\(2\)](#)
  - b. Find that the child is/are dependent. [ARS § 8-201](#)
  - c. In ICWA cases the Court must be satisfied (by clear and convincing evidence) that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts were unsuccessful. The Court must find by clear and convincing evidence, including testimony from a qualified expert witness, that continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. The Arizona Supreme Court has held that the expert language testimony need not parrot the language of the statute, so long as the expert testimony addresses the issue that continued custody of the Indian child by the parent is likely to result in *emotional or physical harm*. [25 USC § 1912](#), [25 USC §1912\(e\)](#); [Steven H. v. Ariz. Dep't of Econ. Sec.](#), 218 Ariz. 566, 190 P.3d 180 (2008); [Yvonne L. v. Ariz. Dep't of Econ. Sec.](#), 227 Ariz. 415 (App. 2011).
  - d. Adjudicate the minor dependent.

6. Disposition hearing:
  - a. You may choose to conduct the Disposition Hearing at this time:
  - b. If you choose to conduct the Disposition Hearing at a later time:
    - i. Set the hearing within 30 days;
    - ii. ORDER all parties to submit recommendations five days prior to the Disposition Hearing.

OPTION: ORDER the petitioner to file a written report with dispositional recommendations and provide a copy to all parties five days prior the Disposition Hearing.

NOTE: For a child under three years of age, set the Permanency Hearing no later than six months after the child's removal. [ARS § 8-862](#)

7. Admonish parent, guardian or Indian custodian that:
  - a. Failure to attend further proceedings may result in proceedings going forward in their absence;
  - b. Failure to participate in reunification services may result in termination of parental rights or establishment of permanent guardianship.
8. The Court may read and/or provide the parent, guardian or Indian custodian with a copy of Form 1, request that the parent, guardian or Indian custodian sign and return a copy of Form 1 and note on the record that Form 1 was provided.
9. Ensure that the minute entry reflects that parent, guardian or Indian custodian was advised of consequences of failure to appear or participate in reunification services.
10. If allegations in the petition are not proven, enter order dismissing the petition and returning the child to the custody of the parent.
11. Enter orders to ensure foster parents, shelter care facility, receiving foster home, pre-adoptive parents and a member of the child's extended family with whom the child has been placed are notified of any future proceedings.

OPTION: ORDER placement addresses be provided to clerk for blind endorsement on minute entry and/or order a party to effectuate notification. If DCS is a party, order notice to be given by DCS.

**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. \_\_\_\_\_

**DEPENDENCY ADJUDICATION HEARING**

**Parties Present:**

<party>  
<party>

This is the time set for the **DEPENDENCY ADJUDICATION HEARING** on a dependency petition filed <Date of petition filing>.

**Open Proceedings:**

- 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 finds that the Indian Child Welfare Act <does/does not> apply.

**Attorney/GAL Contact with Child Client:**

- The Court confirms that the <Attorney/GAL> for the child <has/has not> met with his/her client(s) before this hearing. [ARS § 8-221\(H\)](#), [Az.R.Juv.Ct. 306](#)

**Parent not present:**

- <Name of applicable parent>, <parent, guardian or Indian custodian> is not present.
- The Court determines that <Name of applicable parent>, <parent, guardian or Indian custodian> was properly served and advised of the consequences of their failure to appear pursuant to [ARS § 8-826](#).

- The Court determines that this absence is voluntary and finds that <Name of applicable parent>, <parent, guardian or Indian custodian> has waived his/her legal rights and is deemed to have admitted the allegations of the petition.

**Documents Reviewed:** The Court has received and reviewed the following documents: <names of specific documents. Include any substantiated finding of abuse or neglect from another state>.

**Testimony:** Note any preliminary motions, whether [Az.R.Evid.615](#) is invoked, cases presented including testimony, evidence, rebuttal and closing arguments.

**Jurisdiction:**

The State of Arizona, by and through the Arizona Department of Child Safety, is authorized to initiate this dependency proceeding pursuant to [ARS § 8-201](#) et seq., [ARS § 8-501](#) et seq., and [ARS § 8-802](#) et seq.

This Court has exclusive original jurisdiction over the subject matter pursuant to <http://westlaw.com/find/default.wl?rs=da3.0&vr=2.0&cite=AZSTS8-802&sp=AZWendell-1001> [ARS § 8-802](#) and venue is appropriate in <county> County pursuant to [ARS § 8-206](#).

This 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> pursuant to [ARS § 8-841](#) and [Az.R.Juv.Ct. 338\(h\)\(1\)](#).

The Court has considered the availability of reasonable services to the parent/guardian/Indian custodian to prevent or eliminate the need for removal of the child and the effort of the parent or guardian to obtain and participate in these services.

**Adjudication:** The petitioner <has/has not> proven the allegations in the <amended> dependency petition by a preponderance of the evidence.

NOTE: Per [Valerie M. v. Ariz. Dep't of Econ. Sec., 219 Ariz. 331 \(2009\)](#), the state law burdens apply to the dependency grounds.

- The Court finds that <Name of applicable parent>, <parent, guardian or Indian custodian>, understands and knowingly, intelligently and voluntarily waives their rights to a trial regarding the allegations contained in the dependency petition.
- The Court finds that the following is the factual basis for the dependency: <factual basis for dependency finding>.

- The Court finds that the child, <name of applicable child> is/are dependent as to <Name of applicable parent>, <parent, guardian or Indian custodian>, pursuant to [ARS § 8-201](#).
- The Court does not find that the child is/are dependent and, therefore, the Court orders that the dependency petition be dismissed.
- Pursuant to [25 USC § 1912](#), the Court finds by clear and convincing evidence that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts were unsuccessful. The Court further finds by clear and convincing evidence, including testimony from a qualified expert witness, that continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.
- The Court, therefore, orders that <Insert the name of the applicable child> be made a ward(s) of the Court as a dependent child as to <Name of parent> and placed in the care, custody and control of the Arizona Department of Child Safety.
- [IF PRESENT] The Court provides foster parents, shelter care facility, receiving foster home, pre-adoptive parents or a member of the child's extended family with whom the child has been placed an opportunity to be heard.

**Disposition:**

The Court takes evidence regarding the goal of the case plan, the placement of the child, services offered to reunite the family and whether reunification efforts would be reasonable.

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 plan> is appropriate and in the child's best interest at this time. <factual basis pursuant to [Az.R.Juv.Ct. 340](#) if plan other than reunification is endorsed.>

**Services:**

The Court finds that the services proposed in the case plan <are/are not> necessary and appropriate.

The Court orders DCS to make reasonable efforts to provide the services necessary and appropriate to facilitate <permanency plan>.

- The Court determines that the concurrent plan of <plan> is appropriate.
- The Court finds DCS has made reasonable efforts to place siblings together or establish a plan for frequent visitation between siblings, unless

frequent visitation or ongoing contact between siblings is contrary to the child's safety or well-being.

- The Court finds that the child's placement with siblings would be contrary to the child's or a sibling's safety or well-being.
- The Court finds that visitation and/or contact would be contrary to the child's or a sibling's safety or well-being.
- Following consideration of the evidence presented and/or the testimony given, the Court orders the termination of reunification efforts due to the fact(s) that:
  - Reasonable search has failed to locate parent.
  - The parent's mental illness is of such magnitude that they would not benefit from reunification efforts.
  - The child was previously removed/adjudicated dependent twice due to physical/sexual abuse within the past eighteen months.
  - The parent was convicted of manslaughter of another of their children or conspiring to do the like.
  - The child suffered serious physical/emotional injury.
  - The parent's rights to another child have been terminated and the parent has not addressed the issues that prompted this termination.
  - After the finding of dependency, found that the child had been removed on at least two previous occasions, reunification services were provided upon removal and that the parent was unable to discharge parental responsibilities.
- The Court orders DCS to prepare a permanent case plan including all dispositional orders.
- The Court orders that active efforts be made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family.

**Placement and Custody:**

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 child was placed pursuant to ICWA standards. [25 USC § 1915](#)

- There is good cause to deviate from the placement preferences pursuant to ICWA requirements. <list reasons for good cause and factors considered> [25 CFR § 23.131](#), [Az.R.Juv.Ct. 321](#).

**Future Hearings:** The Court sets/affirms the following hearings:

- <hearing type> as to <parent, guardian or Indian custodian> is set for <Date, time and location of this hearing>.
- The Court vacates the <hearing type> set for <date/time/location>.
- The Court admonishes the <parent, guardian or Indian custodian> that:
  - Failure to attend further proceedings may result in proceedings going forward in their absence;
  - Failure to participate in reunification services may result in termination of parental rights or the establishment of a permanent guardianship.
- The Court reads to and provides the parent, guardian or Indian custodian with a copy of Form 1, requests that the parent, guardian or Indian custodian sign and return a copy of Form 1 and notes on the record that Form 1 was provided.
- The Court finds that the 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 to the foster parents, pre-adoptive parents or a member of the child's extended family with whom the child has been placed be effectuated by <responsible party or manner by which to be provided.>

Dated: \_\_\_\_\_

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

## DEPENDENCY DISPOSITION (DCS CASES)

Hearing explanation for parent - *In today's hearing, I will decide whether we will focus on returning your child to you or move toward another option like guardianship or adoption.*

Source: [45 CFR § 1356](#), [25 USC § 1915](#), [ARS § 8-525](#), [ARS § 8-531](#), [ARS § 8-829](#), [ARS § 8-844](#), [ARS § 8-845](#), [ARS § 8-846](#); [Az.R.Juv.Ct. 310 - 312](#), [Az.R.Juv.Ct. 320- 321](#), [Az.R.Juv.Ct. 339](#), [Az.R.Juv.Ct. 340](#)

NOTE: The Disposition Hearing is generally held at the same time as the Adjudication Hearing (contested, default, or admission) but can be held up to 30 days after the Adjudication Hearing.

### CALL THE CASE:

1. Identify the case number, case name, and nature of the hearing.
2. Inform parties that this is the time and date set for the Dependency Disposition Hearing. These hearings are presumptively open. They can be closed for good cause shown. By being present you are subjecting yourself to the jurisdiction of the court and you are not to reveal any identifying information concerning this matter, which would include not posting anything on social media regarding the matter.
3. Determine whether notification was effectuated to foster parents, shelter care facility, receiving foster home, pre-adoptive parents or a member of the child's extended family with whom the child has been placed.
4. Identify those present.
  - a. If a party requests that the proceeding be closed, the Court must consider:
    - i. Whether doing so is in the child's best interests;
    - ii. Whether an open proceeding would endanger the child's physical or emotional well-being or the safety of any other person;
    - iii. The privacy rights of the child, the child's siblings, parents, guardians and caregivers, and any other person whose privacy rights the Court determines need protection;
    - iv. Whether all parties have agreed to allow the proceeding to be open;
    - v. The child's wishes, if the child is at least twelve and a party to the proceeding;
    - vi. Whether an open proceeding could cause specific, material harm to a criminal investigation.
  - b. If the proceeding remains open to the public:
    - i. Admonish 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 person identified in the proceeding;

- ii. Explain to attendees contempt and possible consequences of violating a court order.
5. Determine whether the attorney/GAL met with the child prior to this hearing and informed the child of their right to attend all Court hearings in the case and speak to the judge.

NOTE: The Court may modify the requirement that the attorney/GAL for the child meet with the child client if the attorney/GAL demonstrates extraordinary circumstances. [ARS § 8-221\(H\)](#), [Az.R.Juv.Ct. 306](#)

**TAKE EVIDENCE REGARDING:**

1. Case plan.
2. Placement of child.
3. Allow foster parents, shelter care facility, receiving home, pre-adoptive parents or a member of the child's extended family with whom the child has been placed an opportunity to be heard.
4. Services offered to reunite the family.
5. Whether efforts to reunify are or are not required.

**ORDER DISPOSITION CONSIDERING:** [ARS § 8-845](#), [Az.R.Juv.Ct. 339](#)

1. The health and safety of the child as a paramount concern.
2. Case plan.

NOTE: Concurrent planning may be ordered.

3. The services offered to reunite family.
4. Determine efforts made by DCS to place the child with the child's siblings, unless the Court determines that placement would be contrary to the child's or a sibling's safety or well-being.
5. If the child is not placed with a sibling, order DCS to make efforts to provide frequent visitation or contact between siblings, unless the Court determines that visitation or ongoing contact would be contrary to a child's or a sibling's safety or well-being.
6. Efforts to plan alternative permanent plan, if reunification is unlikely.

**DETERMINE WHETHER REUNIFICATION EFFORTS WOULD OR WOULD NOT BE REQUIRED CONSIDERING:**

Before making a determination to discontinue reunification efforts as to child in foster placement, refer to [45 CFR §1356.21\(b\)\(3\)](#). See Comment to 2022 Amendment of Az.R.Juv.Ct. 340 with regard to ICWA cases.

1. Whether parent/guardian has expressed interest in reunification.
2. Presumptions under [ARS § 8-846\(D\)](#):
  - a. One or more of the following aggravating circumstances exist:
    - i. Failure to identify and locate parent within 3 months after filing petition or the parent has expressed no interest in reunification with the child for at least 3 months after the filing of the dependency petition;
    - ii. Mental illness/deficiency of such magnitude that it is unlikely that the child will be reunified within 12 months of disposition order with reunification services based on competent evidence from a psychologist or physician;
    - iii. Prior removal for physical/sexual abuse; return and subsequent removal within 18 months for physical/sexual abuse;
    - iv. Serious physical/emotional injury by or known to parent pursuant to [ARS § 8-201](#) and/or dangerous crime against child pursuant to [ARS § 13-705](#);
    - v. Termination of parental rights to another child; failure to address issues; parent unable to discharge responsibilities;
    - vi. Removal on two previous occasions, reunification services offered, parent unable to discharge responsibilities.
  - b. The parent or guardian has been convicted of murder or manslaughter of a child or sexual abuse, sexual assault of a child, sexual conduct with a minor, molestation of a child, commercial sexual exploitation of a minor, sexual exploitation of a minor or luring a minor for sexual exploitation.
  - c. The parent or guardian of a child has been convicted of aiding or abetting or attempting, conspiring or soliciting to commit any of the crimes listed above.
  - d. Consider any criminal prosecution relating to the offenses which led to the child's removal from the home and any orders of the criminal court. Information may be provided by law enforcement or the County Attorney.

**IF CASE PLAN GOAL IS REUNIFICATION:**

1. Determine whether goal of case plan is appropriate.
2. Determine whether services proposed in case plan are necessary and appropriate.
3. ORDER DCS to make reasonable efforts to provide services to the child and parent to facilitate reunification. In ICWA cases, order that active efforts be made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family.

4. Determine whether a concurrent plan is appropriate and identify the concurrent plan for the record.
5. ORDER DCS to prepare permanent case plan including disposition orders.
6. In ICWA cases, determine whether placement is in accordance with the placement preferences in [25 USC § 1915](#) or whether there is good cause to deviate.
7. Set Review Hearing within six months. [Az.R.Juv.Ct.339\(d\)\(4\)](#), [ARS § 8-847](#)
8. If Permanency Hearing has not yet been set, schedule the Permanency Hearing no later than 12 months after the child's removal for children over three years of age. [Az.R.Juv.Ct. 339\(d\)\(4\)](#), [ARS § 8-862](#)
9. For a child under three years of age, set the Permanency Hearing no later than six months after the child's removal. <http://westlaw.com/find/default.wl?rs=da3.0&vr=2.0&cite=AZSTS8-862&sp=AZWendell-1001>ARS § 8-862
10. Admonish parent that failure to attend further proceedings may result in proceedings going forward in their absence. Failure to participate in reunification services may result in termination of parental rights or establishment of permanent guardianship.
11. The Court may read and/or provide the parent, guardian or Indian custodian with a copy of Form 1, request that the parent, guardian or Indian custodian sign and return a copy of the form and note on the record that the form was provided.
12. Make specific finding that parent, guardian or Indian custodian was advised of consequences of failure to appear or participate in reunification services.

#### **IF CASE PLAN IS NOT REUNIFICATION:**

1. Determine what case plan is in the child's best interest and that takes into consideration placement of the child with siblings or a plan that gives consideration placement of the child with siblings unless the Court determines that to be contrary to the child's or sibling's safety or well-being. Specific factual basis for finding. [Az.R.Juv.Ct. 340](#)
2. ORDER DCS to provide services necessary and appropriate to achieve the case plan.
3. Set Permanency Hearing pursuant to [ARS § 8-862](#) within 30 days.
4. The Court may read and/or provide a copy of Form 1 to the parents, or counsel if parent fails to appear.

5. Enter orders to ensure foster parents, shelter care facility, receiving foster home, pre-adoptive placements and a member of the child's extended family with whom the child has been placed are notified of any future proceedings.

OPTIONS: ORDER placement addresses be provided to clerk for blind endorsement on minute entry and/or order a party to effectuate notification.

**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. \_\_\_\_\_

DISPOSITION HEARING

**Parties Present:**

<party>  
<party>

This is the time set for the **DISPOSITION HEARING** on a dependency petition filed <Date of petition filing>.

**Open Proceedings:**

- 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>.

**Attorney/GAL Contact with Child Client:**

- The Court confirms that the <Attorney/GAL> for the child <has/has not> met with his/her client(s) before this hearing. [ARS § 8-221\(H\)](#), [Az.R.Juv.Ct. 306](#)

**ICWA:** The Court finds that, based upon the assertions of the parties, the Indian Child Welfare Act, [25 USC § 1901](#) et seq. <does/does not> apply.

**Documents Reviewed:** The Court has received and reviewed the following documents: <names of specific documents>.

**Evidence/Testimony:** The Court takes evidence and hears testimony regarding the goal of the permanent case plan, the placement of the child, the services offered to reunite the family and whether continued efforts to reunify would be reasonable.

- <IF PRESENT> The Court provides foster parents, shelter care facility, receiving foster home, pre-adoptive parents or a member of the child's extended family with whom the child has been placed an opportunity to be heard.

**Permanency Plan:**

- The Court has determined that the goal of <permanency plan> is in the child's best interest and takes into consideration placement with siblings or provides for frequent visitation or contact between siblings.

**OR**

- The Court has determined that the goal of <permanency plan> is in the child's best interest and further finds that visitation or contact between siblings is contrary to the child's or sibling's safety or well-being.
- The Court determines that the concurrent plan of <permanency plan> is appropriate.
- The Court orders DCS to prepare a permanent case plan which is to include all dispositional orders.
- The Court has determined that the services proposed in the case plan <are/are not> both necessary and appropriate.
- The Court orders that DCS make reasonable efforts to provide services to the child and the parent to facilitate reunification.
- Following consideration of the evidence presented and/or the testimony given, the Court orders the termination of reunification efforts due to the fact(s) that:
  - Reasonable search has failed to locate parent.
  - The parent's mental illness or deficiency is of such magnitude that they would not benefit from reunification efforts.
  - The child was previously removed/adjudicated dependent due to physical/sexual abuse and was again removed/adjudicated dependent due to physical/sexual abuse within the past eighteen months.
  - The parent was convicted of murder or manslaughter of a child or conspiring to do the like.

- The child suffered serious physical/emotional injury. [ARS § 8-201](#)
- The parent's rights to another child have been terminated and the parent has not addressed the issues that prompted the termination of their parental rights.
- After the finding of dependency, found that the child had been removed on at least two previous occasions, reunification services were provided upon removal and that the parent was unable to discharge parental responsibilities.

**Placement and Custody:**

- The Court orders that the child remain ward(s) of the Court in the legal care, custody and control of DCS of Child Safety.
- The Court affirms placement as set forth in its placement orders.
- The child was placed pursuant to the standards of ICWA. [25 USC § 1915](#)
- There is good cause to deviate from the placement preferences pursuant to ICWA requirements. <list factors considered and basis for good cause finding>
- The Court admonishes the <parent, guardian or Indian custodian> that:
  - Failure to attend further proceedings may result in proceedings going forward in their absence;
  - Failure to participate in reunification services may result in the termination of parental rights or permanent guardianship.
- The Court reads to and provides the parent, guardian or Indian custodian with a copy of Form 1, requests that the parent, guardian or Indian custodian sign and return a copy, and notes on the record that the form was provided.
- The Court finds that the parent, guardian, or Indian custodian was advised of the consequences of their failure to attend future hearings or participate in reunification services.

**Future Hearings:** The Court sets/affirms the following hearings:

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

- Failure to attend further proceedings may result in proceedings going forward in their absence;
- Failure to participate in reunification services may result in termination of parental rights or permanent guardianship.
- May read to and provide parent, guardian or Indian custodian with Form 1 and have them sign and return the copy.

The Court finds that the 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 to the foster parents, shelter care facility, receiving foster home, pre-adoptive parents or a member of the child's extended family with whom the child has been placed be effectuated by <responsible party or manner by which notice is to be provided.>

Dated: \_\_\_\_\_

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

## DEPENDENCY DISPOSITION (PRIVATE)

Source: [45 CFR § 1356](#), [25 USC § 1915](#), [ARS § 8-525](#), [ARS § 8-531](#), [ARS § 8-829](#), [ARS § 8-844](#), [ARS § 8-845](#), [ARS § 8-846](#); [Az.R.Juv.Ct. 310 - 312](#), [Az.R.Juv.Ct. 320 – 321](#), [Az.R.Juv.Ct. 339](#), [Az.R.Juv.Ct. 340](#)

NOTE: The disposition is generally held at the same time as the adjudication (contested, default, or admission), but must be held not more than 30 days after adjudication.

