

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-21-0003
RULE 35, ARIZONA RULES OF)
PROTECTIVE ORDER PROCEDURE, AND)
RULES 91, 91.6, AND 91.7, RULES)
OF FAMILY LAW PROCEDURE)
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) **FILED 08/25/2021**

**ORDER AMENDING RULE 35 OF THE ARIZONA RULES OF PROTECTIVE ORDER
PROCEDURE, ADOPTING NEW RULE 91.6 OF THE RULES OF FAMILY LAW
PROCEDURE, RENUMBERING AND AMENDING RULE 91.6 OF THE RULES OF
FAMILY LAW PROCEDURE, AND AMENDING RULE 91 OF THE RULES OF
FAMILY LAW PROCEDURE**

On January 5, 2021, the Family Court Improvement Committee, in collaboration with the Committee on Limited Jurisdiction Courts, filed a petition proposing to amend Rule 35 of the Arizona Rules of Protective Order Procedure, to adopt a new Rule 91.6 of the Rules of Family Law Procedure, and to renumber and amend Rule 91.6 of the Rules of Family Law Procedure. Comments having been received and having considered the petition and comments,

IT IS ORDERED that Rule 35 of the Arizona Rules of Protective Order Procedure is amended in accordance with Attachment A to this order, effective January 1, 2022.

IT IS FURTHER ORDERED that new Rule 91.6 of the Rules of Family Law Procedure is adopted in accordance with Attachment B

to this order, effective January 1, 2022.

IT IS FURTHER ORDERED that Rule 91.6 of the Rules of Family Law Procedure is amended and renumbered as Rule 91.7 of the Rules of Family Law Procedure in accordance with Attachment C to this order, effective January 1, 2022.

IT IS FURTHER ORDERED that Rule 91 of the Rules of Family Law Procedure is amended in accordance with Attachment D to this order, effective January 1, 2022.

DATED this 25th day of August, 2021.

_____/s/_____
ROBERT BRUTINEL
Chief Justice

TO:

Rule 28 Distribution
Hon. Paul J. McMurdie
Susan Pickard
Hon. Wendy A. Million

ATTACHMENT A¹

ARIZONA RULES OF PROTECTIVE ORDER PROCEDURE

Rule 35. Legal Decision Making and Parenting Time

(a)-(e) [No change]

(f) Defendant Is a Non-Parent of Child. When a harassment injunction involves a child who is not the defendant's legal or biological child, the limited jurisdiction court may issue an ex parte protective order and conduct any contested hearings. To the extent the order affects the parenting rights of the person who is not a party to the harassment injunction action, the remedy for such a person is under Rule 91.6 of the Rules of Family Law Procedure.

¹ Additions to the text of the rule are shown by underscoring and deletions of text are shown by ~~strike-through~~.

ATTACHMENT B

NEW RULE 91.6

RULES OF FAMILY LAW PROCEDURE

Rule 91.6. Orders that Affect Parenting Orders

If a limited jurisdiction court issues a harassment injunction and the order affects a party's parenting rights in a legal decision-making or parenting time order issued by a court of this state, the affected party may petition for relief from the order under this rule in the family court cause number. The petition must comply with Rule 91, must state that relief is requested under this rule, and must state the details demonstrating that the injunction affects the party's parenting rights.

If the superior court finds that the harassment injunction is affecting the party's parenting rights in a legal decision-making or parenting time order, the superior court may:

(a) direct the limited jurisdiction court to transfer the order to the superior court under a superior court cause number;

(b) join any third party who is a party to the injunction to the proceeding in the superior court but only in a newly assigned cause number and not as a party in the family court case;

(c) schedule a concurrent proceeding between the matters;

(d) direct that notice be provided to the third party of any hearing related to the harassment injunction;

(e) conduct such proceedings as necessary to reconcile the orders; or

(f) modify the orders as deemed appropriate.

ATTACHMENT C²

RULES OF FAMILY LAW PROCEDURE

Rule 91.6~~7~~. Other Post-Judgment Petitions

A party seeking any other post-judgment relief not specifically addressed in Rule 91 or Rules 91.1 through ~~91.5~~ 91.6 must file a petition in compliance with Rule 91 that states detailed facts supporting the requested relief; and the specific legal authority that permits the court to grant the relief requested.

² Additions to the text of the rule are shown by underscoring and deletions of text are shown by ~~strike-through~~.

ATTACHMENT D³

RULES OF FAMILY LAW PROCEDURE

Rule 91. Modification or Enforcement of a Judgment

(a) Definitions.

(1) *Judgment*. When used in this rule and in Rules 91.1 through ~~91.6~~91.7, “judgment” includes a decree of dissolution of marriage, a decree of legal separation, a decree of dissolution of a covenant marriage, a decree of legal separation of a covenant marriage, a decree of annulment, judgments of paternity and maternity, and orders defining legal decision-making, parenting time, or child support.

(2) *Applicant*. When used in this rule and in Rules 91.1 through ~~91.6~~91.7, an “applicant” is the party who, after the entry of a judgment, seeks to modify or enforce all or part of a judgment.

(3) [No change]

(b) Petition to Modify or Enforce a Judgment. An applicant who seeks to modify or enforce all or a portion of a judgment after the entry of the judgment must file a petition with the court and pay the required filing fee. The petition must meet the requirements of this rule and, as applicable, Rules 91.1, 91.2, 91.3, 91.4, 91.5, ~~or 91.6~~, or 91.7. The petition must include, at a minimum:

(1)-(5) [No change]

(c)-(f) [No change]

(g) Affidavit of Financial Information. When this rule or Rules 91.1 through ~~91.6~~91.7 require an Affidavit of Financial Information, the parties must use an affidavit substantially in the form set forth in Form 2, Rule 97 (“Affidavit of Financial Information”) or another form permitted by local rule.

(h)-(l) [No change]

(m) Disclosure. In any proceeding under Rule 91 or Rules 91.1 through ~~91.6~~91.7, each party must comply with Rule 49 within the time established by the court at the conference or hearing or as agreed by the parties.

(n)-(p) [No change]

³ Additions to the text of the rule are shown by underscoring and deletions of text are shown by ~~strike-through~~.