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BEVERLY FRAME
CLERK OF SUPERIOR COURT
YUMA, ARIZONA 85364

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF YUMA

IN THE MATTER OF: Plan for Expedited Process of Domestic Relations Cases	Administrative Order No. 99-7

Pursuant to A.R.S. § 25-326 and § 25-412, the Court is required to adopt a plan for expedited process of domestic relation cases which also complies with Federal Title IV-D.

IT IS ORDERED that the attached plan for expedited process of child support and visitation be implemented in Yuma County.

Done in Open Court this 6th day of April, 1999.

Presiding Judge of the Superior Court

Copies to:

Clerk of the Superior Court
Hon. Philip L. Hall
Hon. Kirby Kongable
Hon. John N. Nelson
Hon. Carley Preusch
Steve Gallaher, Court Administrator
County Attorney, Civil Division

SUPERIOR COURT OF ARIZONA IN YUMA COUNTY
Plan for Expedited Process

Effective Date: April 6, 1999

A. **Purpose.**

This is the Plan for Expedited Process (Plan) as required by A.R.S. § 25-326, Laws 1987, Chapter 211, § 11, and to comply with A.R.S. § 25-412 for the administration of the expedited child support and visitation fund. The purpose of this Plan is to:

1. Implement the provisions of Arizona law, particularly A.R.S. § 25-326 on expeditious handling of court cases; and

2. Comply with Federal Title IV-D requirements.

This Plan applies to domestic relations cases filed in the Superior Court in Yuma County.

B. **Definitions.**

Court Commissioner: a person appointed pursuant to Ariz. Const. Art. VI, § 24 and A.R.S. §§ 12-213 and 12-298 by the presiding judge of a county with powers described in A.R.S. §§ 12-212, 12-213, 12-298, and Rule 91 of the Rules of the Supreme Court.

Disposition: a disposition occurs when an appealable or final order in a case is entered.

Enforcement Case: an action or proceeding to compel a party to comply with orders, injunctions, decrees, and judgments of the court, and to enter orders and judgments accordingly.

Enforcement Order: an order determining whether to compel payment of support including the granting of a judgment where appropriate. The order may include any remedy deemed just and proper by the court, including but not limited to a finding of contempt, incarceration for contempt, reporting job searches, license suspension, selling property, assigning wages or other income, turning property over to obligee, referral for education, counseling, and/or therapy, or any other alternative remedy as expressed in this Plan or otherwise allowed by law.

Establishment Case: an action or proceeding to determine responsibility to pay support, and to order the party or parties to pay a specific amount of support, applying the Arizona Child Support Guidelines.

Establishment Order: an order determining whether support shall be paid and the amount of support to be paid. The order may be a temporary order. When a support establishment order is entered, an order of assignment shall also be issued. An establishment order may also include an enforcement and modification order if pleaded or stipulated.

IV-D Agency: a public agency administering a support enforcement program under Title IV-D of the Social Security Act, 42 U.S.C. § 651 *et. seq.*

IV-D Case: any action or proceeding brought by a IV-D agency or a IV-D participant to establish maternity; paternity; to establish, enforce or modify support; including spousal support where

appropriate.

IV-D Participant: an individual who is a party to a Title IV-D case but excluding the IV-D agency.

Judicial Officer: the judge or commissioner to whom the case is assigned, whether IV-D or non IV-D. This is the presiding officer for the purpose of federal regulations.

Maternity Case: an action to determine the mother of a child or children born out of wedlock.

Modification Case: an action or proceeding seeking a change in the support order, whether pursuant to standard court practice or pursuant to the Local Rules of the Superior Court in Yuma County, or the simplified modification procedure described in the Arizona Child Support Guidelines.

Modification Order: an order determining whether the amount to be paid pursuant to an order of support shall be changed. When a modification order changes an earlier support order, an order of assignment shall also be issued, except if this amount is zero. A modification order may also include an establishment and enforcement order, if pleaded or stipulated.