### CALL THE CASE:

1. Identify the case number, case name, and nature of the hearing.
2. Inform parties that this is the time and date set for the Dependency Disposition Hearing. These hearings are presumptively open. They can be closed for good cause shown. By being present you are subjecting yourself to the jurisdiction of the court and you are not to reveal any identifying information concerning this matter, which would include not posting anything on social media regarding the matter.
3. Determine whether notification was effectuated to foster parents, shelter care facility, receiving foster home, pre-adoptive parents or a member of the child's extended family with whom the child has been placed.
4. Identify those present.
  - a. If a party requests that the proceeding be closed, the Court must consider:
    - i. Whether doing so is in the child's best interests;
    - ii. Whether an open proceeding would endanger the child's physical or emotional well-being or the safety of any other person.
    - iii. The privacy rights of the child, the child's siblings, parents, guardians and caregivers and any other persons whose privacy rights the Court determines need protection;
    - iv. Whether all parties have agreed to allow the proceeding to be open;
    - v. If the child is at least twelve years of age and a party to the proceeding, the child's wishes.
    - vi. Whether an open proceeding could cause specific material harm to a criminal investigation.
  - b. If the proceeding remains open to the public:
    - i. Admonish 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 person identified in the proceeding;
    - ii. Advise attendees that by being present they are subjecting themselves to the jurisdiction of the Court;

- iii. Explain to attendees contempt and possible consequences of violating a court order.
5. Determine whether the attorney/GAL met with the child prior to this hearing and informed the child of their right to attend all Court hearings in the case and speak to the judge.

NOTE: The Court may modify the requirement that the attorney/GAL for the child meet with the child client if the attorney/GAL demonstrates extraordinary circumstances. [ARS § 8-221\(H\)](#), [Az.R.Juv.Ct. 306](#)

#### **TAKE EVIDENCE REGARDING:**

1. Placement of child. In ICWA cases, determine whether the placement complies with the placement preferences or there is good cause to deviate from them. [25 USC § 1915](#), [25 CFR § 23.131](#), [Az.R.Juv.Ct. 321](#)
2. Allow foster parents, shelter care facility, receiving foster home, pre-adoptive parents or a member of the child's extended family with whom the child has been placed an opportunity to be heard.
3. Whether there are services available that would facilitate reunification of the family or another permanent plan.

#### **ORDER DISPOSITION CONSIDERING:** [ARS § 8-845](#), [Az.R.Juv.Ct. 339](#).

1. The health and safety of the child as a paramount concern.
2. The services available to facilitate reunification of the family or another permanent plan.
3. Determine what efforts DCS made to place the child with the child's siblings unless the Court determines that placement with siblings would be contrary to the child's or a sibling's well-being.
4. If the child is not placed with siblings, determine what efforts DCS has made to provide frequent visitation and/or ongoing contact between the siblings unless the Court determines that placement with siblings would be contrary to a child's or a sibling's well-being.

#### **ADDITIONAL ORDERS:**

1. ORDER parties to provide and/or participate in services, where appropriate, to facilitate reunification, and determine who provides services, and who pays. In ICWA cases, order that active efforts be made to provide remedial services and

rehabilitative programs designed to prevent the breakup of the Indian family. [25 USC § 1912\(d\)](#), [25 CFR § 23.2](#)

2. Set Review Hearing within six months. [ARS § 8-847](#)
3. For a child under three years of age, set the Permanency Hearing no later than six months after the child's removal. [ARS § 8-862](#)

For a child three years of age or older, set the Permanency Hearing no later than 12 months after the child's removal.

<http://westlaw.com/find/default.wl?rs=da3.0&vr=2.0&cite=AZSTS8-862&sp=AZWendell-1001>ARS § 8-862

4. Admonish parent that failure to attend further proceedings may result in proceedings going forward in their absence. Failure to participate in reunification services may result in termination of parental rights or establishment of permanent guardianship.
5. Make specific finding that parent, guardian or Indian custodian was advised of consequences of failure to appear or participate in reunification services.
6. The Court may read and/or provide a copy of Form 1 to the parents, or counsel if parent fails to appear.

**NOTIFICATION:**

Enter orders requiring DCS, if a party, to ensure foster parents, shelter care facility, receiving foster home, pre-adoptive placements and a member of the child's extended family with whom the child has been placed are notified of any future proceedings.

OPTION: ORDER placement addresses be provided to clerk for blind endorsement on minute entry and/or order a party to effectuate notification.

## DEPENDENCY REVIEW HEARING

Hearing explanation for parent - *In today's hearing, we will discuss how your child is doing, your progress, and what still needs to happen for him/her to be returned to your home.*

Source: [ARS § 8-221\(H\)](#), [ARS § 8-525](#), [ARS § 8-829](#), [ARS § 8-847](#); [Az.R.Juv.Ct. 310 - 312](#), [Az.R.Juv.Ct. 104](#), [Az.R.Juv.Ct. 335](#), [Az.R.Juv.Ct. 341](#)

NOTE: Reviews must be set at least every six months, except for reviews of in-home intervention petitions.

### CALL THE CASE:

1. Identify case number, case name, and the nature of the hearing.
2. Inform parties that this is the time and date set for the Dependency Review Hearing. These hearings are presumptively open. They can be closed for good cause shown. By being present you are subjecting yourself to the jurisdiction of the court and you are not to reveal any identifying information concerning this matter, which would include not posting anything on social media regarding the matter.
3. Determine whether notification was effectuated to foster parents, shelter care facility, receiving foster home, pre-adoptive parents or a member of the child's extended family with whom the child has been placed.
4. Identify those present.
  - a. If a party requests that the proceeding be closed, the Court must consider:
    - i. Whether doing so is in the child's best interests;
    - ii. Whether an open proceeding would endanger the child's physical or emotional well-being or the safety of any other person.
    - iii. The privacy rights of the child, the child's siblings, parents, guardians and caregivers and any other persons whose privacy rights the Court determines need protection;
    - iv. Whether all parties have agreed to allow the proceeding to be open;
    - v. The child's wishes if the child is at least twelve and a party to the proceeding.
    - vi. Whether an open proceeding could cause specific material harm to a criminal investigation.
  - b. If the proceeding remains open to the public:
    - i. Admonish 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 person identified in the proceeding;

- ii. Advise attendees that by being present they are subjecting themselves to the jurisdiction of the Court;
    - iii. Explain to attendees contempt and possible consequences of violating a court order.
  - c. Inquire if any person present has reason to know that the child is an Indian child as defined by ICWA.
5. Determine whether the attorney/GAL met with the child prior to this hearing and informed the child of his/her right to attend all Court hearings in the case and speak to the judge.

NOTE: The Court may modify the requirement that the attorney/GAL for the child meet with the child client if the attorney/GAL demonstrates extraordinary circumstances. [ARS § 8-221\(H\)](#), [Az.R.Juv.Ct. 306](#)

6. Advise the foster parent, shelter care facility, receiving foster home, pre-adoptive parent, a member of the child's extended family with whom the child has been placed and/or identified as a possible placement of the right to be heard in any proceeding held with respect to the child.

#### **REVIEW STATUS OF THE CASE:**

1. Identify reports or other materials reviewed prior to hearing. Petitioner must provide a report to the Court and parties not less than 15 days prior to the hearing. The report should include efforts made to ensure the educational stability of the child. [Az.R.Juv.Ct. 104\(d\)\(1\)\(G\)](#)
2. Determine if there are any contested matters and take evidence or set another hearing if the Court cannot resolve issues within the allotted time.
3. Take testimony from case manager, CASA and any other witnesses regarding the status of the case, parental compliance with case plan or, in private cases, services ordered by the Court.
4. At the first Review Hearing, the Court must consider whether a parent of a child who is under three years of age has substantially neglected or willfully refused to participate in reunification services offered by DCS.
5. Determine whether the child's attorney/GAL has had contact with the child prior to the hearing (unless this requirement was previously modified by the Court), has determined their client's status and whether additional services are required.
6. Address recommendations of FCRB on record.
7. Consider the health and safety of the child as a paramount concern.

8. Consider educational stability of the child in determining placement.
9. If the child is not placed with siblings, determine whether DCS is continuing to make efforts to place the child with siblings and/or provide frequent visitation unless determined to be contrary to the child's/sibling's safety/well-being.
10. If the hearing occurs within sixty days of removal and the child is not placed with a grandparent or another member of the child's extended family, including a person who has a significant relationship with the child, determine why such placement is not in the best interests of the child.
11. Allow foster parents, shelter care facility, receiving foster home, pre-adoptive parents or a member of the child's extended family with whom the child has been placed and/or identified as a possible placement an opportunity to be heard.
12. Review the child's QRTP placement pursuant to [Rule 335](#), if applicable.

#### **FINDINGS AND ORDERS:**

1. If the child is no longer dependent, make that finding and an order dismissing the case and returning the child to the custody of the parent.

NOTE: If the child is placed in another state under the Interstate Compact on the Placement of Children, the dependency cannot be dismissed without the concurrence of the receiving state. [ARS § 8-548](#), art. V(a).

2. If the child is no longer dependent, provide the required information regarding the Sibling Information Exchange program to the adult for whom the Review Hearing is being held (dependency dismissed due to child aging out) or the parent/guardian with legal custody of the child for whom the Review Hearing is being held.
3. If the child continues to be dependent, reaffirm that finding and order that legal custody remain with petitioner.
4. If the child is under three years of age and has been removed from the home, the Court must make a determination no later than six months after the child is removed whether reasonable efforts have been made to provide reunification services to the parent and whether the parent of the child who is under three years of age has substantially neglected or willfully refused to participate in reunification services offered by DCS.
5. Enter or reaffirm appropriate orders regarding placement and custody of the child and services to be provided to the family and child including the educational stability of the child and visitation, including with the child's siblings. [Az.R.Juv.Ct. 341](#)

6. In ICWA cases, determine whether placement is in accordance with the placement preferences in [25 USC § 1915](#) or whether there is good cause to deviate from the preferences.
7. In DCS cases:
  - a. Approve or change the case plan.

NOTE: If APPLA is adopted, consider that “compelling reason” means a convincing and persuasive reason why it would not be in best interest of the youth to be reunified with a parent, placed for adoption, placed with a legal guardian or permanently placed with a fit and willing relative. A compelling reason must be supported with very strong, case-specific facts and evidence including justification for the reasons and decisions why each more preferred permanency option is not reasonable, appropriate or possible. Under Federal law, APPLA is available only for children age 16 or older. [Pub. L. No. 113-183, § 112\(a\)\(1\)](#); 128 Stat. 1919 (2014).

NOTE: concurrent planning can be considered

- b. Determine whether services are necessary and appropriate, and order that they be provided.
    - c. Determine whether the parents are in compliance with the case plan.
    - d. Determine whether the parent or guardian has/has not discharged their duty to provide and update the information in their possession regarding the names, types of relationship and location information regarding people related to the child or with significant relationship(s) with the child.
    - e. Determine whether DCS has identified and assessed placement of the child with relatives or a person who has a significant relationship with the child.
    - f. Determine whether DCS has/has not made reasonable efforts to achieve reunification [or an alternative case plan]. If requested, determine whether DCS has made reasonable efforts to implement the permanency goal and include the factual basis if this finding is made.
    - g. In ICWA cases, determine whether active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family. [25 CFR § 23.120](#)
8. ORDER the parent or guardian to provide the Court the names, type of relationship and all available information necessary to locate persons related to the child or who have a significant relationship with the child.
9. ORDER the parent or guardian to inform DCS immediately of new information related to the existence or location of a relative or person with a significant relationship to the child. ORDER all participants to inform DCS immediately of new information related to the child’s status as an Indian child under ICWA.
10. Inquire regarding the child’s educational status and stability.

11. In private cases:

- a. Determine whether there are services available that would facilitate the reunification of the family or another permanent plan.
- b. If appropriate, order parties to provide and/or participate in services.
- c. Determine whether parents are making progress toward reunification.

**SET FUTURE HEARINGS:**

1. Set next Review Hearing within six months. [ARS § 8-847](#)
2. If the child is under 3 years of age, set/affirm the Permanency Hearing not more than 6 months from the child's removal from the home and every year thereafter if the child remains in care. If the child is 3 or older, set/affirm the Permanency Hearing no later than 12 months after removal and every year thereafter if the child remains in care. A Permanency Hearing may be set in conjunction with a Review Hearing. [ARS § 8-862](#)
3. Admonish parents that failure to attend further proceedings may result in proceedings going forward in their absence. Failure to participate in reunification services may result in termination of parental rights or establishment of permanent guardianship.
4. Make specific finding that parent, guardian or Indian custodian was advised of consequences of failure to appear or participate in reunification services.
5. The Court may read and/or provide a copy of Form 1 to the parents, even if it is through counsel for no shows. If parent, guardian, or Indian custodian is present, request that they sign and return a copy of the form. Enter on the record that the form was provided.

**NOTIFICATION:**

If DCS is the petitioner, enter orders requiring DCS to ensure that foster parents, shelter care facility, receiving foster home, pre-adoptive parents and members of the child's extended family with whom the child has been placed are notified of any future proceedings.

OPTION: ORDER placement addresses to be provided to clerk for blind endorsement on minute entry and/or order a party to effectuate notification.

**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. \_\_\_\_\_

REVIEW HEARING

**Parties Present:**

<party>  
<party>

This is the time set for the **REVIEW HEARING** on a dependency petition filed <Date of petition filing>.

**Open Proceedings:**

- 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>.

**Attorney/GAL Contact with Child Client:**

- The Court confirms that the <Attorney/GAL> for the child <has/has not> met with his/her client(s) before this hearing. [ARS § 8-221\(H\)](#), [Az.R.Juv.Ct. 306](#)

**Documents Reviewed:** The Court has received and reviewed the following documents: <Insert names of specific documents>.

**ICWA:** The Court finds that, based upon the assertions of the parties, the Indian Child Welfare Act <does/does not> apply.

**Status of the Case:**

The Court took evidence on contested matters and testimony from relevant parties regarding the status of the case and compliance with case plan requirements and court orders.

The Court determined that <Name of child's GAL / Attorney>, <role of child's counsel>, had contact with their client. <Insert client's status and whether additional services are required.>

The Court <has/has not> received the most recent FCRB report. <Address recommendations made in the report if not already included in this minute entry.>

The Court determines that <Insert applicable parent's name> <is/is not> in compliance with the case plan.

- At the first Review Hearing, the Court has considered whether a parent of a child who is under the age of three has substantially neglected or willfully refused to participate in reunification services offered by DCS.
- The Court provides foster parents, shelter care facility, receiving foster home, pre-adoptive placement or a member of the child's extended family with whom the child has been placed and/or identified as a possible placement an opportunity to be heard.
- The Court finds that the parent or guardian has/has not discharged their duty to provide and update the information in their possession regarding the names, types of relationship and location information regarding people related to the child or with significant relationship(s) with the child.
- The Court finds DCS has made reasonable efforts to place siblings together or establish a plan for frequent visitation between siblings unless frequent visitation or ongoing contact between siblings is contrary to the child's safety or well-being.
- The Court finds that If the child is not placed with siblings, determine whether DCS is continuing to make efforts to place the child with siblings and/or provide frequent visitation/contact unless determined to be contrary to the child's or a sibling's safety or well-being.
- If the hearing occurs no later than 60 days after removal and the child is not placed with a grandparent or another member of the child's extended family, including a person who has a significant relationship with the child, the Court finds that such placement would not be in the best interests of the child due to the following: <factual basis>.

The Court finds that the child <whether continued dependent>.

- The Court orders that the dependency petition be dismissed.
- The Court provides the required information regarding the Sibling Information Exchange program.

- The Court holds the **Permanency Hearing** at this time.
  - In determining the appropriate permanent legal status for the child, the Court has undertaken an age-appropriate consultation with the child. Determine whether the child has been made aware of and understands their right to attend their court hearings and speak to the judge.
  - The Court has reviewed the permanency order from <the date of the last permanency order> and finds that the case plan of <permanency plan> is <appropriate / no longer appropriate>.
  - The Court finds that, 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 plan> is the appropriate plan for <name(s) of applicable child> at this time.
  - The permanency plan of Another Planned Permanent Living Arrangement was chosen over other permanency option due to <compelling reason>.
  - The Court, therefore, orders that the case plan of <permanency plan> as to <name(s) of applicable child> be accomplished within <specific time frame>.
  - The Court orders <party who is to file> to file a motion for <TER or GUA> no later than 10 days after this Permanency Hearing and that this motion be served on all parties who have made an appearance, pursuant to [ARS § 8-845\(C\)](#), [Az.R.Juv.Ct. 343\(d\)\(3\)](#)
- The Court has considered the availability of both in-state and out of state placements.
- The Court finds the <in-state/out of state> placement <is/is not> appropriate and <is/is not> in the child's best interest.
- The Court has reviewed child's QRTP placement pursuant to Rule 335, if applicable.

**Services:**

- The Court finds that the services proposed in the case plan <are/are not> appropriate and necessary.
- The Court determines that there <are/are not> services available that would facilitate the successful completion of the case plan of <permanency plan>.

- The Court orders DCS / Appropriate Party to provide the appropriate services.

**Parenting Time and Visitation:** The Court orders that parenting time or visitation will be as follows: <specific visitation agreements. If agreements are detailed in separate order or in the case plan, attach to this minute entry and note the attachment in this minute entry>.

appropriate orders regarding education considering the educational stability of the child.

**Placement and Custody:**

- The Court orders that the child remain ward(s) 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 orders the parent or guardian to provide the Court the names, type of relationship and all available information necessary to locate persons related to the child or who have a significant relationship with the child.
- The Court orders the parent or guardian to inform DCS immediately of new information related to the existence or location of a relative or person with a significant relationship to the child.
- The Court finds DCS <has/not> identified and assessed placement of the child with a relative or person who has a significant relationship with the child.
- The child was placed pursuant to the standards of ICWA. [25 USC § 1915](#)
- There is good cause to deviate from the placement preferences pursuant to ICWA requirements including <specific factors considered and basis for good cause finding>.

**Reasonable Efforts:**

The Court determines that DCS <has/has not> made reasonable efforts to finalize the permanent plan of <permanency plan> based on the following: <the factual basis of the reasonable efforts determination.>

**Active Efforts (in ICWA cases):**

The Court determines that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family based on the following: <factual basis for active efforts determination.>

**Future Hearings:** The Court sets/affirms the following hearings:

- <hearing type> as to <parent, guardian or Indian custodian> is set for <Date, time and location of this hearing>.
- The Court vacates the <hearing type> set for <date, time and location of this hearing>.
- The Court admonishes the <parent, guardian or Indian custodian> that:
  - Failure to attend further proceedings without good cause may result in proceedings going forward in their absence;
  - Failure to participate in reunification services may result in the termination of parental rights or the establishment of a permanent guardianship.
- The Court reads or provides the parent, guardian or Indian custodian with a copy of Form <1 or 3 or 4> and requests that the parent, guardian or Indian custodian sign and return a copy of the form. The Court notes on the record that the form was provided signed and filed this date.
- The Court finds that the 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 to the foster parents, shelter care facility, receiving home, pre-adoptive parents or a member of the child's extended family with whom the child has been placed be effectuated by <responsible party or manner by which notice is to be provided.>

Dated: \_\_\_\_\_

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

## IN-HOME INTERVENTION REVIEW HEARING

Source: [ARS § 8-525](#), [ARS § 8-891](#), [ARS § 8-892](#); [Az.R.Juv.Ct. 310 - 312](#),  
[Az.R.Juv.Ct. 341](#)

NOTE: Review must be set no later than 12 months after petition filing, if not dismissed before that time.

### CALL THE CASE:

1. Identify case number, case name, and the nature of the hearing.
2. Inform parties that this is the time and date set for the In-Home Intervention Review Hearing. These hearings are presumptively open. They can be closed for good cause shown. By being present you are subjecting yourself to the jurisdiction of the court and you are not to reveal any identifying information concerning this matter, which would include not posting anything on social media regarding the matter.
3. Identify those present.
  - a. If a party requests that the proceeding be closed, the Court must consider:
    - i. Whether doing so is in the child's best interests;
    - ii. Whether an open proceeding would endanger the child's physical or emotional well-being or the safety of any other person;
    - iii. The privacy rights of the child, the child's siblings, parents, guardians and caregivers and any other person whose privacy rights the Court determines need protection;
    - iv. Whether all parties have agreed to allow the proceeding to be open;
    - v. If the child is at least twelve years of age and a party to the proceeding, the child's wishes;
    - vi. Whether an open proceeding could cause specific material harm to a criminal investigation.
  - b. If the proceeding remains open to the public:
    - i. Admonish 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 person identified in the proceeding;
    - ii. Advise attendees that by being present they are subjecting themselves to the jurisdiction of the Court;
    - iii. Explain to attendees contempt and possible consequences of violating a court order.
4. Determine whether the child has been informed of and understands their right to attend their Court hearings and speak to the judge.

5. Determine whether the attorney/GAL met with the child prior to this hearing and informed the child of their right to attend all Court hearings in the case and speak to the judge.

NOTE: The Court may modify the requirement that the attorney/GAL for the child meet with the child client if the attorney/GAL demonstrates extraordinary circumstances. [ARS § 8-221\(H\)](#)

#### **REVIEW STATUS OF THE CASE:**

1. Identify reports or other materials reviewed prior to hearing.
2. Determine if there are any contested matters and take evidence.
3. Take testimony from case manager, CASA and any other witnesses regarding the status of the case, parental compliance with case plan or, in private cases, services ordered by the Court.
4. Determine whether counsel for the child has had contact with client prior to the hearing (unless requirement for contact was previously modified by the Court), what client's status is and whether additional services are required.
5. If the child is not placed with siblings, determine whether DCS is continuing to make efforts to place the child with siblings and/or provide frequent visitation/contact unless determined to be contrary to the child's or a sibling's safety or well-being.
6. Consider the health and safety of the child as a paramount concern.

