

## NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by 1st submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication.

Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the Register before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 6. ECONOMIC SECURITY

#### CHAPTER 5. DEPARTMENT OF ECONOMIC SECURITY

#### SOCIAL SERVICES

#### PREAMBLE

1. Sections Affected

Article 57  
R6-5-5701  
R6-5-5702  
R6-5-5703  
R6-5-5704  
R6-5-5705  
R6-5-5706  
R6-5-5707  
R6-5-5708  
Article 71  
R6-5-7101  
R6-5-7102  
R6-5-7103  
R6-5-7104

Rulemaking Action

Repeal  
Repeal

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. §§ 41-1954(A)(3), 46-134(12), and 8-114(E)

3. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Vista Thompson Brown  
Address: Department of Economic Security  
1789 West Jefferson, Site Code 837A  
Phoenix, Arizona 85007  
Telephone: (602) 542-6555  
Fax: (602) 542-6000

4. An explanation of the rule, including the agency's reasons for initiating the rule:

In keeping with the proposed plan of action set forth in the report of the Department's 5-year review of the rules in 6 A.A.C. 5, the Department plans to repeal the rules listed in paragraph 1 for the following reasons:

Article 57: The rules are old and were written before enactment of federal and state statutes that now supersede these rules. They are also written in a style and format that is no longer appropriate for rulemaking. These general rules are no longer necessary because they are duplicative of federal and state statutes passed in recent years that govern services to children placed in out-of-home care.

Article 71: These rules are no longer necessary because (1) some of the information duplicates statutory text and (2) the balance of the subject matter covered by these rules has been condensed and incorporated into 6 A.A.C. 5, Article 65, specifically R6-5-6503.

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5. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:  
Not applicable.
6. The preliminary summary of the economic, small business and consumer impact statement:  
The repeal of these rules will have no measurable economic impact on any group. The repeal has intangible benefits by eliminating the confusion that results from having outdated and duplicative rules as a part of the *Arizona Administrative Code*.
7. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business and consumer impact statement:  
Name: Vista Thompson Brown  
Address: Department of Economic Security  
1789 West Jefferson, Site Code 837A  
Phoenix, Arizona 85007  
Telephone: (602) 542-6555  
Fax: (602) 542-6000
8. The time, place and nature of the proceedings for the adoption, amendment, or repeal of the rules, if no proceeding is scheduled, when, where, and how persons may request an oral proceeding on the proposed rules:  
The Department has not scheduled oral proceedings on this rule repeal action. The Department will schedule such proceedings if 5 or more people request them by sending a written request to the person named in question #3 before 5 p.m., Friday, December 5, 1997, the date scheduled for close of record.  
  
To request accommodation, such as a sign language interpreter, to participate in the public comment process, or to obtain this notice in alternative format, such as large print, Braille, or on audio tape, contact Vista Thompson Brown at (602) 542-6555, or write to P.O. Box 6123, Site 837A, Phoenix, Arizona 85005. Requests should be made as early as possible to allow time to arrange the accommodation.
9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:  
Not applicable.
10. Incorporations by reference and their location in the rules:  
Not applicable.
11. The full text of the rules follows:

**TITLE 6. ECONOMIC SECURITY**

**CHAPTER 5. DEPARTMENT OF ECONOMIC SECURITY**

**SOCIAL SERVICES**

**ARTICLE 57. FOSTER CARE**

Section

- R6-5-5701. Definitions  
R6-5-5702. Program responsibilities  
R6-5-5703. Description of services  
R6-5-5704. Parental rights and responsibilities  
R6-5-5705. Foster care payments  
R6-5-5706. Confidentiality  
R6-5-5707. Complaints and appeals  
R6-5-5708. Civil rights  
R6-5-5709. Case management

**ARTICLE 71. ATTORNEY FEES FOR ADOPTION**

- R6-5-7101. Definitions  
R6-5-7102. Department review of adoption fees  
R6-5-7103. Allowable fee related services  
R6-5-7104. Documentation of reported costs

**ARTICLE 57. FOSTER CARE**

**R6-5-5701. Definitions**

In this Article, unless the context otherwise requires:

1. "Case plan" means a written document which is a discrete part of the case record, and identifies case goals;

services to be delivered and their purpose, actions to be taken to resolve identified problems, date of completion or anticipated completion of the service or action, and the name of the case manager who is responsible for assuring that the case plan is implemented.

2. "Child or children" means any person(s) under the age of 18.  
3. "Client" means any recipient of Social Services.  
4. "DES or the Department" means the Arizona State Department of Economic Security.  
5. "Foster care" means a service which provides supervision of children in family foster homes or residential living and development.  
6. "Permanent placement" means placement which ensures stability to continuity of care for a child achieved through reuniting the family, adoption, legal guardianship, or long term foster care.  
7. "Reasonable efforts" means preventive and reunification services to prevent the unnecessary separation of families.  
8. "Voluntary placement agreement" means a written agreement between the parent(s), guardian, or caretaker, DES and the child, if the child is over 12 years of age, placing the child in foster care for a period of not to exceed 90 days.