Non-IV-D Case: any action or proceeding to establish maternity; paternity; to establish, enforce or modify support; including spousal support where appropriate that is not brought by a IV-D agency or a IV-D participant. These cases are also referred to as "private cases."

Obligee: a person or agency entitled to receive support from the obligor by a court or administrative order.

Obligor: a person ordered to make support payments by a court or administrative order.

Order to Appear: an order setting the date, time, and place a party is to appear in court or conference. The order may be signed by a court commissioner, judge, or special commissioner appointed by the court pursuant to A.R.S. §§12-211 and 12-212. An order to appear has the same force and effect as an order to show cause.

Parent-Child Access Order: a visitation order of the court pursuant to which parents (or others ordered to have custody or control of a child or children under Arizona law) are required to allow appropriate access to the child(ren), according to the best interests of the child. This is also called "visitation."

Paternity Case: an action to determine the father of a child or children born out of wedlock.

Paternity Order: an order which establishes the father of a particular child or children.

Private Case: any action or proceeding to establish maternity; paternity; to establish, enforce or modify support; including spousal support where appropriate that is not brought by a IV-D agency or a IV-D participant. These cases are also referred to as "non- IV-D cases."

Support: the provision of maintenance or subsistence for a child which includes medical coverage, and may include arrearages, interest on arrearages, past support, interest on past support and reimbursement for expended public assistance. In this Plan, support may also include spousal maintenance.

TemporaryOrder: an order for support, custody, or visitation ("parent-child access") entered by a judicial officer or an administrative agency with authority to do so, which is not a final appealable order in the case, and which is intended to be reviewed to determine if the order continues to be appropriate or should be changed. A temporary order is a disposition if the amount of child support ordered is pursuant to the Arizona Child Support Guidelines.

Visitation Order ("parent-child access order"): an order of the court pursuant to which parents (or others ordered to have custody or control of a child or children under Arizona law) are required to allow appropriate access to the child(ren), according to the best interests of the child. This is also called "parent-child access."

C. **Appointment of Judicial Officers**

The presiding judge shall assign a judge or court commissioner to hear all matters related to IV-D and private cases (non-IV-D).

D. **Time Frames.**

1. **Applicable Time Frames for IV-D Cases Only**

All paternity and support order establishment matters brought by a IV-D agency must be completed from the time of service of process to the time of disposition within the following time frames: 75 percent in 6 months and 90 percent in 12 months, but cases are deemed completed within the 6 month requirement if jurisdiction is "long arm" and disposition occurs within 12 months of service of process. (45 C.F.R. Sec. § 303.101)

2. **Applicable Time Frames For Other Cases Under This Plan**

A request to enforce court orders for custody and/or visitation shall be set within thirty (30) days unless an earlier date is requested. Upon request, expedited hearings shall be set within fourteen (14) days. Other cases covered under this Plan shall be completed according to the standards established for case flow processing in the Superior Court of Arizona in Yuma County.

3. **Service of Process.**

a. **Establishment Cases:** In all IV-D and all private (non-IV-D) establishment cases, the non-requesting party shall be served with the petition or request and an Order to Appear at least three (3) business days prior to the date of the hearing.

b. **Enforcement Cases:** In all IV-D and all private (non-IV-D) enforcement

proceedings by expedited process regarding support, custody, or visitation ("parent-child access"), the non-petitioning or non-requesting party shall be served with a copy of the Request to Enforce and Order to Appear at least three (3) business days prior to the date of the hearing or conference.

c. **Modification Cases:** In a Simplified Modification proceeding under the Arizona Child Support Guidelines, the party who does not request the modification shall be served with a copy of the Request for Modification, and a completed Parent Worksheet. If that party objects, the objecting party shall file a Request for Hearing and completed Parent Worksheet, and mail copies to other parties including the IV-D agency if it is a Title IV-D case. The court and/or filing party shall notify the parties by mail or otherwise of the date, time and place for the court appearance.

4. **Continuances.** No continuance shall be granted except for good cause, which must be set forth in the record. When a judicial officer grants a continuance in a IV-D case, he or she shall consider the time frames set forth in Section D.1. in this Plan.