#### **FINDINGS AND ORDERS:**

1. If the parents have completed the case plan successfully, make that finding and enter orders dismissing the case.
2. If the parent violates the in-home intervention order, take whatever steps deemed necessary to obtain compliance, including extending the time for compliance, or rescind the order and set the dependency Adjudication Hearing.
3. In DCS cases:
  - a. Determine whether the parents are in compliance with the case plan.
  - b. Determine whether the time for completion of the in-home intervention treatment plan should be extended.
  - c. Determine if services are necessary and appropriate and order they be provided.
4. In private cases:
  - a. Determine whether parents are making progress toward dismissal.

- b. Determine whether the time for completion of the in-home intervention treatment plan should be extended.
- c. Determine whether there are services available that would facilitate dismissal.
- d. If appropriate, order parties to provide and/or participate in services.

#### **SET FUTURE HEARINGS:**

1. If the time for completion of the treatment plan is extended, set another Review Hearing to determine dismissal or dependency adjudication.
2. If the petition is not dismissed, and time for compliance is not extended, set a dependency Adjudication Hearing.
3. If the child is removed, make the required contrary to the welfare and reasonable efforts determinations and include the factual basis of each. [Az.R.Juv.Ct. 325](#). In ICWA cases, determine whether the removal was an emergency removal under [25 USC § 1922](#) and, if so, make a finding regarding whether the child's removal was necessary to prevent imminent physical damage or harm; otherwise make a finding, supported by qualified expert witness testimony, that the parent's continued custody of the child is likely to result in serious emotional or physical damage to the child under [25 USC § 1912](#).
4. If the child's removal is contested, order the appropriate party to file an amended petition and set a Preliminary Protective Hearing pursuant to [ARS § 8-824](#).
5. Admonish parents that failure to attend further proceedings may result in proceedings going forward in their absence. Failure to participate in services may result in dependency adjudication.
6. Make specific finding that parent, guardian or Indian custodian was advised of consequences of failure to appear or participate in services.
7. Considered the child's safety as paramount concern.
8. The Court may read and/or provide a copy of Form [2 or 1](#) to the parents, even if it is through counsel for no shows. Request that the parent, guardian or Indian custodian sign and return a copy of the form and note on the record that the form was provided.

**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. \_\_\_\_\_

**IN-HOME INTERVENTION REVIEW HEARING**

**Parties Present:**

<party>  
<party>

This is the time set for the **IN-HOME INTERVENTION REVIEW HEARING** on a dependency petition filed <Date of in-home dependency petition filing>.

**Open Proceedings:**

- 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>.

**Attorney/GAL Contact with Child Client:**

- The Court confirms that the <Attorney/GAL> for the child <has/has not> met with his/her client(s) before this hearing. [ARS § 8-221\(H\)](#), [Az.R.Juv.Ct. 306](#)

**Documents Reviewed:** The Court has received and reviewed the following documents: <names of specific documents>.

**Orders:**

- The Court finds that the time period set for the in-home intervention during the initial hearing has expired and that there have been no extensions ed. The Court has considered the safety of the child as its paramount concern. **The Court, therefore, dismisses the dependency petition.**

- The Court finds that an extension in the time for in-home intervention has been ordered by this Court. The Court, therefore, orders that the <parent, guardian or Indian custodian> participate in the following: <specific training or treatment plan for the parent>.

**The Court affirms its previous order that** the in-home intervention must be completed within <time frame>.

**Future Hearings:** The Court sets/affirms the following hearings:

- An In-Home Intervention Review Hearing** is set for <date, time and location of this hearing>.

**The petitioner must file** a status report with recommendations five days prior to the In-Home Intervention Review Hearing.

- The Court admonishes the <parent, guardian or Indian custodian> that:
  - Should they violate the in-home intervention order, the Court may take whatever steps it deems necessary to obtain compliance or may rescind the order and set the Dependency Adjudication Hearing.
  - 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.
  - May read to and provide Form 2 to the parents and have parent sign and return the signed copy to the Court.
- The Court finds that the parent, guardian, or Indian custodian was advised of the consequences of their failure to attend future hearings or participate in the in-home intervention services.
- The Court orders the removal of the child from the home.
  - The Court finds it contrary to the welfare of the child to remain in the home due to <factual basis>.
  - The Court finds the DCS made reasonable efforts to prevent the removal of the child from the home as follows <factual basis>.
  - In ICWA cases, the Court finds that:
    - the removal of the child was necessary to prevent imminent physical damage or harm to the child based on the following <factual basis>.
    - the parent's continued custody of the child is likely to result in serious emotional or physical damage to the child as supported by the testimony of a qualified expert witness and the following <factual basis>.

It is ordered setting this matter for a Dependency Adjudication <date, time and location of hearing>

Dated: \_\_\_\_\_

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

## PERMANENCY HEARING

Hearing explanation for parent - *During this hearing, we will discuss what plan (return to the home, guardianship or adoption) is best for your child and how long it should take for that to happen.*

Source: [ARS § 8-525](#), [ARS § 8-829](#), [ARS § 8-533](#), [ARS § 8-862](#), [ARS § 8-872](#), [Az.R.Juv.Ct. 310 - 312](#), [Az.R.Juv.Ct. 320 – 321](#), [Az.R.Juv.Ct. 343](#), [Az.R.Juv.Ct. 335](#), [Az.R.Juv.Ct. 106](#), PL 113-183

NOTE: The purpose of the Permanency Hearing is to determine the future permanent legal status for the child and to enter orders necessary to accomplish the plan within a specific time frame. [ARS § 8-862](#), [Az.R.Juv.Ct. 343](#) This hearing must be held no later than 30 days after a Disposition Hearing in which the Court did not order reunification services; no later than six months after removal of a child who is under three years of age; or no later than 12 months after a child, who is three years or older, is removed from the child's home and once every 12 months thereafter. Every 12 months the Court must determine whether reasonable efforts have been made to finalize the existing permanency plan. ARS § 8-829 The Court will not continue the Permanency Hearing beyond six months for a child under three, or beyond 12 months for a child three or older unless the party seeking the continuance shows that the determination required by <http://westlaw.com/find/default.wl?rs=da3.0&vr=2.0&cite=AZSTS8-829&sp=AZWendell-1001>ARS § 8-829 has been made or will be made in the prescribed time.

### CALL THE CASE:

1. Identify the case number, case name, and the nature of the hearing.
2. Inform parties that this is the time and date set for the Permanency Hearing. These hearings are presumptively open. They can be closed for good cause shown. By being present you are subjecting yourself to the jurisdiction of the court and you are not to reveal any identifying information concerning this matter, which would include not posting anything on social media regarding the matter.
3. Determine whether notification was effectuated to foster parents, shelter care facility, receiving foster home, pre-adoptive parents or a member of the child's extended family with whom the child has been placed.
4. Identify those present.
  - a. If a party requests that the proceeding be closed, the Court must consider:
    - i. Whether doing so is in the child's best interests;
    - ii. Whether an open proceeding would endanger the child's physical or emotional well-being or the safety of any other person.

- iii. The privacy rights of the child, the child's siblings, parents, guardians and caregivers and any other person whose privacy rights the Court determines need protection;
  - iv. Whether all parties have agreed to allow the proceeding to be open;
  - v. The child's wishes if the child is at least twelve and a party to the proceeding.
  - vi. Whether an open proceeding could cause specific material harm to a criminal investigation.
- b. If the proceeding remains open to the public:
    - i. Admonish 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 person identified in the proceeding;
    - ii. Advise attendees that by being present they are subjecting themselves to the jurisdiction of the Court;
    - iii. Explain to attendees contempt and possible consequences of violating a court order.
  - c. Inquire if any person present has reason to know that the child is an Indian child as defined by ICWA.
5. Determine whether the attorney/GAL met with the child prior to this hearing and informed the child of his/her right to attend all Court hearings in the case and speak to the judge.

NOTE: The Court may modify the requirement that the attorney/GAL for the child meet with the child client if the attorney/GAL demonstrates extraordinary circumstances. [ARS § 8-221\(H\)](#), [Az.R.Juv.Ct. 306](#)

- 5. If the child is 14 years of age or older, determine whether the child was involved in development of the case plan.

**DETERMINE PERMANENT PLAN:**

- 1. Consider evidence from the parties in the form of testimony or documents admitted into evidence, which may include hearsay, in whole or in part.
- 2. Inquire regarding the education status of the child and consider the educational stability of the child.
- 3. Allow foster parents, shelter care facility, receiving foster home, pre-adoptive parents or a member of the child's extended family with whom the child has been placed and/or identified as a possible placement an opportunity to be heard.
- 4. Determine what efforts have been made to place the child with siblings or to provide frequent visitation or contact unless it was previously determined it would be contrary to the child's or sibling's safety or well-being.

5. The Court is required to consider a substantiated finding of abuse or neglect from another state.
6. Determine what permanent plan is most appropriate and clearly in the child's best interest. In determining the appropriate permanent legal status for the child, the Court must undertake an age-appropriate consultation with the child to determine the child's desired permanency outcome. The Court must also consider in-state and out-of-state placements for the child.
7. If the case plan for a child is another planned permanent living arrangement, the Court must:
  - a. Re-determine the appropriateness of placement at each permanency hearing;
  - b. Ask the child about the desired permanency outcome for the child;
    - i. Make a judicial determination explaining why "another planned permanent living arrangement" is the best permanency plan for the child **and** provide compelling reasons why it continues to not be in the best interests of the child to:
      - return home;
      - be placed for adoption;
      - be placed with a legal guardian; or
      - be placed with a fit and willing relative.

NOTE: APPLA is not available as a case plan for a child under sixteen years of age.

NOTE: If the Court is considering a removal from a prospective permanent placement and/or a change of case plan from severance and adoption, refer to the section of the Bench Book entitled *Removal from a Prospective Permanent Placement and/or a Change of Case Plan from Severance and Adoption*.

8. Determine whether an out-of-state placement continues to be appropriate and in the child's best interest.
9. If the child is under three, determine whether reasonable efforts have been made to provide reunification services to the parent and whether the parent has substantially neglected or willfully refused to participate in reunification services offered by DCS.
10. ORDER plan to be accomplished within a specified period of time.
11. Set Review Hearing within six months. [ARS § 8-847](#)
12. Determine whether reasonable efforts have been made to finalize the permanent plan in effect, and set forth, for the record, the factual basis for this determination. In an ICWA case, determine whether active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of

the Indian family, and set forth, on the record, the factual basis for this determination.

13. DCS must make reasonable efforts to place the child in a timely manner in accordance with the permanency plan and to complete whatever steps are necessary to finalize the permanent plan for the child.
14. In ICWA cases, determine whether the child is placed according to the placement preferences or whether good cause exists to deviate from those preferences and the basis for such a finding on the record.
15. Review the child's QRTP placement pursuant to [Rule 335](#), if applicable.

**IF THE PLAN REMAINS REUNIFICATION:**

1. The Court may read and/or provide the parent, guardian or Indian custodian with a copy of Form 1, request that the parent, guardian or Indian custodian sign and return a copy of the form and note on the record that the form was provided.
2. Determine whether another Permanency Hearing is warranted in 3 to 6 months.

**IF THE FINAL PLAN IS PERMANENT GUARDIANSHIP:**

1. ORDER DCS, child's attorney, or GAL to file a motion for permanent guardianship pursuant to [ARS § 8-872](#) no later than 10 days after the Permanency Hearing.
2. ORDER motion served on all parties pursuant to [Az.R.Juv.Ct. 106](#). In ICWA cases, order motion served pursuant to [25 USC § 1912\(a\)](#).
3. Set initial guardianship hearing within 30 days after the Permanency Hearing.
4. Admonish parents, guardian, or Indian custodian that failure to attend further proceedings without good cause shown may result in proceedings going forward in their absence. Failure to participate in reunification services may result in establishment of permanent guardianship.
5. The Court may read and/or provide parties a copy of Form 3. And request that the parent, guardian or Indian custodian sign and return a copy of the form and note on the record that the form was provided.
6. Make specific finding that parent, guardian or Indian custodian was advised of consequences of failure to appear or participate in reunification services.

**IF THE FINAL PLAN IS SEVERANCE AND ADOPTION:**

1. ORDER DCS, child's attorney, or GAL to file a motion to terminate within 10 days alleging grounds under [ARS § 8-533](#).
2. ORDER motion served on all parties pursuant to [ARS § 8-845\(C\)](#), [Az.R.Juv.Ct. 343\(d\)\(3\)](#). In ICWA cases, order motion served pursuant to [25 USC § 1912\(a\)](#).
3. Set initial termination hearing within 30 days.
4. The Court may read and/or provide the parties with a copy of Form 4 and request that the parent, guardian or Indian custodian sign and return a copy of the form and note on the record that the form was provided.
5. Admonish parent, guardian, or Indian custodian that failure to attend further proceedings without good cause shown may result in proceedings going forward in their absence. Failure to participate in reunification services may result in termination of parental rights.
6. Make specific finding that parent, guardian or Indian custodian was advised of consequences of failure to appear or participate in reunification services.

**If the plan is Another Planned Permanent Living Arrangement (APPLA):**

1. If the child is age 16 or older, determine whether compelling reasons exist why it continues to not be in the child's best interest to return home, be placed for adoption, with a legal guardian, or with a fit and willing relative.
2. Document compelling reasons why it continues to not be in the child's best interest to return home or be placed for adoption, with a legal guardian, or with a fit and willing relative.

**NOTIFICATION:**

Enter orders requiring petitioner to ensure foster parents, shelter care facility, receiving foster home, pre-adoptive parents and a member of the child's extended family with whom the child has been placed are notified of any future proceedings.

OPTION: ORDER placement addresses be provided to the clerk for blind endorsement on minute entry and/or order a party to effectuate notification.

**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. \_\_\_\_\_

**PERMANENCY HEARING**

**Parties Present:**

<party>  
<party>

This is the time set for the **PERMANENCY HEARING** on a dependency petition filed <Date of petition filing>.

**Open Proceedings:**

- 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>.

**Documents Reviewed:** The Court has received and reviewed the following documents: <Insert names of specific documents>.

**ICWA:** The Court finds that, based upon the assertions of the parties, the Indian Child Welfare Act, [25 USC § 1901](#) et seq. <does/does not> apply.

**Status of the Case:**

The Court took evidence on contested matters and testimony from relevant parties regarding the status of the case and compliance with case plan requirements and court orders.

- The Court has considered any substantiated finding(s) of abuse or neglect from another state.

The Court determined that <name of child's GAL/Attorney>, <role of child's counsel>, had contact with his/her client before this hearing. <Insert client's status and whether additional services are required.>

The Court determined that the <foster parents, shelter care facility, receiving foster home, pre-adoptive placement or relative caregiver> <was/was not> <were/were not> notified of this hearing.

- [IF PRESENT] The Court provides foster parents, shelter care facility, receiving foster home, pre-adoptive parents or a member of the child's extended family with whom the child has been placed and/or identified as a possible placement an opportunity to be heard.

The Court <has/has not> received the most recent FCRB report. <Address recommendations made in the report if not already included in this minute entry.>

The Court determines that <Insert applicable parent's name> <is/is not> in compliance with the case plan.

The Court finds that the child <whether continued dependent>.

- The Court orders that the dependency petition be dismissed.
- In determining the appropriate permanent legal status for the child, the Court has undertaken an age-appropriate consultation with the child.
- The Court finds that attorney/GAL met with the child prior to the hearing and that the child has been advised of and understands <his/her> right to attend court hearings and speak to the judge.
- If the child is 14 years of age or older, the Court determines that the child has been informed of their right to be involved in the development of their case plan.
- If the child is 14 years of age or older, the Court determines that the child has had meaningful involvement in the development of the child's case plan and permanency goal.
- The Court finds that the DCS <has/has not> made reasonable efforts to place the child with siblings or to provide frequent visitation between siblings unless frequent visitation or ongoing contact between siblings is contrary to the child's safety or well-being
- The Court finds that, 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 plan> is in the child's best interest and

- Takes into consideration placement with siblings or provides for frequent visitation or contact between siblings.

**OR**

- That visitation or contact between siblings is contrary to the child's or sibling's safety or well-being.
- The Court finds that DCS <has/has not> made reasonable efforts to place the child in a timely manner in accordance with the permanency plan and <has/has not> completed whatever steps are necessary to finalize the permanent plan for the child.
- The Court finds that regarding the child under three, reasonable efforts have been made to provide reunification services to the parent.
- Concerning the educational stability of <child(ren)'s name>, the court orders the following:  

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- The Court finds that the parent of the child under three has substantially neglected or willfully refused to participate in reunification services offered by DCS.
- The Court has considered the availability of both in-state and out-of-state placements.
- The Court finds the <in-state/out-of-state> placement <is/is not> appropriate and <is/is not> in the child's best interest.
- The Court has reviewed child's QRTP placement pursuant to Rule 335, if applicable.
- The Court, therefore, orders that the case plan of <permanency plan> as to <name(s) of applicable child> be accomplished within <specific time frame>.
- The Court orders <party who is to file> to file a motion for <TER or GUA> no later than 10 days after this Permanency Hearing and that this motion be served on all parties who have made an appearance, pursuant to [Az.R.Juv.Ct. 106](#). In ICWA cases, the motion must be served on the parent or Indian custodian and the Tribe pursuant to [25 USC § 1912\(a\)](#).
- The Court orders that counsel, <attorney's name>, be appointed to represent <parent, guardian or Indian custodian> in this matter.

- If the child is 16 years or older and APPLA is the case plan, the Court determines that the following are compelling reasons why it is not in the child's best interest to be returned home or be placed for adoption, legal guardianship or with a fit and willing relative:

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**Services:**

- The Court finds that the services proposed in the case plan <are/are not> appropriate and necessary.
- The Court determines that there <are/are not> services available that would facilitate the successful completion of the case plan of <Select permanency plan>.
- The Court orders <DCS/Appropriate party> to provide the appropriate services.

**Visitation:**

The Court orders that visitation will be as follows: <specific visitation agreements.

If agreements are detailed in separate order or in the case plan, attach to this minute entry and note the attachment in this minute entry>.

**Placement and Custody:**

- The Court orders that the child remain ward(s) 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 child was placed pursuant to the standards of ICWA. [25 USC § 1915](#)
- There is good cause to deviate from the placement preferences pursuant to ICWA requirements including <specific factors>.

**Reasonable Efforts:**

The Court determines that DCS <has/has not> made reasonable efforts to finalize the plan of <permanency plan> based on the following: <the factual basis of the reasonable efforts determination.>

In ICWA cases, the Court finds that active efforts <have/have not> been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family.

**Future Hearings:** The Court sets/affirms the following hearings:

- The <hearing type> as to <parent, guardian or Indian custodian> is set for <Date, time and location of this hearing>.
- The Court vacates the <hearing type> set for <date, time and location of this hearing>.
- The Court admonishes the <parent, guardian or Indian custodian> that:
  - Failure to attend further proceedings may result in proceedings going forward in their absence;
  - Failure to participate in reunification services may result in the termination of parental rights or the establishment of a permanent guardianship.
- The Court finds that the parent, guardian, or Indian custodian was advised of the consequences of their failure to attend future hearings or participate in reunification services.
- Read to and provide the parties with a copy of Form <1 or 3 or 4>. Have the record reflect that the admonitions of the form have been given and request that the parent, guardian or Indian custodian sign and return a copy of the form and note on the record that the form was provided.
- The Court orders notification to the foster parents, shelter care facility, receiving foster home, pre-adoptive parents or a member of the child's extended family with whom the child has been placed be effectuated by <responsible party or manner by which notice is to be provided.> (DCS to provide if they are a party)

Dated: \_\_\_\_\_

\_\_\_\_\_  
<JUDGE/COMMISSIONER/HEARING OFFICER> of the Superior Court

## INITIAL GUARDIANSHIP HEARING

Hearing explanation for parent - *In today's hearing, I will determine whether you have received a copy of the guardianship paperwork and if you agree or disagree with the statements made within that document.*

Source: [ARS § 8-525](#), [ARS § 8-846](#), [ARS § 8-862](#), [ARS § 8-871](#), [ARS § 8-872](#), [ARS § 14-5209](#), [Az.R.Juv.Ct. 310 - 311](#), [Az.R.Juv.Ct. 344](#), [Az.R.Juv.Ct. 345](#), [Az.R.Juv.Ct. 346](#), [Az.R.Juv.Ct. 106](#)

### CALL THE CASE:

1. Identify the case name, case number, and nature of hearing.
2. Inform parties that this is the time and date set for the Initial Guardianship Hearing. These hearings are presumptively open. They can be closed for good cause shown. By being present you are subjecting yourself to the jurisdiction of the court and you are not to reveal any identifying information concerning this matter, which would include not posting anything on social media regarding the matter.
3. Identify those present.
4. Determine whether notification was effectuated to foster parents, shelter care facility, receiving foster home, pre-adoptive parents or a member of the child's extended family with whom the child has been placed.
5. Determine if investigation and report ordered by the Court has been completed and provided to all parties.
  - a. If a party requests that the proceeding be closed, the Court must consider:
    - i. Whether doing so is in the child's best interests;
    - ii. Whether an open proceeding would endanger the child's physical or emotional well-being or the safety of any other person.
    - iii. The privacy rights of the child, the child's siblings, parents, guardians and caregivers and any other person whose privacy rights the Court determines need protection;
    - iv. Whether all parties have agreed to allow the proceeding to be open;
    - v. If the child is at least twelve years of age and a party to the proceeding, the child's wishes.
    - vi. Whether an open proceeding could cause specific material harm to a criminal investigation.
  - b. If the proceeding remains open to the public:
    - i. Admonish 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 person identified in the proceeding;

- ii. Advise attendees that by being present they are subjecting themselves to the jurisdiction of the Court;
  - iii. Explain to attendees contempt and possible consequences of violating a court order.
6. Determine whether the attorney/GAL met with the child prior to this hearing and informed the child of their right to attend all Court hearings in the case and speak to the judge.  
NOTE: The Court may modify the requirement that the attorney/GAL for the child meet with the child client if the attorney/GAL demonstrates extraordinary circumstances. [ARS § 8-221\(H\)](#), [Az.R.Juv.Ct. 306\(d\)](#)
  7. Determine whether the child has been informed of and understands his/her right to attend their court hearings and speak to the judge.
  8. Allow foster parents, pre-adoptive parents or a member of the child's extended family with whom the child has been placed and/or identified as a possible placement an opportunity to be heard.
  9. Inquire whether DCS has made reasonable efforts to place siblings together or to establish a plan for frequent visitation between siblings unless frequent visitation or ongoing contact between siblings is contrary to the child's safety or well-being.
  10. If placement of siblings together is not possible, determine whether placement, visitation/ongoing contact between the siblings is contrary to their safety/well-being.