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**R6-5-5702. Program responsibilities**

The Foster Care Program shall:

1. Ensure that reasonable efforts be made to prevent placement of children.
2. Ensure that reasonable efforts be made to reunite children with their parents and that the duration of foster care be kept to the minimum time possible.
3. Enable children who cannot remain in their own homes to receive care, protection and training in a substitute living arrangement.
4. Ensure that case plans for each child are designed to achieve placement in the least restrictive setting in close proximity to the parents home and consistent with the best interest and special needs of the child.
5. Ensure that an appropriate case plan is developed for the permanent placement of each child.

**R6-5-5703. Description of services**

The Foster Care Program shall provide the following services:

1. Intake and evaluation to determine the need for foster care services.
2. Foster homes or foster care facilities.
3. Placement and supervision of children in foster homes or foster care facilities.
4. Services directed towards permanent placement of children.

**R6-5-5704. Parental rights and responsibilities**

A. Parents retain the following legal rights and responsibilities concerning children removed from the home by Court Order, unless the rights are limited by the Court:

1. The right to consent to major medical services or to surgery.
2. The right to consent to the marriage of a child who is under the legal age limits.
3. The right to consent to military service for the child.
4. The right to consent to the adoption of the child.
5. The right to determine the religion of the child.
6. The right to receive proper legal notice of an action instituted on behalf of or against the child.
7. The right to visitation.

B. Under voluntary placement agreements, parents retain all rights.

**R6-5-5705. Foster care payments**

Payments shall be made for foster care in accordance with the current rate schedule published by the Department.

**R6-5-5706. Confidentiality**

The provisions of A.C.R.R. Title 6, Chapter 5, Article 23, Safeguarding of Records and Information, shall apply to this Article.

**R6-5-5707. Complaints and appeals**

The provisions of A.C.R.R. Title 6, Chapter 5, Article 24, Complaints and Appeals, shall apply to this Article.

**R6-5-5708. Civil rights**

The provisions of A.C.R.R. Title 6, Chapter 5, Article 26, Civil Rights, shall apply to this Article.

**R6-5-5709. Case management**

A. The Department shall conduct a case review on a quarterly basis for each child who has been in foster care for six months or more.

B. The review shall evaluate:

1. Appropriateness of the case plan.
2. Efforts to provide preventive and reunification services.
3. Implementation of judicial orders.

4. Continued need for foster placement.

5. The extent of progress toward alleviating the cause necessitating placement.

6. The extent of progress toward achieving a permanent plan.

**ARTICLE 71. ATTORNEY FEES FOR ADOPTION**

**R6-5-7101. Definitions**

In this Article, unless the context otherwise requires:

1. "Contracted services" means those services provided by qualified professionals, other than the attorney or attorney's staff, which include, but are not limited to, the adoptive home study, post placement adoption supervision, reports to the court and counseling for the birth parents, adoptive parents and child.
2. "Legal services" means the drafting and filing of legal documents, court appearances, consultations and searches for birth parent.
3. "Medical costs" means expenses incurred by the birth parent and child for prenatal care, hospitalization, birth, postnatal care and physicians.
4. "Transportation expenses" means those costs involved in transporting the birth parent between locations within the state for counseling and medical services and transportation of the child into Arizona or between locations within the state for the purpose of adoption.

**R6-5-7102. Department review of adoption fees**

The Department shall accept accounting affidavits required by A.R.S. §§ 8-114(D), only at the Department of Economic Security, Administration for Children, Youth and Families Office, P.O. Box 6123, Phoenix, Arizona 85005.

**R6-5-7103. Allowable fee related services**

The Department shall recommend allowance of reasonable charges for the following services provided in processing adoptions:

1. Preparation of legal documents which encompass, but are not limited to, the following:
  - a. Legal documents drafted for termination of parental rights:
    - i. Petition for termination;
    - ii. Notice of hearing;
    - iii. Order of termination;
    - iv. Parental consents for adoptions;
    - v. Affidavit of due diligence when publication is required in search for parent; and
    - vi. Affidavit regarding denial or inability to determine paternity.
  - b. Legal documents for adoption:
    - i. Petition to adopt;
    - ii. Notice of hearing; and
    - iii. Order of adoption.
  - c. Documents drafted for granting the adoptive parents temporary custody of the adoptive child:
    - i. Petition for temporary custody;
    - ii. Notice of hearing; and
    - iii. Order of temporary custody.
  - d. A verified accounting of fees for the adoption services.
  - e. Affidavits of compliance with A.R.S. §§ 8-130(D)(1).
2. Other legal services including, but not limited to:
  - a. Court appearances
  - b. Services to locate birth parent including, but not limited to:

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- i. Newspaper publications;
  - ii. Telephone calls;
  - iii. Registered mailings; and
  - iv. Employment/military searches.
- e. ~~Separate legal counsel for birth parents or child when necessary.~~
- d. ~~Separate, out of state counsel to prepare the documents for the Interstate Compact on the Placement of Children when necessary.~~
- e. ~~Legal consultations.~~

- 3. ~~Contracted services.~~
- 4. ~~Medical costs for birth parent and child.~~
- 5. ~~Transportation expenses.~~
- 6. ~~Court filing fee.~~
- 7. ~~Other unusual and documented costs.~~

**~~R6-5-7104. Documentation of reported costs~~**

~~The Department shall have the right to request any or all documentation to substantiate reported payments.~~