5. **Entry of Order.** When entered, the order shall be in writing and shall state the outcome of the case, including paternity findings, any amounts established as support, and any enforcement remedies ordered.

E. **Procedures.**

1. **Initiation of Case.** In all cases covered by this Plan, each request to establish support and request for enforcement shall be accompanied by an Order to Appear, except that a case to establish paternity shall proceed by complaint and summons. A petition to modify support may be accompanied by an Order to Show Cause or an Order to Appear. For the simplified modification process, parties shall follow the process prescribed by the Arizona Child Support Guidelines.

2. **Order to Appear.** An Order to Appear may be issued by a court commissioner, judge, or special commissioner appointed by the court. An Order to Appear shall be submitted for signature simultaneously with the initial filing of the request. The Order to Appear shall include an order that parties being served bring with them the documents listed below in Section E.5. this Plan.

3. **Service of Process.** Service of process, whether by summons and complaint, or by petition or request and Order to Appear, shall be completed as ordered by the court, pursuant to the Arizona Rules of Civil Procedure or otherwise in accordance with applicable law.

4. **Answer or Response, and Defaults.** A written response or answer to an Order to Appear need not be filed, except that a party who objects to a Request for Modification of Support filed pursuant to the Arizona Child Support Guidelines must file a written request for hearing on the matter.

A party may answer or respond to a complaint and summons regarding paternity according to Arizona law. Pursuant to A.R.S. § 25-813, the court may order a default against a party who fails to appear or answer or who has been ordered to submit to genetic or blood testing and fails to appear without good cause for the appointment to take the test or fails to take a blood or genetic test.

5. **Documents Required.** The Order to Appear may direct both parties to bring to the hearing certain financial information which should include, but is not limited to:

a. **For Support Establishment Proceedings and Support Modification Proceedings, Including Simplified Modification Proceedings:**

1) **Worksheet:** a completed Child Support Parent's Worksheet
2) **Recent income**: proof of income for the past two years (check stubs, W-2 forms, W-4 forms, past income tax returns and all attachments)
3) **Support of others ordered by court**: proof of actually paid court-ordered child support for child(ren) other than the child(ren) in this case; for example, payment histories
4) **Support of others not ordered by court:** proof of costs of support of natural or adopted child(ren) for whom there is no court order requiring you to support them
5) **Spousal maintenance:** proof of actually paid court-ordered spousal maintenance
6) **Medical insurance:** proof of a medical insurance premium actually paid by the parent (for the children involved in this case only)
7) **Proof of extra education costs**: proof of reasonable and necessary extra education expenses actually paid by the parent (for the children involved in this case only)
8) **Child care**: proof of actual child care costs (for the children involved in this case only)
9) **Children with extraordinary needs**: proof of costs for extraordinary child(ren) (gifted, disabled or special needs not recognized elsewhere) for the child(ren) involved in this case only
10) **Social security numbers**: child(ren)'s and parents' social security number(s)
11) **Financial affidavit of income and expenses**: completed

b. **For Support Enforcement Proceedings**:

1) **Financial affidavit of income and expenses**: completed
2) **Tax returns:** copies of federal and state income tax returns (personal, partnership, and corporate), as well as schedules, attachments, W-2 forms and 1099 forms for the past three years
3) **Proof of earnings**: copies of pay stubs or statement of earnings for the

past six months

4) **Proof of government benefits**: copies of the most recent statements reflecting the amount of any benefits received such as social security, SSI, AFDC, TANF (formerly AFDC), unemployment compensation, worker's compensation, trust income, retirement benefits and the like

5) **Proof of accounts**: statements for the past six months on accounts with banks, savings and loans, investment companies and credit card companies such as Visa, Master Card, American Express, department stores, etc.