**SERVICE:**

1. Determine whether motion has been served on all parties pursuant to Az.R.Juv.Ct. [106](#) or [25 USC § 1912\(a\)](#) for ICWA cases.
2. Determine whether notice has been provided, pursuant to [ARS § 8-872\(B\)](#), [\(C\)](#).
3. If not previously determined, inquire if any party has reason to know that the child is an Indian child as defined by ICWA.
4. In ICWA cases, determine whether parent, Indian custodian, and Tribe has been provided notice of hearing. See [Az.R.Juv.Ct. 344](#). No hearing may occur until at least 10 days after the parent or Indian custodian and the Tribe have received notice by registered or certified mail, return receipt requested. [25 CFR § 23.11](#), [25 CFR § 23.112](#). The parent, Indian custodian, or Tribe may waive the 10-day time period.

**IF PARENT APPEARS:**

1. Advise parent of trial rights: trial, burden of proof, counsel and cross-examine, present evidence, testify.

2. Appoint counsel if not previously appointed and indigent.
3. The Court may read and/or provide a copy of Form 3 to the parents. Have the record reflect that the admonitions of Form 3 have been given, request that the parent, guardian or Indian custodian sign and return a copy of the form and note on the record that the form was provided.

#### **COUNSEL:**

1. Appoint counsel for parents if requested and indigent (if not already appointed).
2. Appoint counsel for minor if not previously appointed, and a GAL if appropriate.

#### **IF PARENT APPEARS AND CONTESTS:**

1. Set trial date to begin no later than 90 days after the initial guardianship hearing Schedule Pretrial Conference, Settlement Conference or Mediation, if appropriate.
2. Admonish parent, guardian or Indian custodian that:
  - a. Failure to attend future hearings without good cause shown may result in a finding that the parent, guardian or Indian custodian has waived legal rights and is deemed to have admitted the allegations in the petition.
  - b. The hearing may go forward in their absence and may result in the establishment of a permanent guardianship.
3. Make specific finding that parent, guardian or Indian custodian was advised of consequences of failure to appear.

#### **IF PARENT DOES NOT CONTEST:**

1. Advise parent of consequences of no contest plea to permanent guardianship.
2. Determine parents' understanding of rights and voluntariness of admission.
3. Take evidence regarding grounds for guardianship.
4. Take ICWA testimony. [Az.R.Juv.Ct. 346\(c\)\(2\)](#)
5. Make findings and enter orders (see below).

#### **IF PARENT DOES NOT APPEAR:**

1. Determine whether parent was properly served and was previously admonished regarding the consequences of failure to appear.

2. Take evidence regarding grounds for guardianship.
3. Take ICWA testimony. [Az.R.Juv.Ct. 345 and 346\(c\)\(2\)](#)

**FINDINGS [non-ICWA case]:**

Determine whether petitioner has proven by clear and convincing evidence, based upon testimony and investigative report, filed pursuant to [ARS § 8-872\(E\), \(G\)](#), the following:

1. The minor was a resident of the State of Arizona at the time the motion was filed and this Court has jurisdiction.
2. The parent was properly served with notice of these proceedings but has failed to appear.
3. Guardianship is in the minor's best interest.
4. Minor has been adjudicated dependent or all parties consent to the guardianship prior to the adjudication of dependency, pursuant to [ARS § 8-871\(A\)\(1\)](#).
5. Minor has been in the custody of prospective guardian for at least nine months.

NOTE: This can be waived for good cause.

6. If division or agency has custody:
  - a. Reasonable efforts have been made to reunify the family.
  - b. Further efforts would be unproductive.

NOTE: This can be waived if not required by law or not in minor's best interest.

7. Likelihood of adoption is remote OR termination of parental rights is not in minor's best interest.
8. Prospective guardian is a fit and proper person.
9. If the child is 12 years of age or more, the Court must consider the child's objection to the appointment of a person nominated as a permanent guardian.
10. If the child is placed out of state under the ICPC, the receiving state concurs with the dismissal of the dependency upon the issuance of the guardianship. [ARS § 8-548](#), art. V(a).

**FINDINGS [ICWA CASES]:**

NOTE: The following findings are to be made in addition to those for a non-ICWA case.

Determine whether petitioner has proven beyond a reasonable doubt, based upon testimony and investigative report, filed pursuant to [ARS § 8-872\(E\), \(G\)](#), all of the above [non-ICWA findings], in addition to the following:

1. The parent was properly served with notice of these proceedings but failed to appear.
2. Notice to the Tribe has been given.
3. At least 10 days have passed since the parent or Indian custodian and the Tribe received notice or the parent, Indian custodian, or Tribe has waived the 10-day time period.
4. Active efforts have been made to prevent the breakup of an Indian family and were unsuccessful.
5. A qualified expert witness testified that continued custody by the parent would be likely to result in serious emotional or physical damage to the child. The Arizona Supreme Court has held that the expert language testimony need not parrot the language of the statute, so long as the expert testimony addresses the issue that continued custody of the Indian child by the parent is likely to result in emotional or physical harm and that subsection 1912(e) has been satisfied. [Steven H. v. Ariz. Dep't of Econ. Sec., 218 Ariz 566, 190 P.3d 180 \(2008\)](#)
6. The placement falls within the placement preferences set forth in the Indian Child Welfare Act or there is good cause to deviate from the preferences (state specific factors).

#### **ORDERS:**

1. If motion granted, appoint guardian. [Court signs order, clerk issues letters.]
2. Vest with all rights and responsibilities, if appropriate. [ARS § 14-5209](#)
3. visitation and parenting time orders, if appropriate.
4. Set annual review and identify and order party to complete the investigation and report. [Az.R.Juv.Ct. 345\(g\)\(2\)\(F\)\\_ARS § 8-872\(J\)](#)
5. Dismiss dependency action.
6. Provide the guardian with information on the Sibling Information Exchange program.

7. If guardianship denied, set or reaffirm Review Hearing.

**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. \_\_\_\_\_

**INITIAL GUARDIANSHIP HEARING**

**Parties Present:**  
<party>  
<party>

This is the time set for the **INITIAL GUARDIANSHIP HEARING** on a <Motion/Petition> for Permanent Guardianship filed <Date of motion/petition filing>.

**Open Proceedings:**

- 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>.

**Attorney/GAL Contact with Child Client:**

- The Court determines that the child has been informed of and understands their right to attend their court hearings and speak to the judge.
  
- The Court confirms that the <attorney/GAL> for the child <has/has not> met with the child before this hearing. [ARS § 8-221\(H\)](#), [Az.R.Juv.Ct. 306](#)

**Documents Reviewed:** The Court has received and reviewed the following documents: <Names of specific documents>. The Court determines that the investigation and report ordered by the Court <has/has not> been completed and provided to all parties.

**ICWA:**

The Court finds that, based upon the assertions of the parties, the Indian Child Welfare Act <does/does not> apply. [25 USC § 1901](#)

**Service and Jurisdiction:**

The Court determines that service of the motion <whether service complete> as to <Applicable parent/guardian>, <parent, guardian or Indian custodian> of <child>.

- The Court finds that <parent, guardian or Indian custodian> had notice of the hearing and that the notice advised of the consequences of not appearing at this hearing.
- The Court finds that <parent, guardian or Indian custodian> <has /have> failed to appear without good cause.
- The parent, Indian custodian and the Tribe have received notice. [25 USC § 1912\(a\)](#).
- The parent, Indian custodian, and Tribe have waived the requirement that proceedings occur after 10 days from receipt of notice.
- The State of Arizona, by and through the Arizona Department of Child Safety, is authorized to initiate this proceeding pursuant to [ARS § 8-201](#) et seq., [ARS § 8-501](#) et seq., and [ARS § 8-802](#) et seq.
- The Court has exclusive original jurisdiction over the subject matter pursuant to [ARS § 8-802](#) and venue is appropriate in <county> **County** pursuant to [ARS § 8-206](#).

**Counsel:** Appointment of counsel is made/affirmed at this time for the following:

- <Counsel>, <counsel type>;
- <Counsel>, <counsel type>;
- <Counsel>, <counsel type>.

The <parent, guardian or Indian custodian> is to pay <amount assessed per month> per month for the cost of counsel.

The <parent, guardian or Indian custodian> is to pay <amount assessed per month> per month for the cost of counsel.

**Plea:** The <parent, guardian or Indian custodian> enters a plea of <plea> to the allegations contained in the <motion/petition>.

- The Court advises <parent, guardian or Indian custodian> of their rights to: counsel; cross examine witnesses; trial by the Court on the motion/petition; use of the process of the Court to compel witness attendance.
- The Court determines that the <parent, guardian or Indian custodian> understands their rights.

- The Court advises the <parent, guardian or Indian custodian> of the consequences of their plea of <plea>.
- The Court determines that the plea of <plea> made by <parent, guardian or Indian custodian> <was/was not> made knowingly, intelligently and voluntarily.

<IF PRESENT>

- The Court provides foster parents, shelter care facility, receiving foster home, pre-adoptive placement or a member of the child’s extended family with whom the child has been placed and/or identified as a possible placement an opportunity to be heard.

**Testimony:**

<Any evidence and testimony presented before the Court>

- The Court takes ICWA testimony pursuant to [Az.R.Juv.Ct. 346\(c\)\(2\)](#).

**Findings and Orders:**

- Because the <parent, guardian or Indian custodian> has denied the allegations of the <motion/petition> filed on <date of motion/petition filing> the **Court sets this matter for MEDIATION** on <Date, time and location of this hearing>; and a **PRETRIAL CONFERENCE on** <Date, time and location of this hearing> before the Honorable <Name of Judge/Commissioner/Hearing Officer>.

- The Court, having considered the <motion/petition> dated <Date filed>, the investigative report filed pursuant to [ARS § 8-872](#), the plea of <parent, guardian or Indian custodian> made by the <parent, guardian or Indian custodian>, as well as the best interests of <child>, finds by <burden of proof> that:

<Child> <was a resident/were residents> of the State of Arizona at the time that the <motion/petition> was filed and, therefore, The Court has jurisdiction.

The <parent, guardian or Indian custodian> <was/were> properly served with notice of these proceedings and <has/have> <whether defaulting or admit/no contest>.

- The Court finds DCS has made reasonable efforts to place siblings together or establish a plan for frequent visitation between siblings unless frequent visitation or ongoing contact between siblings is contrary to the child’s safety or well-being.

Guardianship is in the best interest of <child>.

<Child> <has/have> been adjudicated dependent or all parties have agreed to guardianship prior to the adjudication of dependency.

<Child> <has/have> been in the custody of the prospective guardian for at least nine months. If this is to be waived, state good cause.

DCS has made reasonable efforts to reunify the family but further efforts would be unproductive.

The likelihood of adoption is remote, or the termination of the parental rights is not in the best interests of <child>.

The prospective guardian(s) <is/are> fit and proper.

<Child> is placed out of state under the ICPC, and <receiving state> concurs with the dismissal of the dependency upon the establishment of the permanent guardianship.

**ICWA:** Pursuant to ICWA standards, The Court determines that:

- Notice to the parent, Indian custodian, and Tribe has been given as required by federal law;
- Active efforts have been made to prevent the breakup of the Indian family, but these efforts were unsuccessful;
- A qualified expert has testified that continued custody by the parent would likely result in serious emotional or physical damage to the child;
- The placement is in accord with the placement preferences set forth in [25 USC § 1915](#) or there is good cause to deviate from these preferences due to <State specific factors considered and basis for good cause finding>.

**The Court, therefore, orders** appointing <name(s) of prospective guardian(s)> as Permanent Guardian(s) of <child> and vesting <Prospective guardian(s)> with all of the rights and responsibilities set forth in [ARS § 14-5209](#), relating to the powers and duties of a guardian of a minor, other than those which may be set for the parents herein.

The Court orders that visitation will be at the discretion of the child's Permanent Guardian(s) unless otherwise set forth in the form of order.

The Court orders that letters of Permanent Guardianship be issued to the Permanent Guardian(s) without restriction. The Permanent Guardian(s) must immediately notify the Court of any address change and is/are responsible for the costs resulting from their failure to notify the Court.

- The Court orders that <Name of applicable parent>, <parent, guardian or Indian custodian>, must pay support to <Prospective Guardian(s)> in the amount of \$<dollar amount> each month.

The Court orders that a Guardianship Review Hearing be held (within 12 months) on <Date, time, place of the hearing> before the Honorable <Applicable judge/commissioner>. The Arizona Department of Child Safety or assignee must investigate the facts and circumstances surrounding the child's welfare and best interests and must file a written report with the Court prior to the Guardianship Review Hearing.

The Court orders that the dependency action as to <child> in the Cause No. <Applicable JD#> be dismissed. The Arizona Department of Child Safety (or other applicable agency) is relieved of all further responsibility in the matter other than its obligation to investigate and file a written report with the Court prior to the Guardianship Review Hearing.

The Court orders that the Foster Care Review Board is relieved of all further responsibilities in this matter.

The Court orders that the Court will retain jurisdiction of the guardianship to enforce its final order of Permanent Guardianship.

- The Court provides to the guardian information regarding the Sibling Information Exchange program.

**Future Hearings:** The Court sets/affirms the following hearings:

- <hearing type> as to <parent, guardian or Indian custodian> is set for <Date, time and location of this hearing>.
- The Court vacates the <hearing type> set for <date, time and location of this hearing>.
- The Court admonishes the <parent, guardian or Indian custodian> that:
- Failure to attend future proceedings without good cause shown may result in proceedings going forward in their absence;
  - Failure to participate in reunification services may result in the establishment of a permanent guardianship.
  - The Court may read to and provide to the parent, guardian or Indian custodian a copy of Form 3. The Court may find on the record that a copy of Form 3 has been signed and returned to the Court.

- The Court finds that the parent, guardian, or Indian custodian was advised of the consequences of their failure to appear.

Dated: \_\_\_\_\_

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

## FINAL GUARDIANSHIP AND SUCCESSOR GUARDIANSHIP HEARING

Hearing explanation for parent - *In today's hearing, I will decide if the statements made in the guardianship paperwork have been proven.*

Source: [ARS § 8-525](#), [ARS § 8-846](#), [ARS § 8-871](#), [ARS § 8-872](#); [ARS § 8-874](#), [Az.R.Juv.Ct. 310 - 311](#), [Az.R.Juv.Ct. 320 – 321](#), [Az.R.Juv.Ct. 346 - 348](#)

### CALL THE CASE:

1. Identify case name, case number, and nature of hearing.
2. Inform parties that this is the time and date set for the Final Guardianship and Successor Guardianship Hearing. These hearings are presumptively open. They can be closed for good cause shown. By being present you are subjecting yourself to the jurisdiction of the court and you are not to reveal any identifying information concerning this matter, which would include not posting anything on social media regarding the matter.
3. Identify those present.
  - a. If a party requests that the proceeding be closed, the Court must consider:
    - i. Whether doing so is in the child's best interests;
    - ii. Whether an open proceeding would endanger the child's physical or emotional well-being or the safety of any other person.
    - iii. The privacy rights of the child, the child's siblings, parents, guardians and caregivers and any other person whose privacy rights the Court determines need protection;
    - iv. Whether all parties have agreed to allow the proceeding to be open;
    - v. If the child is at least 12 years of age and a party to the proceeding, the child's wishes.
    - vi. Whether an open proceeding could cause specific material harm to a criminal investigation.
  - b. If the proceeding remains open to the public:
    - i. Admonish 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 person identified in the proceeding;
    - ii. Advise attendees that by being present they are subjecting themselves to the jurisdiction of the Court;
    - iii. Explain to attendees contempt and possible consequences of violating a court order.
  - c. Inquire whether any person present has reason to know that the child is an Indian child as defined in ICWA.

4. Determine whether notification was effectuated to foster parents, shelter care facility, receiving foster home, pre-adoptive parents or a member of the child's extended family with whom the child has been placed.
5. Determine whether the child has been informed of and understands their right to attend their Court hearings and speak to the judge. The Court must consider the child's position, if child is 12 or older.
6. Allow foster parents, shelter care facility, receiving foster home, pre-adoptive parents or a member of the child's extended family with whom the child has been placed and/or identified as a possible placement an opportunity to be heard.
7. Inquire whether the attorney/GAL for the child met with his/her client before this hearing.

NOTE: The Court may modify the requirement that the attorney/GAL for the child meet with the child client if the attorney/GAL demonstrates extraordinary circumstances. [ARS § 8-221\(H\)](#), [Az.R.Juv.Ct. 306](#)

#### **PRESENTATION OF EVIDENCE:**

1. Hear petitioner's evidence.
2. Take expert testimony in ICWA case.
3. If parent contests motion, hear parent's evidence.
4. Consider report prepared pursuant to [ARS § 8-872\(E\)](#).
5. Hear child's evidence, if any.
6. Consider nominee of [minor 12](#) or older.
7. Give primary consideration to minor's physical, mental, and emotional needs.
8. If a permanent guardian appointed pursuant to [ARS § 8-872](#) is unable or unwilling to continue to serve as permanent guardian, DCS or an interested party may file a motion for appointment of a successor permanent guardian pursuant to [ARS § 8-874\(A\)](#). Upon the filing of a motion for appointment of a successor permanent guardian, the Court must:
  - a. Set a date for an Initial Guardianship hearing no later than 30 days after the motion is filed.
  - b. Appoint an attorney for the child and appoint an attorney for the proposed successor guardian, if necessary.

NOTE: The Court is not required to appoint an attorney for the parent of the child.

- c. Enter temporary orders, which may include:
  - i. placing the child in the temporary custody of an individual or agency or DCS and directing DCS to provide necessary services as may be necessary for the safety and well-being of the child;
  - ii. Directing DCS to complete a criminal records check and home study to determine the suitability of the proposed successor permanent guardian to serve as the permanent guardian of the child.

**FINDINGS [non-ICWA case]:**

1. Determine whether petitioner has proven by clear and convincing evidence, based upon testimony and investigative report, filed pursuant to [ARS § 8-872\(E\)](#), the following:
  - a. The minor was a resident of the State of Arizona at the time the motion was filed, and this Court has jurisdiction.
  - b. The parent was properly served with notice of these proceedings.
  - c. Guardianship is in the minor's best interest.
  - d. Minor has been adjudicated dependent or all parties have agreed to guardianship prior to an adjudication of dependency, pursuant to [ARS § 8-871\(A\)\(1\)](#).
  - e. Minor has been in the custody of prospective guardian for at least nine months

NOTE: This can be waived for good cause.

- f. If division or agency has custody:
  - i. Reasonable efforts have been made to reunify the family.
  - ii. Further efforts would be unproductive.

NOTE: This can be waived if not required by law or not in minor's best interest.

- g. Likelihood of adoption is remote, OR termination of parental rights is not in minor's best interest.
  - h. Prospective guardian is a fit and proper person.
2. If the child is 12 years of age or more, the Court must consider the child's objection to the appointment of a person nominated as a permanent guardian.
  3. Determine whether DCS has made reasonable efforts to place siblings together or establish a plan for frequent visitation between siblings unless frequent visitation or ongoing contact between siblings is contrary to the child's safety or well-being

**FINDINGS [ICWA CASES]:**

1. Determine whether petitioner has proven beyond a reasonable doubt, based upon testimony and investigative report, filed pursuant to [ARS § 8-872\(E\)](#), all of the above [non-ICWA findings], in addition to the following:
  - a. The parent was properly served with notice of these proceedings.
  - b. Notice to the Tribe has been given.
  - c. Active efforts have been made to prevent the breakup of an Indian family and were unsuccessful.
  - d. A qualified expert testified that continued custody by the parent would be likely to result in serious emotional or physical damage to the child. The Arizona Supreme Court has held that the expert language testimony need not parrot the language of the statute, so long as the expert testimony addresses the issue that continued custody of the Indian child by the parent is likely to result in emotional or physical harm and that subsection 1912(e) has been satisfied. [Steven H. v. Ariz. Dep't of Econ. Sec., 218 Ariz 566, 190 P.3d 180 \(2008\)](#).
  - e. The placement falls within the placement preferences set forth in the Indian Child Welfare Act, or there is good cause to deviate from the preferences (state specific factors).

## **FINDINGS – SUCCESSOR GUARDIAN**

1. A guardianship was previously granted regarding the minor.
2. The appointed guardian is no longer able or no longer willing to continue to serve as permanent guardian.
3. Notice has been provided to the permanent guardian, DCS, the child's attorney, the child's parents and any other interested party (including ICWA notification).
4. The proposed successor permanent guardian is suitable to assume the responsibilities of permanent guardian.
5. Appointment of a permanent successor guardian is in the minor child's best interests.

## **ORDERS:**

1. If motion granted, appoint guardian. [Court signs guardianship order and clerk issues letters.]
2. Vest with all rights and responsibilities set forth in [ARS § 14-5209](#), if appropriate.
3. Enter visitation and parenting time orders, if appropriate.
4. Set annual review and order investigation and report pursuant to [ARS § 8-872\(J\)](#).
5. Dismiss dependency action.

6. If guardianship denied, set or reaffirm Review Hearing.

#### **ORDERS – SUCCESSOR GUARDIAN**

1. If motion is granted, terminate current guardianship, appoint successor permanent guardian, and set an annual review.

OR

2. If motion is granted, terminate current guardianship and appoint provisional permanent guardian for a period of time not to exceed nine (9) months. Set a Review Hearing within nine months and direct DCS to monitor the placement and provide necessary services (e.g. subsidy, etc.).
3. Vest the guardian with all rights and responsibilities set forth in [ARS § 14-5209](#), if appropriate.
4. Enter visitation and parenting time orders, if appropriate.
5. ORDER investigation and report for Review Hearing.
6. If successor guardian is not appointed and permanent guardianship dismissed, order DCS or child's attorney to file a dependency petition.

**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. \_\_\_\_\_  
FINAL GUARDIANSHIP OR SUCCESSOR GUARDIANSHIP HEARING

**Parties Present:**

<party>

<party>

This is the time set for the **FINAL GUARDIANSHIP OR SUCCESSOR GUARDIANSHIP HEARING** on a <motion/petition> for Permanent Guardianship filed <Date of petition filing>.

**Open Proceedings:**

- 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>.

**Documents Reviewed:** The Court has received and reviewed the following documents: <Names of specific documents>. The Court determines that the investigation and report ordered by the Court <has/has not> been completed and provided to all parties.

**ICWA:** The Court finds that, based upon the assertions of the parties, the Indian Child Welfare Act, [25 USC § 1901](#) et seq. <does/does not> apply.

**Service and Jurisdiction:**

The Court determines that service of the motion <whether service complete> as to <Applicable parent/guardian>, <parent, guardian or Indian custodian> of <child>.

- The Court finds that <parent, guardian or Indian custodian> had notice of the hearing and that the notice advised of the consequences of not appearing at this hearing.

- The Court finds that <parent, guardian or Indian custodian> <has/have> failed to appear without good cause.
- The parent, Indian custodian and the Tribe have <whether notice proper>.
- The State of Arizona, by and through the Arizona Department of Child Safety, is authorized to initiate this dependency proceeding pursuant to [ARS § 8-201](#) et seq., [ARS § 8-501](#) et seq., and [ARS § 8-802](#) et seq.
- The Court has exclusive original jurisdiction over the subject matter and the persons before it pursuant to [ARS § 8-802](#), and venue is appropriate in <county> County pursuant to [ARS § 8-206](#).

**Plea:** The <parent, guardian or Indian custodian> s a plea of <plea> to the allegations contained in the <motion/petition>.

- The Court advises <parent, guardian or Indian custodian> of their rights to: counsel; cross examine witnesses; trial by the Court on the motion/petition; use the process of the Court to compel witness attendance.
- The Court determines that the <parent, guardian or Indian custodian> understands their rights.
- The Court advises the <parent, guardian or Indian custodian> of the consequences of their plea of <plea>.
- The Court determines that the plea of <plea> made by <parent, guardian or Indian custodian> <was/was not> made knowingly, intelligently and voluntarily.
- <IF PRESENT> The Court provides foster parents, shelter care facility, receiving foster home, pre-adoptive parents or a member of the child's extended family with whom the child has been placed and/or identified as a possible placement an opportunity to be heard.
- The Court confirms that the <Attorney/GAL> for the child <has/has not> met with his/her client(s) before this hearing. [ARS § 8-221\(H\)](#)

**Testimony:**

<Any evidence and testimony presented before the Court>

- The Court takes ICWA testimony pursuant to [Az.R.Juv.Ct. 346\(c\)\(2\)](#).

**Findings and Orders:**

The Court, having considered the <motion/petition> dated <Date filed>, the investigative report filed pursuant to [ARS § 8-872\(A\)](#), the evidence and testimony presented, as well as the best interests of <child>, denies the <motion/petition> for Permanent Guardianship at this time.

The Court, having considered the <motion/petition> dated <Date filed>, the investigative report filed pursuant to [ARS § 8-872\(A\)](#), the evidence and testimony presented, as well as the best interests of <child>, finds by <burden of proof> that:

<child> was a resident of the State of Arizona at the time that the <motion/petition> was filed and, therefore, the Court has jurisdiction.

The <parent, guardian or Indian custodian> was properly served with notice of these proceedings and has <plea/defaulted>.

**FINAL GUARDIANSHIP:** The Court finds DCS has made reasonable efforts to place siblings together or establish a plan for frequent visitation between siblings unless frequent visitation or ongoing contact between siblings is contrary to the child's safety or well-being.

Guardianship is in the best interest of <child>.

<child> <has/have> been adjudicated dependent or that the parties have agreed to the guardianship prior to an adjudication of dependency.

<child> <has/have> been in the custody of the prospective guardian for at least nine months. (If this is to be waived, state good cause)

DCS has made reasonable efforts to reunify the family but further efforts would be unproductive.

The likelihood of adoption is remote, or the termination of the parental rights is not in the best interests of <child>.

The prospective guardian(s) <is/are> fit and proper.

#### **Findings and Orders for Successor Guardianship:**

The Court, having considered the <Motion/Petition> for a Successor Guardianship filed <date motion or petition filed>, the evidence and testimony presented, as well as the best interests of the <applicable child> denies the <motion/petition> for a successor guardian.

- The Court, having considered the <motion/petition> dated <date motion or petition filed>, the evidence and testimony presented, as well as the best interests of the <applicable child> finds by <burden of proof> that:
1. A guardianship of <child name> was previously granted on <date>.
  2. The permanent guardian(s) <is/are> no longer able or no longer willing to continue to serve as permanent guardian(s).
  3. Notice has been provided to the permanent guardian, DCS of Child Safety, the child's attorney, the child's parents and other interested parties, including required ICWA notification.
  4. The proposed successor guardian is suitable to assume the responsibilities of permanent successor guardian.
  5. Appointment of a permanent successor guardian is in the minor's best interests.

**ICWA:** Pursuant to ICWA standards, the Court determines that:

- Notice to the parent, Indian custodian, and Tribe has been given in accordance with federal law;
- Active efforts have been made to prevent the breakup of the Indian family, but these efforts were unsuccessful;
- A qualified expert has testified that continued custody by the parent would likely result in serious emotional or physical damage to the child;
- The placement is in accord with the placement preferences set forth in [25 USC § 1915](#) or there is good cause to deviate from these preferences <State specific factors considered and basis for good cause finding>.

**The Court, therefore, orders** appointing <Prospective guardian(s) / Prospective Successor Permanent Guardian(s)> as <Permanent Guardian(s) / Successor Permanent Guardian(s)> of <child> and vesting <Prospective guardian(s) / Prospective Successor Permanent Guardian(s)> with all of the rights and responsibilities set forth in [ARS § 14-5209](#), relating to the powers and duties of a guardian of a minor, other than those which may be set for the parents herein.

The Court orders that visitation and parenting time will be at the discretion of the child's <Permanent Guardian(s)/Successor Permanent Guardian(s)> unless otherwise set forth in the form of order.

The Court orders that letters of <Permanent Guardianship/Successor Permanent Guardianship> be issued to the <Permanent Guardian(s)/Successor Permanent Guardian(s)> without restriction. The <Permanent Guardian(s)/Successor Permanent Guardian(s)> must immediately notify the Court of any address

change and is/are responsible for the costs resulting from their failure to notify the Court.

- The Court orders that <Name of applicable parent>, <parent, guardian or Indian custodian>, must pay support to <Prospective Guardian(s)/Prospective Successor Permanent Guardian(s)> in the amount of \$<dollar amount> each month.

The Court orders that a Guardianship Review Hearing be held on <Date, time, place of the hearing> before the Honorable <Applicable Judge/Commissioner>. The Arizona Department of Child Safety must investigate the facts and circumstances surrounding the child's welfare and best interests and must file a written report with the Court prior to the Guardianship Review Hearing.

The Court orders that the Court will retain jurisdiction of the guardianship to enforce its final order of <Permanent Guardianship/Successor Permanent Guardianship>.

### **Provisional Successor Permanent Guardian**

The Court, therefore, orders appointing <Prospective Provisional Successor Permanent Guardian(s)> as Provisional Successor Permanent Guardian(s) of <child> for a period of time not to exceed nine (9) months and vesting <Prospective Provisional Successor Permanent Guardian(s)> with all of the rights and responsibilities set forth in [ARS § 14-5209](#), relating to the powers and duties of a guardian of a minor, other than those which may be set for the parents herein.

The Court orders that visitation or parenting time will be at the discretion of the child's Provisional Successor Permanent Guardian(s) unless otherwise set forth in the form of order.

The Court orders that letters of Provisional Successor Permanent Guardianship be issued to the <Provisional Successor Permanent Guardian(s)> without restriction. The <Provisional Successor Permanent Guardian(s)> must immediately notify the Court of any address change and is/are responsible for the costs resulting from their failure to notify the Court.

- The Court orders that <Name of applicable parent>, <parent, guardian or Indian custodian>, must pay support to <Provisional Successor Permanent Guardian(s)> in the amount of \$<dollar amount> each month.

The Court orders that a Provisional Permanent Successor Guardianship Review Hearing be held within nine (9) months on <date, time, place of hearing> before the Honorable <Judge/Commissioner>. DCS must monitor the placement and provide necessary services. DCS must investigate the facts and circumstances surrounding the welfare and best interests of the child and must file a written report with the Court prior to the Provisional Successor Permanent Guardianship Review Hearing.

The Court orders that the Court will retain jurisdiction of the guardianship to enforce its final order of Provisional Successor Permanent Guardianship.

- The Court vacates the <hearing type> set for <date, time and location of this hearing>.

The Court orders that the dependency action as to <child> in the Cause No. <Applicable JD#> be dismissed. The Arizona Department of Child Safety is relieved of all further responsibility in the matter other than its obligation to investigate and file a written report with the Court prior to the Guardianship Review Hearing.

The Court orders that the Foster Care Review Board is relieved of all further responsibilities in this matter.

Dated: \_\_\_\_\_

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

## GUARDIANSHIP REVIEW HEARING

Source: [ARS § 8-525](#), [ARS § 8-872\(J\)](#); [ARS § 8-874](#), [Az.R.Juv.Ct. 310 - 311](#)

### CALL THE CASE:

1. Identify case number, case name, and nature of the hearing.
2. Inform parties that this is the time and date set for the Guardianship Review Hearing. These hearings are presumptively open. They can be closed for good cause shown. By being present you are subjecting yourself to the jurisdiction of the court and you are not to reveal any identifying information concerning this matter, which would include not posting anything on social media regarding the matter.
3. Identify those present.
  - a. If a party requests that the proceeding be closed, the Court must consider:
    - i. Whether doing so is in the child's best interests;
    - ii. Whether an open proceeding would endanger the child's physical or emotional well-being or the safety of any other person.
    - iii. The privacy rights of the child, the child's siblings, parents, guardians and caregivers and any other person whose privacy rights the Court determines need protection;
    - iv. Whether all parties have agreed to allow the proceeding to be open;
    - v. If the child is at least twelve years of age and a party to the proceeding, the child's wishes.
    - vi. Whether an open proceeding could cause specific material harm to a criminal investigation.
  - b. If the proceeding remains open to the public:
    - i. Admonish 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 person identified in the proceeding;
    - ii. Advise attendees that by being present they are subjecting themselves to the jurisdiction of the Court;
    - iii. Explain to attendees contempt and possible consequences of violating a court order.
  - c. Inquire whether any person present has reason to know that the child is an Indian child as defined in ICWA.
4. Determine whether the child has been informed of their right to attend his/her Court hearings and speak to the judge.
5. The Court confirms that the <Attorney/GAL> for the child <has/has not> met with his/her client(s) before this hearing. [ARS § 8-221\(H\)](#), [Az.R.Juv.Ct. 306](#)

## REVIEW:

1. Admit into evidence the report prepared pursuant to [ARS § 8-872\(J\)](#).
2. Take testimony and other evidence, if any.
3. Inquire regarding education status of the child and consider the educational stability of the child.
4. appropriate orders:
  - a. Affirm/dismiss guardianship.
  - b. Determine whether future Review Hearings are required and set.
  - c. Determine what report, if any, is required; order its preparation and assess cost, if appropriate.
5. If a permanent guardian appointed pursuant to [ARS § 8-872](#) is unable or unwilling to continue to serve as permanent guardian, DCS or an interested party may file a motion for appointment of a successor permanent guardian pursuant to [ARS § 8-874\(A\)](#). Upon the filing of a motion for appointment of a successor permanent guardian, the Court must:
  - a. Set a date for an Initial Guardianship hearing no later than 30 days after the motion is filed.
  - b. Appoint an attorney for the child and appoint an attorney for the proposed successor guardian, if necessary. The Court is not required to appoint an attorney for the parent of the child.
  - c. temporary orders, which may include:
    - i. Placing the child in the temporary custody of an individual or agency or DCS and directing DCS to provide necessary services as may be necessary for the safety and well-being of the child;
    - ii. Directing DCS to complete a criminal records check and home study to determine the suitability of the proposed successor permanent guardian to serve as the permanent guardian of the child.

## INITIAL TERMINATION HEARING

Hearing explanation for parent - *In today's hearing, I will determine whether you have received a copy of the termination of parental rights paperwork and if you agree or disagree with the statements made within that document.*

Source: [ARS § 8-525](#), [ARS § 8-535](#), [ARS § 8-538](#), [ARS § 8-862](#), [ARS § 8-863](#); [Az.R.Juv.Ct. 320 – 321](#), [Az.R.Juv.Ct. 351](#), [Az.R.Juv.Ct. 352](#), [Az.R.Juv.Ct. 353](#)

NOTE: This applies only to hearings on motions to terminate parental rights filed pursuant to [ARS § 8-862](#).

### CALL THE CASE:

1. Identify the case number, case name, and the nature of the hearing.
2. Inform parties that this is the time and date set for the Initial Termination Hearing. These hearings are presumptively open. They can be closed for good cause shown. By being present you are subjecting yourself to the jurisdiction of the court and you are not to reveal any identifying information concerning this matter, which would include not posting anything on social media regarding the matter.
3. Identify those present.
  - a. If a party requests that the proceeding be closed, the Court must consider:
    - i. Whether doing so is in the child's best interests;
    - ii. Whether an open proceeding would endanger the child's physical or emotional well-being or the safety of any other person.
    - iii. The privacy rights of the child, the child's siblings, parents, guardians and caregivers and any other person whose privacy rights the Court determines need protection;
    - iv. Whether all parties have agreed to allow the proceeding to be open;
    - v. If the child is at least twelve years of age and a party to the proceeding, the child's wishes.
    - vi. Whether an open proceeding could cause specific material harm to a criminal investigation.
  - b. If the proceeding remains open to the public:
    - i. Admonish 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 person identified in the proceeding;
    - ii. Advise attendees that by being present they are subjecting themselves to the jurisdiction of the Court;
    - iii. Explain to attendees contempt and possible consequences of violating a court order.

- c. Inquire whether any person present has reason to know that the child is an Indian child as defined in ICWA.
4. Determine whether notification effectuated to foster parents, shelter care facility, receiving foster home, pre-adoptive parents or a member of the child's extended family with whom the child has been placed.
5. Inquire whether the attorney/GAL for the child met with his/her client before this hearing.

NOTE: The Court may modify the requirement that the attorney/GAL for the child meet with the child client if the attorney/GAL demonstrates extraordinary circumstances.

6. Determine whether the child has been informed of and understands their right to attend their Court hearings and speak to the judge.
7. Allow foster parents, shelter care facility, receiving foster home, pre-adoptive parents or a member of the child's extended family with whom the child has been placed and/or identified as a possible placement an opportunity to be heard.

#### **IF PARENT APPEARS:**

1. Determine whether parent has been timely served or waives timely service.
2. Advise parent, guardian or Indian custodian of right to counsel (appointed if indigent), right to trial to the Court, right to cross-examination, right to compel attendance of witnesses.
3. Determine whether parent intends to oppose the motion.
4. In ICWA cases, determine whether parent or Indian custodian, and the Tribe were provided notice of hearing as required by federal law. [Az.R.Juv.Ct. 351](#) If applicable, note whether parent, Indian custodian, or Tribe has waived the requirement that no hearing be held until at least 10 days after receipt of notice.
5. The Court may read and/or provide a copy of Form 4 to the parents request that the parent, guardian or Indian custodian sign and return a copy of the form and note on the record that the form was provided.

#### **IF PARENT CONTESTS:**

1. Set trial on termination no later than 90 days after the Permanency Hearing. Set Pretrial Conference, Settlement Conference, or schedule Mediation, if appropriate. [Az.R.Juv.Ct. 352\(c\)\(6\)\(B\)](#)

2. Admonish parent that:
  - a. Failure to attend future hearings without good cause shown may result in a finding that the parent has waived legal rights and is deemed to have admitted the allegations in the motion.
  - b. The Termination Adjudication Hearing may go forward in parent's absence and may result in the termination of parental rights.
3. Make specific finding that parent was advised of consequences of failure to appear. The Court may read and/or provide the parent, guardian or Indian custodian with a copy of Form 4, request that the parent, guardian or Indian custodian sign and return a copy of the form and note on the record that the form was provided.

**IF PARENT DOES NOT CONTEST:**

1. Advise parent of trial rights, including burden of proof, counsel, cross-examine, present evidence, and testify.
2. Advise parent of consequences of no contest: termination of parental rights; continued obligation to support.
3. Determine parent's understanding of rights and voluntariness of no contest.
4. Take evidence regarding grounds for termination and best interests of child.

NOTE: The time period for a child under three years of age is six months or longer time in care.

5. The Court is required to consider any substantiated finding of abuse or neglect from another state.
6. Take ICWA testimony. [Az.R.Juv.Ct. 353\(d\)\(1\)](#)
7. Make findings and enter orders (see below).

**IF PARENT DOES NOT APPEAR:**

1. Determine whether parent has been properly and timely served.
2. Determine whether parent has failed to appear without good cause, was properly admonished of the consequences for failing to appear and is deemed to have admitted the allegations of the petition and waived any rights in these proceedings.
3. Take evidence regarding grounds for termination and best interests of child.
4. The Court is required to consider any substantiated finding of abuse or neglect from another state.

5. Take ICWA testimony. [Az.R.Juv.Ct. 353\(d\)\(1\)](#)

### **FINDINGS [non-ICWA cases]:**

Determine whether moving party has proven by clear and convincing evidence, based upon testimony and optional social study, the following:

1. The minor was a resident of the State of Arizona at the time the motion was filed, and this Court has jurisdiction.
2. The parent was properly served with notice of these proceedings but has failed to appear without good cause.
3. The following grounds for termination have been proven. [Specific findings of fact. Each conclusion of law must be supported by at least one factual finding. [Logan B. v. Dep't of Child Safety, 244 Ariz. 532, 537, ¶ 14 \(App. 2018\).](#)]
4. Determine whether moving party has proven by a preponderance of the evidence, based upon testimony and social study that termination of parental rights would be in the best interests of the minor.
5. Inquire whether DCS has made reasonable efforts to place siblings together or establish a plan for frequent visitation between siblings unless frequent visitation or ongoing contact between siblings is contrary to the child's safety or well-being.

### **FINDINGS [ICWA CASES]:**

Determine whether moving party has proven the allegations by clear and convincing evidence.

1. Notice to the parents, Indian custodian, and Tribe has been given pursuant to ICWA and at least 10 days have passed since notice was received.
2. Pursuant to [25 USC § 1912](#), the Court is satisfied (by clear and convincing evidence) that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts were unsuccessful. The Court further finds by evidence beyond a reasonable doubt, including testimony from a qualified expert witness, that continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.
3. The Arizona Supreme Court has held that the expert language testimony need not parrot the language of the statute, so long as the expert testimony addresses the issue that continued custody of the Indian child by the parent is likely to result in

emotional or physical harm and that subsection 1912(e) has been satisfied. [Steven H. v. Ariz. Dep't of Econ. Sec., 218 Ariz. 566, 190 P.3d 180 \(2008\)](#).

4. In ICWA cases, determine whether placement is in accordance with the placement preference in [25 USC § 1915](#) or whether there is good cause to deviate from the preferences.