6) **Medical insurance**: if relevant to the hearing, proof of the availability of medical insurance coverage, the cost of available coverage, persons for whom the parent is providing medical insurance, the actual cost of current coverage for the employee and the entire family, the insurance carrier and the policy number

7) **Support of others**: payment records or check stubs reflecting the payment of support for child(ren) for the past twelve months other than the child(ren) in this proceeding

8) **Proof of direct payments**: proof of payment of support for which credit is being requested (such as canceled checks, money orders, other receipts, etc.)

F. **Failure to Comply With Order to Bring Information.**

1. **Support Enforcement Proceedings.** If the person upon whom the Order to Appear is served does not comply by providing the required information at the hearing, the court may:

   a. If the obligor is the party who failed to comply, hold the obligor in contempt until the obligor either produces the information or carries the burden of convincing the court that production of the information is not within the obligor's power;

   b. Proceed with the hearing, making a decision based upon the evidence presented at the hearing, and require the non-complying party to sign releases to allow the other party access to the information that has not been produced at the hearing; or,

   c. Impose such other sanctions as the court deems appropriate under the circumstances.

2. **Support Modification Proceedings.** If either party does not comply with the order to provide the information, the judicial officer may:

   a. Proceed with the hearing and make an order based upon the information presented at the hearing; or

   b. Impose such sanctions as the court deems appropriate under the circumstances.

G. **Custody and Visitation.**

1. **Request; Affidavit; Contents:** A party who alleges the other party has failed to comply with court orders as to custody or visitation may submit a verified Request to Enforce setting forth detailed facts supporting the request. The Request to Enforce and Order to Appear shall be served on the other party. The request shall be in a form prescribed by the Supreme Court, which shall be furnished by the Clerk of the Superior Court on request of any party or on a document substantially similar to the one prescribed by the Supreme Court.

2. **Form of Notice:** Notice of any hearing shall be by an Order to Appear in a form substantially similar to a form prescribed by the Supreme Court. The Order to Appear may be signed by a court commissioner, judge, or special commissioner appointed by the court pursuant to A.R.S. §12-211 and 12-212. An Order to Appear has the same force and effect as an order to show cause.

3 **Service:** Service of the Request and the Order to Appear should be made at least three (3) days, exclusive of weekends and holidays, prior to the date of hearing. The Order to Appear shall be voidable if it is not served within the time required prior to the hearing. Service shall be made pursuant to Rule 4 or Rule 5, Arizona Rules of Civil Procedure.

4. **Answer:** It is not necessary to file a written response or answer.

5. **Expedited Hearings.** Hearings to enforce visitation or custody should be brief, not to exceed ten (10) minutes. The court shall review the written allegations of the parties and determine, in accord with the best interests of the child, which of the following alternatives should be ordered. The hearing shall be attended by both parties and their attorneys if the parties are so represented. Unless the court deems it necessary, no evidence shall be offered. The court may:

   a. Set the case for evidentiary hearing;

   b. Enter an order approving an agreement of the parties;

   c. Issue an order granting specific relief;

   d. Schedule the case for a review hearing;

   e. Refer the case to counseling, mediation, parent education or any other appropriate program;

   f. Enter an order appointing a volunteer to supervise visitation. Such person shall be appointed only with the prior approval of all the parties.

g. At the request of either party or if the court finds that it is in the child(ren)'s best interest, enter an interim order to a local social service agency to exercise continuing supervision of custodial or visitation terms pending an evidentiary hearing; or

h. Order other appropriate action.

6. **Failure to Appear at Hearing:** If a party fails to appear after being properly served, the court may enter a default judgment for the relief requested, hold that party in contempt of court, issue a civil arrest warrant pursuant to Rule 64.1, Rules of Civil Procedure, and/or take other appropriate action.

H. **Forms.** The Clerk of the Superior Court shall provide forms for the Petition for Establishment, Petition or Request for Enforcement, Petition or Request for Modification, Order to Appear and such other forms required by statute and/or prescribed or recommended by the Supreme Court.

I. **Fee Deferral.** The court may order filing and/or other fees deferred or waived upon proper application by a party prescribed in A.R.S. § 12-302.