**ORDERS:**

1. Terminate parental rights of parent as to the minor.
2. Appoint guardian for minor.
3. Vest legal custody of the minor and establish financial responsibility for minor.
4. Enter orders to ensure foster parents, shelter care facility, receiving foster home, pre-adoptive parents and a member of the child's extended family with whom the child has been placed are notified of any future proceedings. DCS must provide notice if a party to the proceedings.

OPTION: ORDER placement addresses be provided to the clerk for blind endorsement on minute entry and/or order a party to effectuate notification.

OPTION: Enter other necessary orders in the best interest of the child. [ARS § 8-538](#)

OPTION: If there is a pending dependency case, set or reaffirm Review Hearing. [Brionna J. v. DCS, A.V., \\_\\_\\_ Ariz. \\_\\_\\_, 2022 WL 1638056 ¶ 31 \(Ct. App. Div. 1 2022\)](#).

**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. \_\_\_\_\_

**INITIAL TERMINATION HEARING**

**Parties Present:**

<party>  
<party>

This is the time set for the **INITIAL TERMINATION HEARING** on a <motion/petition> for termination of parental rights filed <date of motion/petition filing>.

**Open Proceedings:**

- 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 the 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>.

**Attorney/GAL Contact with Child Client:**

- The <Attorney/GAL> for the child <has/has not> met with his/her client(s) before this hearing. [ARS § 8-221\(H\)](#), [Az.R.Juv.Ct. 306](#)
- The child has been informed of and understands their right to attend their Court hearings and speak to the judge.

**Documents Reviewed:**

The Court has received and reviewed the following documents: <Names of specific documents>. The Court determines that the investigation and report ordered by the Court <has/has not> been completed and provided to all parties.

**ICWA:**

The Court finds that, based upon the assertions of the parties, the Indian Child Welfare Act, [25 USC § 1901](#) et seq. <does/does not> apply.

### Service and Jurisdiction:

The Court determines that service of the motion <whether service complete> as to <Applicable parent/guardian>, <parent, guardian or Indian custodian> of <child>.

- The Court orders the petitioner to complete service and continues the hearing to <date, time and location of continued Initial Termination Hearing. May also want to include the continued hearing information under “Future Hearings” section of this minute entry.>
- The Court finds that <parent, guardian or Indian custodian> had notice of the hearing and that the notice advised of the consequences of not appearing at this hearing.
- The Court finds that <parent, guardian or Indian custodian> <has/have> failed to appear without good cause.
- The parent, Indian custodian and the Tribe have <whether notice proper and whether the 10-day period is waived>.
- The State of Arizona, by and through the Arizona Department of Child Safety, is authorized to initiate this dependency proceeding pursuant to [ARS § 8-201](#) et seq., [ARS § 8-501](#) et seq., and [ARS § 8-802](#) et seq.
- The Court has exclusive original jurisdiction over the subject matter pursuant to [ARS § 8-802](#), and venue is appropriate in <county> **County** pursuant to [ARS § 8-206](#).

### Counsel:

Appointment of counsel is made/affirmed for the following:

<Applicable counsel>, <counsel type>;  
<Applicable counsel>, <counsel type>;  
<Applicable counsel>, <counsel type>.

The <parent, guardian or Indian custodian> is to pay <Amount assessed per month> per month for the cost of counsel.

The <parent, guardian or Indian custodian> is to pay <Amount assessed per month> per month for the cost of counsel.

### Parental Admonition:

The Court admonishes the <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 motion/petition.

- The Termination Adjudication Hearing may go forward in their absence and may result in the termination of their parental rights.
- The Court finds that the <parent, guardian or Indian custodian> was advised of the consequences of their failure to appear.
- The Court reads to and provides the parent, guardian or Indian custodian with a copy of Form 4, and requests that the parent, guardian or Indian custodian sign and return a copy of the form and note on the record that the form was provided.

**Plea:**

The <parent, guardian or Indian custodian> s a plea of <plea> to the allegations contained in the <motion/petition>.

- The Court advises <parent, guardian or Indian custodian> of their rights to: counsel; cross examine witnesses; trial by the Court on the motion/petition; use the process of the Court to compel witness attendance and the right to a trial by a judge.
- The Court determines that the <parent, guardian or Indian custodian> understands their rights.
- The Court advises the <parent, guardian or Indian custodian> of the consequences of their plea of <plea><plea>.
- The Court determines that the plea of the <parent, guardian or Indian custodian> <was/was not> made knowingly, intelligently and voluntarily.
- Because the parent has denied the allegations made in the privately filed petition for termination of parental rights, the Court orders <Name of applicable agency> to complete a social study. The Court assesses the cost of this social study to <Name of applicable party>.
- The Court provides foster parents, shelter care facility, receiving foster home, pre-adoptive parents or a member of the child’s extended family with whom the child has been placed and/or identified as a possible placement an opportunity to be heard.

**Testimony:**

<Evidence and testimony presented before the Court>

The Court has also considered any substantiated finding of abuse or neglect from another state.

- The Court takes ICWA testimony pursuant to [Az.R.Juv.Ct. 353\(d\)\(1\)](#).

## Findings and Orders:

- The Court, having considered the <motion/petition> dated <Date filed>, the testimony presented, the social study filed pursuant to [ARS § 8-536](#), and the <plea> of the <parent, guardian or Indian custodian>, as well as the best interests of <child>, denies the <motion/petition> for Termination of the Parental Rights at this time. The Court orders DCS to submit a revised case plan prior to the next Review Hearing.
- The <parent, guardian or Indian custodian>, having denied the allegations of the <motion/petition> filed on <Date of motion/petition filing>, the Court sets this matter for MEDIATION on <Date, time and location of this hearing>;  
PRETRIAL CONFERENCE on <Date, time and location of this hearing> before the Honorable <Name of Judge/Commissioner/Hearing Officer>.
- The Court, having considered the <motion/petition> dated <Date filed>, the testimony presented, the social study filed pursuant to [ARS § 8-536](#), the plea of <plea> made by the <parent, guardian or Indian custodian>, as well as the best interests of <child>, finds by <burden of proof> that:

<Child> <was a resident/were residents> of the State of Arizona at the time that the <motion/petition> was filed. The Court has jurisdiction.

The <parent, guardian or Indian custodian> <was/were> properly served with notice of these proceedings and <has/have> <whether they failed to appear or admitted / did not contest>.

The following grounds for termination of parental rights have been proven by clear and convincing evidence: <specific grounds in support of termination with factual findings for each>.

Petitioner has proven by a preponderance of the evidence that termination of the parental rights would be in the best interests of <child>.

The Court finds DCS has made reasonable efforts to place siblings together or establish a plan for frequent visitation between siblings unless frequent visitation or ongoing contact between siblings is contrary to the child's safety or well-being.

## ICWA: The Court determines that:

- Notice to the parent or Indian custodian and the Tribe has been given pursuant to ICWA and at least 10 days have passed since receipt of notice or the parent, Indian custodian, or Tribe has waived the 10-day notice period;

- Pursuant to [25 USC § 1912](#), the Court is satisfied (by clear and convincing evidence) that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts were unsuccessful.
- The Court further finds by evidence beyond a reasonable doubt, including testimony from a qualified expert witness, that continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.
- The placement is in accord with the placement preferences set forth in [25 USC §1915](#) or there is good cause to deviate from these preferences. <list factors considered and basis for good cause finding>

**The Court, therefore, orders** terminating the parental rights of <Name of applicable parent>, as to <his/her> child <child>.

- The Court appoints <Name of applicable guardian> as guardian for <child> and vests legal custody of <child> in <Applicable person or authorized agency>.

The Court orders that <Applicable person or authorized agency> must be responsible for the financial support of <child>.

**Future Hearings:** The Court sets/affirms the following hearings:

- The <hearing type> as to <parent, guardian or Indian custodian> is set for <Date, time and location of this hearing>.
- The Court vacates the <hearing type> set for <date, time and location of this hearing>.
- The Court admonishes the <parent, guardian or Indian custodian> that:
  - Failure to attend further proceedings without good cause may result in finding that the parent has waived legal rights and is deemed to have admitted the allegations in the motion/petition for termination;
  - Failure to attend further proceedings may result in proceedings going forward in their absence;
  - Failure to participate in reunification services may result in the termination of their parental rights.
  - The Court may read to and provide the parent, guardian or Indian custodian with a copy of Form 4, request that the parent, guardian or Indian custodian sign and return a copy of the form and note on the record that the form was provided.
- The Court finds that the parent, guardian, or Indian custodian was advised of the consequences of their failure to appear.

Dated: \_\_\_\_\_

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

## TERMINATION ADJUDICATION HEARING – COURT

Hearing explanation for parent - *In today's hearing, I will decide if the statements made in the termination of parental rights paperwork have been proven.*

Source: [ARS § 8-537](#), [ARS § 8-538](#), [ARS § 8-863](#), [Az.R.Juv.Ct. 310 - 311](#), [Az.R.Juv.Ct. 320 – 321](#), [Az.R.Juv.Ct. 353](#)

NOTE: This applies only to hearings on motions for termination of parental rights filed pursuant to [ARS § 8-862](#).

### CALL THE CASE:

1. Identify the case number, case name, and the nature of the hearing.
2. Inform parties that this is the time and date set for the Termination Adjudication Hearing. These hearings are presumptively open. They can be closed for good cause shown. By being present you are subjecting yourself to the jurisdiction of the court and you are not to reveal any identifying information concerning this matter, which would include not posting anything on social media regarding the matter.
3. Identify those present. (Unlike dependency proceedings, [ARS § 8-537\(A\)](#) provides that the general public must be excluded from termination adjudication hearings.)
  - a. If a party requests that the proceeding be closed, the Court must consider:
    - i. Whether doing so is in the child's best interests;
    - ii. Whether an open proceeding would endanger the child's physical or emotional well-being or the safety of any other person.
    - iii. The privacy rights of the child, the child's siblings, parents, guardians and caregivers and any other person whose privacy rights the Court determines need protection;
    - iv. Whether all parties have agreed to allow the proceeding to be open;
    - v. If the child is at least twelve years of age and a party to the proceeding, the child's wishes.
    - vi. Whether an open proceeding could cause specific material harm to a criminal investigation.
  - b. If the proceeding remains open to the public:
    - i. Admonish 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 person identified in the proceeding;
    - ii. Advise attendees that by being present they are subjecting themselves to the jurisdiction of the Court;
    - iii. Explain to attendees contempt and possible consequences of violating a court order.

- c. Inquire whether any person present has reason to know that the child is an Indian child as defined in ICWA.
4. Determine whether notification was effectuated to foster parents, shelter care facility, receiving foster home, pre-adoptive parents or a member of the child's extended family with whom the child has been placed.
5. Determine whether the child has been informed of and understands their right to attend their Court hearings and speak to the judge.
6. Inquire whether the attorney/GAL for the child met with his/her client before this hearing.

NOTE: The Court may modify the requirement that the attorney/GAL for the child meet with the child client if the attorney/GAL demonstrates extraordinary circumstances.

#### **DETERMINE IF PARTIES ARE READY TO PROCEED:**

1. Hear any preliminary motions.
2. Determine if either party invokes [Az.R.Evid. 615](#):
  - a. Have counsel identify all witnesses to the clerk.
  - b. Have the clerk swear all witnesses.
  - c. Identify those persons who may remain in the Courtroom.
  - d. Admonish the witnesses: "The rule excluding witnesses has been invoked. This means that you are to remain outside the Courtroom until you are called to testify. It also means that you are not to discuss the case or your testimony with anyone except the attorneys until after you have testified."

#### **PRESENTATION OF THE CASE:**

1. Hear opening statements.
2. Hear the Petitioner's case.
3. In ICWA cases, hear qualified expert testimony pursuant to [25 USC § 1912\(e\)](#).
4. Hear evidence, if any, presented on behalf of the child.

NOTE: The time period for a child under three years of age is six months or longer time in care.

5. Hear evidence presented on behalf of the parent.
6. Hear rebuttal testimony, if any.

7. Hear closing arguments.
8. Allow foster parents, shelter care facility, receiving foster home, pre-adoptive parents and a member of the child's extended family with whom the child has been placed and/or identified as a possible placement an opportunity to be heard.
9. The Court is required to consider a substantiated finding of abuse or neglect from another state.

**FINDINGS [non-ICWA cases]:**

Determine whether petitioner has proven by clear and convincing evidence, based upon testimony and social study (if required), the following:

1. The minor was a resident of the State of Arizona at the time the motion was filed, and this Court has jurisdiction.
2. The parent was properly served with notice of the proceedings but failed to appear.
3. The following grounds for termination have been proven by clear and convincing evidence. [At least one specific finding of fact for each conclusion of law.]
4. Determine whether petitioner has proven by a preponderance of the evidence, based upon testimony and the social study (if required), that termination of parental rights would be in the best interests of the minor.
5. Determine whether DCS has made reasonable efforts to place siblings together or establish a plan for frequent visitation between siblings unless frequent visitation or ongoing contact between siblings is contrary to the child's safety or well-being.

**FINDINGS [ICWA CASES]:**

Determine whether the petitioner has proven the allegations in the motion or petition by clear and convincing evidence and that the termination would serve the child's best interests by a preponderance of the evidence, based upon testimony and social study (if required) and the non-ICWA findings [as stated above], and the following:

1. The parent was properly served with notice of the proceedings but failed to appear.
2. Notice to the parent or Indian custodian and the Tribe has been given as required by federal law and at least 10 days have passed since notice was received.
3. Pursuant to [25 USC § 1912](#), the Court is satisfied (by clear and convincing evidence) that active efforts have been made to provide remedial services and

rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts were unsuccessful.

4. The Court further finds by evidence beyond a reasonable doubt, including testimony from a qualified expert witness, that continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. The Arizona Supreme Court has held that the expert language testimony need not parrot the language of the statute, so long as the expert testimony addresses the issue that continued custody of the Indian child by the parent is likely to result in emotional or physical harm and that subsection 1912(e) has been satisfied. [Steven H. v. Ariz. Dep't of Econ. Sec., 218 Ariz. 566, 190 P.3d 180 \(2008\)](#).
5. The placement falls within the placement preferences set forth in the Indian Child Welfare Act, or there is good cause to deviate from the preferences (set out basis for any good cause determination on the record).

#### **ORDERS:**

1. Terminate parental rights of parent as to the minor.
2. Appoint guardian for minor.
3. Vest legal custody of the minor and establish financial responsibility for minor.

#### **IF MOVANT FAILS TO MEET THE BURDEN OF PROOF:**

1. Dismiss the motion for termination of parental rights.
2. Set a Review Hearing within six months and order parties to submit a revised case plan prior to the hearing.

OPTION: Enter necessary orders in the best interest of the child pursuant to [ARS § 8-538](#). [Brionna J. v. DCS, A.V., \\_\\_\\_ Ariz. \\_\\_\\_, 2022 WL 1638056 ¶ 31 \(Ct. App. Div. 1 2022\)](#).

NOTE: [ARS § 8-537\(B\)](#) provides that the evidentiary standard shall be “clear and convincing.” The burden of proof for the statutory grounds for severance, pursuant to [ARS § 8-531](#) and [ARS § 8-533](#) is “clear and convincing”. The burden of proof for the best interests determination is “preponderance”. [Kent K. v. Bobby M., 210 Ariz. 279, 110 P.3d 1013 \(2005\)](#)

**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.

TERMINATION HEARING - COURT

**Parties Present:**

<party>

<party>

This is the time set for the **TERMINATION ADJUDICATION HEARING** on a <motion/petition> for termination of parental rights filed <Date of motion/petition filing>.

**Open Proceedings:**

- 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>.

**Attorney/GAL Contact with Child Client:**

- The Court confirms that the <Attorney/GAL> for the child <has/has not> met with his/her client(s) before this hearing. [ARS § 8-221\(H\)](#), [Az.R.Juv.Ct. 306](#)

**Documents Reviewed:** The Court has received and reviewed the following documents: <Names of specific documents>. The Court determines that the investigation and report ordered by the Court <has/has not> been completed and provided to all parties.

**ICWA:** The Court finds that, based upon the assertions of the parties, the Indian Child Welfare Act, [25 USC § 1901](#) et seq., <does/does not> apply.

**Service and Jurisdiction:**

The Court determines that service of the motion <whether service complete> as to <Applicable parent/guardian>, <parent, guardian or Indian custodian> of <child>.

- The Court orders the petitioner to complete service and continues the hearing to <date, time and location of continued Initial Termination Hearing. May also want to include the continued hearing information under “Future Hearings” section of this minute entry.>
- The Court finds that <parent, guardian or Indian custodian> had notice of the hearing and that the notice advised of their rights and the consequences of not appearing at this hearing.
- The Court finds that <parent, guardian or Indian custodian> <has/have> failed to appear without good cause.
- The parent, Indian custodian and the Tribe have <whether notice proper > and at least 10 days have passed since notice was received <or the 10-day period was waived>.
- The State of Arizona, by and through the Arizona Department of Child Safety, is authorized to initiate this dependency proceeding pursuant to [ARS § 8-201](#) et seq. [ARS § 8-501](#) et seq. and [ARS § 8-802](#) et seq.
- The Court has exclusive original jurisdiction over the subject matter pursuant to [ARS § 8-802](#), and venue is appropriate in <county> County pursuant to [ARS § 8-206](#).

**Counsel:** Appointment of counsel is made/affirmed for the following:

<Applicable counsel>, <counsel type>;  
 <Applicable counsel>, <counsel type>;  
 <Applicable counsel>, <counsel type>.

The <parent, guardian or Indian custodian> is to pay <Amount assessed per month> per month for the cost of counsel.

The <parent, guardian or Indian custodian> is to pay <Amount assessed per month> per month for the cost of counsel.

**Plea:** The <parent, guardian or Indian custodian> s a plea of <plea> to the allegations contained in the <motion/petition>.

- The Court advises <parent, guardian or Indian custodian> of their rights to: counsel; cross examine witnesses; trial by the Court on the motion/petition; use the process of the Court and to compel witness attendance.
- The Court determines that the <parent, guardian or Indian custodian> understands their rights.
- The Court advises <parent, guardian or Indian custodian> of the consequences of their plea.

- The Court determines that the plea of the <parent, guardian or Indian custodian> <was/was not> made knowingly, intelligently and voluntarily.

**Testimony:**

The Court hears preliminary motions made.

The Court determines that [Az.R.Evid. 615](#) <has/has not> been invoked.

Counsel identifies all witnesses and these witnesses were sworn and admonished regarding conduct in accord with [Az.R.Evid. 615](#).

Opening statements are heard.

The petitioner's case is heard.

If ICWA applies, the Court takes ICWA testimony pursuant to [Az.R.Juv.Ct. 353\(d\)\(1\)](#).

The respondent's case is heard.

Evidence is presented on behalf of the child.

Rebuttal testimony is heard.

Closing arguments are heard.

**Findings and Orders:**

- The Court, having considered the <motion/petition> dated <Date filed>, the testimony and evidence presented, the social study filed pursuant to [ARS § 8-536](#) (if required), and the <plea> of the <parent, guardian or Indian custodian>, as well as the best interests of <child>, finds that the moving party/petitioner has not met the required burden of proof.

The Court, therefore, denies the <motion/petition> for termination of the parental rights. The Court orders DCS to submit a revised case plan prior to the next Review Hearing.

- The Court finds DCS has made reasonable efforts to place siblings together or establish a plan for frequent visitation between siblings unless frequent visitation or ongoing contact between siblings is contrary to the child's safety or well-being.

**Non-ICWA Findings:**

- The Court, having considered the <motion/petition> dated <Date filed>, the testimony and evidence presented, including any substantiated finding of abuse or neglect from another state, the social study filed pursuant to [ARS § 8-536](#) (if required), the <plea> of the <parent, guardian or Indian custodian>, as well as the best interests of <child>, finds by clear and convincing evidence that:
  - <Child> was a resident of the State of Arizona at the time that the <motion/petition> was filed and, therefore, the Court has jurisdiction.
  - The <parent, guardian or Indian custodian> <was/were> properly served with notice of these proceedings and <has/have> <failed to appear or admit/no contest>.
  - The following grounds for termination of parental rights have been proven by clear and convincing evidence: <specific grounds in support of termination with supporting facts>.
  - Finds by a preponderance of the evidence that termination of the parental rights would be in the best interests of <Child>.

**ICWA:** The Court determines that petitioner has proven all the above (Non-ICWA findings), in addition to the following:

- Notice to the parent, Indian custodian, and Tribe has been given as required by federal law and at least 10 days have passed since notice was received or the parent, Indian custodian, and Tribe have waived the 10-day period.
- The parents were properly served with the notice of these proceedings (but failed to appear).
- Pursuant to [25 USC § 1912](#), the Court is satisfied (by clear and convincing evidence) that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts were unsuccessful.
- The Court further finds by evidence beyond a reasonable doubt, including testimony from a qualified expert witness, that continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.
- The placement is in accordance with the placement preferences set forth in [25 USC § 1915](#) or there is good cause to deviate from these preferences as follows <insert basis for good cause finding>.

**Additional Orders:**

The Court, therefore, orders terminating the parental rights of <Name of applicable parent> as to <his/her> child <child>.

The Court, therefore, orders terminating the parental rights of <Name of applicable parent> as to <his/her> child <child>.

The Court, therefore, orders terminating the parental rights of <Name of applicable parent> as to <his/her> child <child>.

The Court appoints <Name of guardian> as guardian for <child>.

- The Court appoints <Name of guardian> as guardian for <child> and vests legal custody of <child> in <Applicable person or authorized agency>.
- The Court orders that <Applicable person or authorized agency> must be responsible for the financial support of <child>.

**Future Hearings:** The Court sets/affirms the following hearings:

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

Dated: \_\_\_\_\_

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

## **REMOVAL FROM A PROSPECTIVE PERMANENT PLACEMENT AND/OR CHANGE OF CASE PLAN FROM SEVERANCE AND ADOPTION**

Source: [ARS § 8-862\(H\)](#)

NOTE: This may be in conjunction with a Motion for Change of Physical Custody and any other hearings where the issues are raised.

NOTE: [ARS § 8-862\(H\)](#) requires a court order after a hearing is held to remove a child from a Prospective Permanent Placement (PPP) unless the removal is an emergency removal or is requested by the PPP. A court order is also required to change the case plan from severance and adoption.

A Prospective Permanent Placement (PPP) includes:

1. A grandparent or another member of the child's extended family including a person who has a significant relationship with the child.
2. A person or persons with an expressed interest in being the permanent placement for the child in a certified adoptive home where the child resides, a home that is a permanent placement for a sibling of the child or a licensed family foster home where the child resides.

### **CALL THE CASE:**

1. Identify the case number, case name, and the nature of the hearing.
2. Inform parties that this is the time and date set for the Removal from a Prospective Permanent Placement and/or change of Case Plan from Severance and Adoption Hearing. These hearings are presumptively open. They can be closed for good cause shown. By being present you are subjecting yourself to the jurisdiction of the court and you are not to reveal any identifying information concerning this matter, which would include not posting anything on social media regarding the matter.
3. Determine whether the Prospective Permanent Placement (PPP) has received notice of the hearing.
4. Identify those present. Determine if the PPP is present.
  - a. If the PPP is not present, determine if the party filing the motion made a good faith effort to provide a copy to the PPP. Check to see if the PPP got notice of the hearing from the Court clerk. If it is determined that a good faith effort was made to provide a copy of the motion to the PPP, proceed with determining whether the child should be removed from the PPP and/or if the case plan should be changed from severance and adoption.

If it is determined that a good faith effort was not made to provide a copy of the motion, continue the hearing and require the moving party to send a copy to the prospective permanent placement and order the clerk to provide notice of the continued hearing date to the PPP.

- b. If the PPP is present, the PPP has a right to be heard. The PPP is not required to be made a party to the proceedings. Proceed with the hearing and determine whether the child should be removed from the PPP. Consider whether such a move would comply with state and ICWA placement preferences and be in the best interest of the child. If there is a request to change the case plan, make a determination that the change of case plan is in the child's best interest.

#### **FINDINGS AND ORDERS:**

1. If a determination is made to remove the child from the PPP, enter an order removing the child from the PPP and placing the child in the physical custody of the new placement.
2. If a determination is made to change the case plan from severance and adoption to another permanent plan, enter findings and order the new case plan.

## **POST TERMINATION VISITATION**

Source: [ARS § 8-113\(I\)](#)

NOTE: [ARS § 8-113\(I\)](#) gives a prospective adoptive parent the right to refuse post termination visitation pending appeal with a birth parent unless the juvenile court orders visitation.

NOTE: The child's GAL, the child's attorney or DCS may file a motion requesting visitation pending appeal after parental rights have been terminated if a prospective adoptive parent refuses post termination visitation with a birth parent.

NOTE: [ARS § 8-113\(I\)](#) gives no rights to a birth parent for visitation with the child. This statute gives the Court the ability to allow a post termination visitation pending appeal between the child and a birth parent if the Court finds that this visitation would be in the child's best interest.

### **CALL THE CASE:**

1. Identify the case number, case name and the nature of the hearing.
2. Inform parties that this is the time and date set for the Post Termination Visitation Hearing. These hearings are presumptively open. They can be closed for good cause shown. By being present you are subjecting yourself to the jurisdiction of the court and you are not to reveal any identifying information concerning this matter, which would include not posting anything on social media regarding the matter.
3. Identify those present at the hearing.
4. Determine whether it is in the child's best interest to have visitation with the birth parent following the order of termination and pending appeal. The Court must consider the health and safety of the child as a paramount concern. [ARS § 8-847\(D\)](#)

### **FINDINGS AND ORDERS:**

1. Make a finding that visitation post termination pending appeal is in the child's best interests or that the visitation is not in the child's best interests.
2. If a determination is made that visitation is in the child's best interests, enter an order setting forth the parameters of the post termination visitation.
3. If a determination is made that visitation is not in the child's best interests, enter an order that visitation will not occur.

## **EXTENDED FOSTER CARE**

Source: [ARS § 8-829](#)

NOTE: [ARS § 8-521.02](#) authorizes the extended foster care program for qualified young adults who have been in DCS custody when the young adult turned eighteen years of age, who is not twenty-one years of age and who is in school, working or disabled. Within 120 days after DCS submits a young adult's agreement to participate in extended foster care, the court determines whether participation in the extended foster care program is in the young adult's best interest.

### **CALL THE CASE:**

1. Identify the case number, case name and the nature of the hearing.
2. Inform parties that this is the time and date set for the Extended Foster Care Hearing. These hearings are presumptively open. They can be closed for good cause shown. By being present you are subjecting yourself to the jurisdiction of the court and you are not to reveal any identifying information concerning this matter, which would include not posting anything on social media regarding the matter.
3. Identify those present at the hearing.
4. Determine whether it is in the young adult's best interest to participate in the extended foster care program. [ARS § 8-829\(B\)](#)

### **FINDINGS AND ORDERS:**

Make a finding as to whether participation in the extended foster care program is in the best interests of the young adult.

**FORM 1A**

**Notice to Parent in In-Home Intervention Action**

You are a party in an in-home intervention action. The Court will make decisions about the care and custody of your child until you demonstrate that you are able to do so. Except as otherwise provided by law, court hearings relating to a dependent child are open to the public. You may request that the hearings be closed, and the Court may order them closed for good cause.

If the Court orders the in-home intervention, the Court will order services for you. You must participate in these services. The Court’s in-home intervention order will include a specific time for you to complete the in-home intervention services, and that time cannot exceed one year without review and approval by the Court.

If you violate the in-home intervention orders made by the Court, including failing or refusing to participate in services, the Court may take whatever steps it deems necessary to obtain your compliance, may remove your child from your care, or may rescind the in-home intervention order and set an Adjudication Hearing on the dependency petition.

The Court will presume that you understand the contents of this notice unless you tell the Court at today’s hearing that you do not understand this notice.

Next hearing type	Date & Time	Judicial Officer

**At:** \_\_\_\_\_  
[address of court facility]

***My signature confirms that I have received a copy of this document on this date.***

\_\_\_\_\_  
Parent’s Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

## FORM 1 Notice to Parent in Dependency Action

You are a party in a dependency case. If the Court determines that your child is dependent, then the Court will make decisions about the care and custody of your child until you demonstrate that you are able to do so. Except as otherwise provided by law, court hearings relating to a dependent child are open to the public. You may request that the hearings be closed, and the Court may order them closed for good cause.

If you cannot be reunited with your child within legal time frames, the Court may terminate your parental rights and your child may be adopted, or the Court may appoint a permanent guardian for your child.

As a parent or Indian custodian in a dependency case, your legal rights include:

1. The right to counsel, including court appointed counsel if you are indigent;
2. The right to trial by the Court on the allegations in the dependency petition;
3. The right to cross-examine witnesses who are called to testify against you; and
4. The right to use the process of the Court to compel the attendance of witnesses.

As part of this case, there will be additional court hearings. You are required to attend all court hearings. If you cannot attend a court hearing, you must prove to the Court that you had good cause for not attending. If you fail to attend the Pre-trial Conference, Settlement Conference, or Dependency Adjudication Hearing without good cause, the Court may determine that you have waived your legal rights and admitted the allegations in the dependency petition. The Court may go forward with the Dependency Adjudication Hearing in your absence and may rule that your child is dependent based on the record and evidence presented.

You must also actively participate in reunification services if they are offered to you. Substantially neglecting or willfully refusing to remedy the circumstances that cause your child to be in an out-of-home placement, including refusing to participate in reunification services, will be grounds for terminating your parental rights to your child. If you do not participate in reunification services or fail to attend further proceedings without good cause, the Court may terminate your parental rights or appoint a permanent guardian for your child.

The Court will presume that you understand the contents of this notice unless you tell the Court at today's hearing that you do not understand this notice.

Next hearing type	Date & Time	Judicial Officer

At \_\_\_\_\_  
[address of court facility]

***My signature confirms that I have received a copy of this document on this date.***

\_\_\_\_\_  
Parent's Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

**FORM 2**  
**Notice to Parent in Guardianship Action**

You are a party in a guardianship action. If the Court determines that guardianship would be in your child's best interests, the Court may appoint a permanent guardian for your child. Except as otherwise provided by law, court hearings relating to a dependent child are open to the public. You may request that the hearings be closed, and the Court may order them closed for good cause.

As a parent or Indian custodian in a guardianship case, your legal rights include:

1. The right to counsel, including court appointed counsel if you are indigent;
2. The right to trial by the Court on the allegations in the guardianship motion;
3. The right to cross-examine witnesses who are called to testify against you; and
4. The right to use the process of the Court to compel the attendance of witnesses.

You are required to attend all guardianship hearings. If you cannot attend a court hearing, you must prove to the Court that you had good cause for not attending. If you fail to attend the Initial Guardianship Hearing, Pre-trial Conference, Settlement Conference, or Guardianship Adjudication Hearing without good cause, the Court may determine that you have waived your legal rights and admitted the allegations in the motion for guardianship. The Court may go forward with the Guardianship Adjudication Hearing in your absence and may establish a guardianship for your child based on the record and evidence presented.

The Court will presume that you understand the contents of this notice unless you tell the Court at today's hearing that you do not understand this notice.

Next hearing type	Date & Time	Judicial Officer

**At** \_\_\_\_\_  
[address of court facility]

***My signature confirms that I have received a copy of this document on this date.***

\_\_\_\_\_  
Parent's Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

**FORM 3**  
**Notice to Parent in Termination Action**

You are a party in a termination action. If the Court determines that termination of your parental rights would be in your child's best interests, the Court may terminate your parental rights and your child may be adopted. Except as otherwise provided by law \*see ARS§8-537(A), court hearings relating to a dependent child are open to the public. You may request that the hearings be closed, and the Court may order them closed for good cause.

As a parent or Indian custodian in a termination action, your legal rights include:

1. The right to counsel, including court appointed counsel if you are indigent;
2. The right to trial by the Court on the allegations in the termination motion or petition;
3. The right to cross-examine witnesses who are called to testify against you; and
4. The right to use the process of the Court to compel the attendance of witnesses.

You are required to attend all termination hearings. If you cannot attend a court hearing, you must prove to the Court that you had good cause for not attending. If you fail to attend the Initial Termination Hearing, Termination Pre-trial Conference, Status Conference, or Termination Adjudication Hearing without good cause, the Court may determine that you have waived your legal rights and admitted the grounds alleged in the motion/petition for termination. The Court may go forward with the Termination Adjudication Hearing in your absence and may terminate your parental rights to your child based on the record and evidence presented.

The Court will presume that you understand the contents of this notice unless you tell the Court at today's hearing that you do not understand this notice.

Next hearing type	Date & Time	Judicial Officer

**At** \_\_\_\_\_  
 [address of court facility]

***My signature confirms that I have received a copy of this document on this date.***

\_\_\_\_\_  
 Parent's Signature

\_\_\_\_\_  
 Printed Name

\_\_\_\_\_  
 Date

## FAILURE TO APPEAR WAIVER

The failure to appear waiver has been interpreted by both Divisions One and Two of the Arizona Court of Appeals and the Arizona Supreme Court

### Division One of the Arizona Court of Appeals:

[Bob H. v. Ariz. Dep't of Econ. Sec., 225 Ariz. 279, 237 P.3d 632 \(App. 2010\)](#)

Because failing to allow counsel to effectively participate in proceedings is reversible error, proceeding at termination hearing in absence of mother's counsel was in error. "During the time her counsel was not present, Mother was denied the right to effective participation of counsel and thus also denied due process. . . . Because a parent has a 'right to have counsel *present and participate*,' [citing *Christy A.*] we must hold that the juvenile court in this case committed reversible error when it commenced the Severance Hearing without Mother's counsel present." Also: "Mother's excuse that she was required to arrange her own transportation is insufficient to establish good cause for failure to appear."

### Division Two of the Arizona Court of Appeals:

[Adrian E. v. Ariz. Dep't of Econ. Sec., 215 Ariz. 96, 158 P.3d 225 \(App. 2007\)](#)

"Rule 64(C) implicitly authorizes the juvenile court, in accordance with the procedure described in Rules 65(C)(6)(c) and 66(D)(2), to terminate the parental rights of a parent who . . . fails to appear without good cause for a status conference on a pending motion for termination." Also: Exhibits that "had been previously admitted during various dependency hearings" were "a part of the record the juvenile court could consider in conducting a default hearing." (Citing [Ariz. R.P. Juv. Ct. 64\(C\) \[now Rule 351\(c\)\(2\)\]](#) (admonishing a parent that the court could proceed "based upon *the record and evidence presented*").)

[Manuel M v. Ariz. Dep't of Econ. Sec., 218 Ariz. 205, 181 P.3d 1126 \(App. 2008\)](#)

By failing to attend, a parent "admits only the factual contentions contained in the motion . . . [but] does not concede that those factual allegations sustain the quantum of evidence required to establish the legal grounds for terminating a parent's rights. Rather, the determination of whether the evidence, including admissions, establishes clearly and convincingly at least one ground for terminating a parent's rights remains a relevant and contestable topic at the hearing."

[Royce C. v. DCS and L.C., 252 Ariz. 129 \(App. 2021\)](#)

In this termination case, Royce's parental rights were terminated after he failed to appear at an initial termination hearing. Royce's appellate counsel alleged, *inter alia*, ineffective assistance of trial counsel. The court of appeals set forth a new, due process standard for deciding the issue of ineffective assistance of counsel. The standard is flexible and fact-intensive but "relief for ineffective assistance of counsel in a severance case should be applied as an extraordinary remedy, unavailable in all but the most egregious cases." The court observed that there is no rule of procedure addressing this issue and urged the supreme court to consider such a rule. Until then,

the court held that “when raising a claim regarding counsel’s conduct in an opening brief, absent clear evidence in the record supporting the claim as a matter of law, a party should simultaneously file in this court a motion to suspend the appeal and remand the matter to, and revest jurisdiction in, the juvenile court, ‘supported by an affidavit, declaration or other satisfactory evidence.’ [Ariz. R. Civ. App. P. 6\(a\)\(3\)](#); [Ariz. R. P. Juv. Ct. 103\(G\)](#).” Finally, the court remanded with instructions for the juvenile court to determine whether Royce’s Rule 46(E) [now Rule 318(c)] motion should be granted. The court emphasized that “remand is not itself a finding of unfairness; rather, it is solely to provide Royce the opportunity for a hearing at which to present evidence in support of his claim that counsel was ineffective regarding the motion. We leave it to the juvenile court to evaluate the merits of Royce’s claims in the first instance.”

### **Arizona Supreme Court:**

There had previously been a great deal of conflicting authority regarding if, when, and how a court could proceed at various types of hearings after a parent failed to appear. The Arizona Supreme Court has issued the following guidance to courts faced with proceeding in a parent’s absence:

#### [Marianne N. v. Dep’t of Child Safety, 243 Ariz. 53, 401 P.3d 1002 \(2017\)](#)

In a termination action, the court may proceed in a parent’s absence if the timely served parent fails to appear. In so doing, the court may find that the parent has waived the parent’s legal rights and is deemed to have admitted the allegations of the petition or motion to terminate parental rights. See [ARS § 8-863\(C\)](#); [Ariz. R.P. Juv. Ct. 64\(C\)](#) [now [Rule 351\(c\)\(2\)](#)]. Under [Rule 64\(C\)](#) [now [Rule 351\(c\)\(2\)](#)] the court may proceed in a parent’s absence at the initial hearing, pretrial conference, status conference, or termination adjudication hearing, if the parent fails to appear without good cause.

#### [Brenda D. v. Dep’t of Child Safety, 243 Ariz. 437, ¶¶ 40-42 \(2018\)](#)

“[W]hen a parent fails to appear at a termination adjudication hearing, the juvenile court has discretionary authority to find waiver of the parent’s legal rights and to proceed with the hearing. . . . Before commencing the hearing in a parent’s absence, however, the court must find that the procedural prerequisites of [§ 8-863\(C\)](#) and [Rule 66\(D\)\(2\)](#) [now [Rule 353\(f\)](#)] have been met, and that the parent waived his or her legal rights by failing to appear. . . . If a parent never appears at the hearing, then when the evidence is closed the juvenile court should confirm the absence parent’s waiver of rights and determine whether the state presented sufficient evidence to support an alleged ground for termination and a best-interests finding. If, however, the parent does appear late but during the hearing, the juvenile court should immediately halt the proceeding to determine whether the parent can show ‘good cause’ for his or her late arrival under [Rule 66\(D\)\(2\)](#) [now [Rule 353\(f\)](#)]. . . . If the parent establishes, and the juvenile court finds, good cause, the court should either reopen the evidence or continue the hearing (unless the parent waives that right). On the other hand, when a parent appears after the hearing has started and fails to show good cause for his or her late arrival, the juvenile court’s earlier finding of waiver still applies to the proceedings up to the point at which the parent appeared. In that scenario, testimony and other evidence admitted before the parent’s late arrival need not be repeated. But, absent extraordinary

circumstances, the court should permit the tardy parent to testify and present other available evidence if the parent so chooses.” (some internal citations omitted)

More information on the Supreme Court’s holdings: “[A] parent who fails to timely appear for a scheduled and duly-noticed termination adjudication hearing has ‘failed to appear’ under § 8-863(C) and Rule 66(D)(2) [now Rule 353(f)]” for purposes of finding that that parent had waived his or her legal rights and admitted the allegations in the termination motion or petition. (¶ 21.) The finding of a waiver of rights is discretionary when a parent fails to appear, however, not mandatory. If the court intends to proceed in a parent’s absence, it should make the finding of waiver at the outset of the hearing (including the findings that the parent had notice of the proceeding and of the possible consequences of his or her failure to appear). The parent is not deemed to have admitted the factual allegations in the termination motion/petition until the conclusion of the evidence, however, so that if the parent shows up late for the hearing that finding will not be made and the parent’s waiver of rights is effective only for the period of time that the parent was not present. “[T]he court need not start the hearing over or provide an opportunity for re-examining witnesses with the parent present,” however. (¶ 25.) “The waiver principles . . . do not limit a parent’s right to counsel in a termination adjudication hearing, regardless of whether the parent fails to appear for or is tardy in attending such hearing. . . . [Thus] the absent parent’s counsel has a right to fully participate in the hearing on the parent’s behalf, including a right to cross-examine the state’s witnesses, object to proffered evidence, and present witnesses or other evidence.” (¶ 30.) “Moreover, because a parent is statutorily ‘deemed to have admitted’ only the factual allegations in the motion when the parent fails to attend any part of the termination hearing, we hold that a parent’s late arrival does not preclude the parent’s counsel from contesting the motion’s factual allegations at any point during the termination hearing.” (¶ 31.)

[Trisha A. v. Dep’t of Child Safety, 247 Ariz. 84 \(2019\)](#)

The Supreme Court assumed without deciding that accelerated severance hearings (proceeding to severance in a parent’s absence at an initial hearing, pretrial conference, or status hearing) are constitutional. (¶ 13.) At an accelerated hearing, “DCS must still prove, by clear and convincing evidence, the underlying statutory severance ground and, by a preponderance of the evidence, that severance is in the child’s best interest.” (¶ 14.) When determining whether to exercise its discretion to proceed in a parent’s absence, the juvenile court “should consider a parent’s willingness to participate in the case, including availing themselves of services intended to remedy the issues leading to dependency, and the stage of the process.” (*Id.*) The standard for determining whether a parent has shown “good cause” for his or her failure to appear is the same regardless of the type of hearing for which a parent has failed to appear because “upon acceleration, the termination hearing becomes a severance hearing.” (¶ 17.) Rule 46(E) [now Rule 318(c)], which governs motions to set aside dependency, guardianship, and severance judgments, expressly requires that such motions conform to the requirements of [Civil Rule 60\(b\)-\(d\)](#). Although the civil rule “does not expressly include a meritorious defense requirement, [the supreme court has] interpreted the rule (and its antecedents) since territorial times to require a party seeking to set aside a judgment to

also prove a meritorious defense.” (§ 18.) By incorporating the civil rule, the juvenile rule also requires that a parent seeking to set aside a dependency, guardianship, or termination order show that he or she has a meritorious defense. (*Id.*) The “good cause” for a parent’s failure to appear in [Rules 64\(C\), 65\(C\), and 66\(D\)](#) [now [Rules 351\(c\)\(2\), 352\(f\), and 353\(f\)](#)] does not include the “meritorious defense” requirement because the finding of failure to appear precedes the final judgment. “Thus, parents who appear before the end of a hearing, as in *Brenda D.*, are not required to show a meritorious defense because they are not seeking to set aside a judgment but rather to establish good cause for their late appearance to avoid waiver of their rights occurring prior to their appearance.” (§ 21.) If the parent is attempting to set aside a final judgment under Rule 46(E) [now Rule 318(c)], however, “a parent must provide ‘good cause’ for their nonappearance *and* prove a meritorious defense . . . because the motion to set aside seeks to overcome the presumptively valid judgment’s finality.” (§ 22, emphasis in original.) Proving a meritorious defense requires only some legal justification and evidence to support it, a substantial defense to the action, or a defense that is not facially unmeritorious. (§ 26.)

## TERMINATION OF PARENT-CHILD RELATIONSHIP

Termination of parental rights may arise through motion or petition. Grounds must be established by clear and convincing evidence and it must be proven by a preponderance of the evidence that termination of parental rights is in the best interests of the child. In cases that involve the Indian Child Welfare Act (ICWA), additional findings and higher burdens of proof apply. [25 U.S.C. §§1901-1963](#), [ARS §8-533\(B\)](#), [ARS §8-863](#), [Az.R.Juv.Ct. 64\(A,B\)](#), [Az.R.Juv.Ct. 66\(C\)](#)

### INITIAL APPEARANCE / INITIAL TERMINATION HEARING

Source: [25 USC §1912](#), [25 USC §1913](#), [ARS §8-535](#), [ARS §8-863](#), [Az.R.Juv.Ct. 64-66](#)

Shall be held no sooner than 10 days after service. [Az.R.Juv.Ct. 65\(B\)](#), [ARS §8-535\(B\)](#)

#### CALL THE CASE:

1. Identify the case number, case name, and nature of the hearing.
2. Inform parties that this is the time and date set for the Initial Termination Hearing. These hearings are presumptively open. They can be closed for good cause shown. By being present you are subjecting yourself to the jurisdiction of the court and you are not to reveal any identifying information concerning this matter, which would include not posting anything on social media regarding the matter.
3. Identify those present.
4. Confirm or determine paternity so you know who needs to be served. If paternity of one or more of the children has not been determined, the Department of Child Safety (DCS) will proceed and publish against John Doe, a fictional name assigned to any male person who could claim parental rights and will always allege abandonment as the ground for termination. [ARS §8-533\(B\)\(1\)](#)
5. Determine whether each party has been properly served or has accepted service and waived any defects as to service. [Az.R.Juv.Ct. 65\(A\)](#)
6. Determine whether ICWA applies.
7. If ICWA applies, determine whether Tribe and BIA have been notified in accordance with federal and state law. [Az.R.Juv.Ct. 65\(C\)\(1\)](#), [ARS §8-535\(A\)](#)
8. If service is not complete, continue hearing only as to those for whom service is not complete and order movant/petitioner to complete service.

**IF PARENT(S) APPEARS WITH OR WITHOUT COUNSEL AND CONTESTS:**

1. Advise the parent of their rights, provide to them a Form 3, and request that they sign and return to court staff a copy of the form for docketing.
2. Determine financial eligibility for representation.
3. Appoint counsel for the parent, unless already appointed, and assess fees as appropriate. [Az.R.Juv.Ct. 65\(C\)\(2\)](#)
4. Determine whether appointment of a GAL is required for the parent.
5. Appoint attorney/GAL for child unless already appointed. [Az.R.Juv.Ct. 65\(C\)\(3\)](#)
6. For PRIVATE SEVERANCE, order preparation of the social study and assess cost.  
  
NOTE: This may be waived if it is in the best interest of the children. [ARS §8-536\(C\)](#)
7. Schedule a Settlement Conference, Pretrial Conference, or Mediation.
8. Set the Termination Adjudication Hearing within 90 days of the Permanency Hearing. [Az.R.Juv.Ct. 66\(B\)\(6\)\(b\)](#)
9. Admonish the parent that:
  - a. Failure to attend future hearings or other proceedings without good cause shown may result in a finding that the parent has waived legal rights and is deemed to have admitted the allegations in the motion/petition. [Az.R.Juv.Ct. 65\(C\)\(6\)\(c\)](#), [Marianne N. v. Ariz. Dep't of Econ. Sec., 243 Ariz. 53, 401 P.3d 1002 \(2017\)](#)
  - b. The hearings may go forward in their absence and may result in the termination of their parental rights, even if the proceeding for which there was a failure to appear was not noticed for testimony or the taking of evidence. [Adrian E. v. Ariz. Dep't of Econ. Sec., 215 Ariz. 96, 101, ¶ 14, 158 P.3d 225, 230 \(App. 2007\)](#)
10. Make specific finding that parent was advised of consequences of failure to appear. [Az.R.Juv.Ct. 65\(D\)\(3\)](#)
11. Inquire whether DCS has made reasonable efforts to place siblings together or establish a plan for frequent visitation between siblings, unless frequent visitation or ongoing contact between siblings is contrary to the children's safety or well-being.
12. Address the need, if any, for UCCJEA jurisdictional findings.

**IF PARENT ADMITS OR DOES NOT CONTEST:**

1. Advise parent of trial rights.
2. The Court may read and/or provide a copy of Form 3 to the respondent.

3. Advise parent of consequences of admission or a decision not to contest.
4. Determine whether parent understands their rights and whether their admission/no contest was entered knowingly, intelligently, and voluntarily? [Az.R.Juv.Ct. 66\(D\)\(1\)](#)
5. Take evidence or set an evidentiary hearing regarding grounds for termination: e.g., testimony of movant/petitioner or case manager, admit social study. [ARS §8-533](#),
6. Take testimony and make findings concerning best interests of the children.
7. Determine whether a factual basis exists to support the termination of parental rights and make findings and enter orders. [Az.R.Juv.Ct. 66\(D\)\(1\)](#), [Az.R.Juv.Ct. 66\(F\)](#)

**IF PARENT DOES NOT APPEAR:**

1. Determine whether the parent was properly served and, by failing to appear without good cause shown, that they have waived their legal rights. The Court may find that the parent is deemed to have admitted the allegations of the motion/petition. [Az.R.Juv.Ct. 65\(C\)\(6\)\(c\)](#)

NOTE: The failure to appear waiver has been interpreted by Divisions One and Two of the Arizona Court of Appeals and the Arizona Supreme Court.

2. If not waived, admit the social study into evidence. Take testimony from the movant/petitioner or case manager (and the qualified expert witness in ICWA cases) or set an evidentiary hearing.
3. Make findings, including the birth date for each child and parent, and enter orders.

**FINDINGS (non-ICWA cases) [Az.R.Juv.Ct. 66\(C\),\(F\)](#)**

Whether arising from an admission/no contest or a failure to appear, determine the following:

1. The minor was a resident of the State of Arizona at the time the motion/petition was filed, and this Court has jurisdiction.
2. The parent was properly served with notice of these proceedings.
3. The grounds for termination have been proven by clear and convincing evidence.
4. The movant/petitioner has proven by a preponderance of the evidence that the termination is in the minor's best interest.

**FINDINGS (ICWA CASES) [Az.R.Juv.Ct. 66\(F\)\(2\)\(e\)](#)**

Whether arising from a parent's admission, no contest, or failure to appear:

1. Make findings pursuant to non-ICWA cases above.
2. Determine whether notice to the Tribe has been given and the position of the Tribe.
3. Determine whether the movant/petitioner has proven that:
  - a. By clear and convincing evidence, active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts were unsuccessful. [25 USC §1912](#), [Az.R.Juv.Ct. 66\(C\)](#)
  - b. By evidence beyond a reasonable doubt, including testimony from a qualified expert witness, that continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.
  - c. By clear and convincing evidence that the child's placement is in accordance with the placement preferences defined in [25 USC §1915](#) or there is good cause to deviate from the preferences.

**ORDERS:**

1. Terminate parental rights of parent as to the minor. In the written order, include dates of birth for each child and each parent.
2. Appoint a guardian for the child or appoint a guardian for the child and vest legal custody in another person or authorized agency. Enter orders for financial support of the child. [Az.R.Juv.Ct. 66\(F\)\(2\)](#), [ARS §8-538\(D\)](#), [ARS §8-539](#)
3. Enter other necessary orders in the best interest of the child. [ARS §8-538\(D\)](#)

NOTE: In cases where there is a pending dependency, set or reaffirm the Review Hearing date. [Az.R.Juv.Ct. 66\(F\)\(2\)\(d\)](#)

4. If movant/petitioner fails to establish grounds or best interest, dismiss motion/petition and order that the parties submit a revised case plan. [Az.R.Juv.Ct. 66\(F\)\(3\)](#)

## **SEVERANCE TRIAL (MOTION OR PETITION)**

Source: [25 USC §1912](#), [ARS §8-531](#), [ARS §8-863](#), [Az.R.Juv.Ct. 66\(C\)](#)

### **CALL THE CASE:**

1. Identify the case number, case name, and the nature of the hearing.
2. Inform parties that this is the time and date set for the Initial In-Home Intervention Hearing. These hearings are presumptively open. They can be closed for good cause shown. By being present you are subjecting yourself to the jurisdiction of the court and you are not to reveal any identifying information concerning this matter, which would include not posting anything on social media regarding the matter.
3. Identify those present. If a parent does not appear, refer to the failure to appear section above.

### **DETERMINE IF PARTIES ARE READY TO PROCEED:**

1. Hear any preliminary motions.
2. Determine if a party invokes [Az.R.Ev.615](#):
  - a. Have counsel identify all witnesses to the clerk.
  - b. Have the clerk swear all witnesses.
  - c. Identify those persons who may remain in the courtroom.
  - d. Admonish the witnesses: "The rule excluding witnesses has been invoked. This means that you are to remain outside the courtroom until you are called to testify. It also means that you are not to discuss the case or your testimony with anyone except the attorneys until the proceeding has concluded."

### **PRESENTATION OF THE CASE:**

1. Hear opening statements.
2. Hear the movant/petitioner's case.
3. In ICWA cases, hear qualified expert testimony. [25 USC §1912\(e\)](#)
4. Hear evidence presented on behalf of the child, if any.
5. Hear evidence presented on behalf of the parent.
6. Hear rebuttal testimony, if any.
7. Hear closing arguments.

## **FINDINGS (non-ICWA cases):**

Determine whether movant/petitioner has proven, by clear and convincing evidence, based upon testimony and social study, the following:

1. The minor was a resident of the State of Arizona at the time the motion/petition was filed, and this Court has jurisdiction.
2. The parent was properly served with notice of these proceedings.
3. Grounds for termination have been proven by clear and convincing evidence. You must make specific findings of fact.
4. Determine whether movant/petitioner has proven, by a preponderance of the evidence, based upon testimony and the social study, that termination of parental rights would be in the best interests of the minor. Determine whether movant/petitioner has proven, by a preponderance of the evidence, based upon testimony and social study, that termination of parental rights would be in the best interests of the minor. See “Best Interests” below.
5. Determine whether DCS has made reasonable efforts to place siblings together or establish a plan for frequent visitation between siblings unless frequent visitation or ongoing contact between siblings is contrary to the children’s safety or well-being.
6. Dismiss motion/petition if movant/petitioner failed to establish grounds or best interests. Order that the parties submit a revised case plan. [Az.R.Juv.Ct. 66\(F\)\(3\)](#)

## **FINDINGS [ICWA CASES]:**

1. Determine whether movant/petitioner has proven the alleged grounds, by clear and convincing evidence, based upon testimony and social study, as well as all of the above non-ICWA findings. See “Grounds” below.
2. Determine whether notice to the Tribe has been given.
3. Determine whether movant/petitioner has proven beyond a reasonable doubt, through testimony of a qualified expert witness that:
  - a. Active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts were unsuccessful. [25 USC §1912](#)
  - b. Continued custody by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.
4. Determine whether placement is in accordance with placement preferences or whether there is good cause to deviate from placement preferences. [25 USC §1915](#)

5. If movant/petitioner failed to establish grounds, best interests, or the ICWA required findings, dismiss the motion/petition and order that the parties submit a revised case plan. [Az.R.Juv.Ct. 66\(F\)\(3\)](#)

## GROUNDINGS:

The motion/petition may allege multiple grounds for termination of rights. The trial court should address each ground, even if the first ground considered for termination is proven. Specific findings of fact are required (critical for appeal purposes).

1. Abandonment [ARS §8-533\(B\)\(1\)](#)
  - a. *Matter of Appeal in Pima County Juvenile Severance Action No. S-114487*, 179 Ariz. 86, 96, 876 P.2d. 1121, 1131(1994)
  - b. *Michael J. v. Ariz. Dep't of Econ. Sec.*, 196 Ariz. 246, 995 P.2d 682 (2000)
  - c. *Kenneth B. v. Tina B.*, 226 Ariz. 33, 37 ¶ 18, 243 P.3d 636, 640 (App. 2010)
  - d. *Calvin B. v. Brittany B.*, 232 Ariz. 292, 304 P.3d 1115 (App. 2013)
2. Abuse or Neglect [ARS §8-533\(B\)\(2\)](#)
  - a. *E.R. v. Dep't of Child Safety*, 237 Ariz. 56, 59 ¶ 11, 344 P.3d 842, 845 (App. 2015)
  - b. *Tina T. v. Dep't of Child Safety*, 236 Ariz. 295, 299, 339 P.3d 1040, 1045 (App. 2014)
  - c. *Sandra R. v. Dep't of Child Safety*, 248 Ariz. 224 (2020) (when termination is based on an allegation of a parent's abuse or neglect of a child other than the child at issue, the juvenile court must determine by clear and convincing evidence as part of the ground for termination that the non-abused child is also at risk of harm)
3. Prolonged Substance Abuse [ARS §8-533\(B\)\(3\)](#)
  - a. Relevant Factors
    - i. History of chronic substance abuse
    - ii. Inability to discharge parental responsibilities
    - iii. Reasonable belief that chronic drug abuse will continue
    - iv. The Department made reasonable efforts to reunify the family or such efforts would have been futile
  - b. Relevant Case law
    - i. *Raymond F. v. Ariz. Dep't of Econ. Sec.*, 224 Ariz. 373, 231 P.3d 377 (App. 2010)
    - ii. *Jennifer S. v. Dep't of Child Safety*, 240 Ariz. 282, 287, 378 P.3d 725, 730 (App/ 2016)
4. Mental Illness or Deficiency [ARS §8-533\(B\)\(4\)](#)
  - a. *Mary Ellen C. v. Ariz. Dep't of Econ. Sec.*, 193 Ariz. 185, 192, 971 P.2d 1046, 1053 (App. 1999)
  - b. *Denise R. v. Ariz. Dep't of Econ. Sec.*, 221 Ariz. 92, 95 ¶ 11, 210 P.3d 1263, 1266 (App. 2009)

- c. *Matter of the Appeal of Maricopa County Juvenile Action No JS-5209 and JS-4963*, 143 Ariz. 178, 184, 692 P.2d 1027, 1033 (App. 1984)
- d. *Matter of the Appeal in Pima County Juvenile Action No S-111*, 25 Ariz.App. 380, 543 P.2d 809 (1975).
- e. *Matter of the Appeal of Maricopa County Juvenile Action No JS-5894*, 145 Ariz. 405, 701 P.2d 1213 (App. 1985).

5. Length of Felony Incarceration [ARS §8-533\(B\)\(4\)](#)

- a. *Michael J. v Ariz. Dep't of Econ. Sec.*, 196 Ariz. 246, 995 P.2d 687 (2000)
- b. *Christy C. v Ariz. Dep't of Econ. Sec.*, 214 Ariz. 445, 450, 153 P.3d 1074, 1079 (App. 2007)
- c. *Jeffrey P. v Dep' of Child Safety*, 239 Ariz. 212, 368 P.3d 312 (App. 2016)
- d. *Jesus M. v Ariz. Dep't of Econ. Sec.*, 203 Ariz. 278, 281, 53 P.3d 203, 206 (App. 2002)
- e. *Ariz. Dep't of Econ. Sec. v Rocky J.*, 234 Ariz. 437, 323 P.3d 720 (App. 2014)

6. Nature of Felony – Unfitness [ARS §8-533\(B\)\(4\)](#)

- a. *Michael J. v Ariz. Dep't of Econ. Sec.*, 196 Ariz. 246, 995 P.2d 687 (2000)
- b. *In re Juvenile No. J-2255*, 126 Ariz. 144, 146-47, 613 P.2d 304, 306-07 (App. 1980)

7. Failure to file Paternity Action [ARS §8-533\(B\)\(5\)](#)

8. Failure to File Notice of Paternity Claim [ARS §8-533\(B\)\(6\)](#), [ARS §8-106.01](#)

- a. *Marco C. v Sean C.*, 218 Ariz. 216, 181 P.3d 1137 (App. 2008)
- b. *David C. v Alexis S.*, 240 Ariz. 53, 375 P.3d 945 (2016)
- c. *Frank R. v Mother Goose Adoptions*, 243 Ariz. 111, 402 P.3d 996 (2017)

9. Consent [ARS §8-533\(B\)\(7\)](#)

NOTE: For ICWA cases, consent must be recorded in open court and court must certify that parent understood the consent or that it was explained to the parent in a language that he/she understands. [25 USC §1913\(a\)](#)

10. Out of Home Placement [ARS §8-533\(B\)\(8\)](#)

- a. Based upon parent's substantial neglect or willful refusal to remediate:
  - i. Six-month threshold for out-of-home placement for children under three years of age.
  - ii. Nine-month threshold for out-of-home placement for any aged child.
  - iii. *Marina P. v Ariz. Dep't of Econ. Sec.*, 214 Ariz. 326, 329, 152 P.3d 1209, 1212 (App. 2007)
  - iv. *Jordan C. v Ariz. Dep't of Econ. Sec.*, 223 Ariz. 86, 219 P.3d 296 (App. 2009)
  - v. *Donald W. v. Department of Child Safety*, 247 Ariz. 9, 444 P.3d 258 (App. 2019)

- b. Based upon parent's inability to remediate:
  - i. Fifteen months threshold for out-of-home placement for any aged child
  - ii. *Jordan C. v Ariz. Dep't of Econ. Sec.*, 223 Ariz. 86, 219 P.3d 296 (App. 2009)
  - iii. *Matter of Appeal in Maricopa County Juvenile Action No. JS-501568*, 177 Ariz. 571, 577, 869 P.2d 1224, 1230 (App. 1994)
  - iv. *Donald W. v. Department of Child Safety*, 247 Ariz. 9, 444 P.3d 258 (App. 2019)

11. Parent Identity Unknown [ARS §8-533\(B\)\(9\)](#)

12. Prior Termination of Parental Rights [ARS §8-533\(B\)\(10\)](#)

- a. "Same Cause" under *Mary Lou C. v Ariz. Dep't of Econ. Sec.*, 207 Ariz. 43, 83 P.3d 43 (App. 2004)
- b. "Within preceding two years" – *Tanya K. v. Dep't of Child Safety*, 240 Ariz. 154 (App. 2016)

13. Recurrent Removal [ARS §8-533\(B\)\(10\)](#), [ARS §8-533\(D\)](#)

## **BEST INTERESTS FINDING**

If grounds for termination have been established, the court must determine whether termination of parental rights is in the best interests of the child. Specific factual findings are required. [ARS §8-533\(A\)](#), [ARS §8-538\(C\)](#)

1. *In re Appeal in Maricopa County Juvenile Action No. JS-500274*, 167 Ariz. 1, 4, 804 P.2d 730, 733 (1990)
2. *Mario G. v. Ariz. Dep't of Econ. Sec.*, 227 Ariz. 282, ¶ 26, 257 P.3d 1162 (App. 2011)
3. *James S. v. Ariz. Dep't of Econ. Sec.*, 193 Ariz. 351, ¶ 18, 972 P.2d 684 (App. 1998)
4. *Ariz. Dep't of Econ. Sec. v Oscar O.*, 209 Ariz. 332, 334, 100 P.3d 943, 945 (App. 2004)
5. *In re Maricopa County Juv. Action No. JS-6831*, 155 Ariz. 556, 559, 748 P.2d 785, 788 (App. 1988)
6. *In re Maricopa County Juv. Action No. JS-6831*, 155 Ariz. 556, 559, 748 P.2d 785, 788 (App. 1988)
7. *Maricopa County. Juv. Action No. JS-501904*, 180 Ariz. 348, 352, 884 P.2d 234, 238 (App. 1994)

8. *Bennigno R. v. Ariz. Dep't of Econ. Sec.*, 233 Ariz. 345, 350, ¶23, 312 P.3d 861, 866 (App. 2013)
9. *Dominique M. v. Ariz. Dep't of Child Safety*, 240 Ariz. 96, 98 (App. 2016)
10. *Alma S. v. Dep't of Child Safety*, 245 Ariz. 146 (2018)
11. *A.R. v. Dep't of Child Safety*, 246 Ariz. 402, 406-07 (App. 2019)

**ORDERS:**

1. Make at least one specific finding of fact for each conclusion of law.
2. Terminate parental rights of parent as to the child. Alternatively, deny the motion/dismiss the petition.
3. If granted, appoint guardian, vest legal custody and establish financial responsibility for the child. [ARS §8-538\(D\)](#), [ARS §8-539](#), [Az.R.Juv.Ct. 66\(F\)\(2\)](#)
4. If there is a pending dependency case, set or affirm the Review Hearing. [Az.R.Juv.Ct. 66\(F\)\(2\)\(d\)](#)
5. Enter other necessary orders in the best interest of the child. [ARS §8-538](#)

## **EXTENDED FOSTER CARE**

[ARS § 8-521.02](#) authorizes the extended foster care program for qualified young adults who have been in DCS custody when the young adult turned eighteen years of age, who is not twenty-one years of age and who is in school, working or disabled. Within 120 days after DCS submits a young adult's agreement to participate in extended foster care, the court must make a finding whether participation in the extended foster care program is in the young adult's best interest.