SUPREME COURT OF ARIZONA

In the Matter of	)	Arizona Supreme Court
	)	No. R-21-0038
RULES 10, 38, 40, 62, 64 AND 65	)	
OF THE RULES OF PROCEDURE FOR THE	)	
JUVENILE COURT	)	
	)	
	)	
	)	
_____	)	**FILED 08/25/2021**

ORDER ADOPTING ON AN EMERGENCY BASIS
AMENDMENTS TO RULES 10, 38, 40, 62, 64, and 65 OF
THE RULES OF PROCEDURE FOR THE JUVENILE COURT

On June 30, 2021, David K. Byers, on behalf of the Administrative Office of the Courts, filed a rule petition proposing the adoption, on an emergency basis, of amendments to Rules 10, 38, 40, 62, 64, and 65 of the Rules of Procedure for the Juvenile Court. Having considered the petition,

IT IS ORDERED, pursuant to Rule 28(h)(2) of the Rules of the Supreme Court of Arizona, that Rules 10, 38, 40, 62, 64, and 65 of the Rules of Procedure for the Juvenile Court are amended on an emergency basis in accordance with the amendments shown on the attachment to this order, effective September 29, 2021.

IT IS FURTHER ORDERED that, consistent with this Court's order of July 8, 2021, the Court will consider whether to adopt

these rule amendments on a permanent basis during its December 2021 Rules Agenda.

DATED this 25th day of August, 2021.

/s/
ROBERT BRUTINEL
Chief Justice

TO:

Rule 28 Distribution
David K Byers

ATTACHMENT[1]

RULES OF PROCEDURE FOR THE JUVENILE COURT

Rule 10. Appointment and Waiver of Counsel

A. Right to Counsel. The juvenile has the right to be represented by counsel in all delinquency and incorrigibility proceedings as provided by law. ~~The court shall appoint counsel for the juvenile~~ ~~if the juvenile is determined to be indigent~~.

B.~~ Determination~~ Appointment of Counsel Due to Indigence. Upon the filing of a petition, the court shall appoint an attorney for the juvenile if the court finds that the juvenile is indigent.

1. *Definition.* The term indigent means a person not financially able to retain counsel.

2. *Determination.* The court shall order the juvenile, parent, guardian or custodian of the juvenile to provide proof of financial resources by filing a financial questionnaire provided by the court. The court may question the parent, guardian or custodian under oath. If the court determines the juvenile is entitled to appointed counsel, the parent, guardian or custodian may be ordered to pay a reasonable portion of the cost of counsel.

C. – D. [No change]

* * *

Rule 38. Assignment, Appointment of Counsel

A. [No change]

B. Appointment of Counsel Due to Indigence.

1. *Definition.* The term indigent means a person not financially able to retain counsel.

2. *Determination*. The court shall order the appointment of counsel for those persons entitled to counsel as provided by law, and determined to be indigent~~, as provided by law~~. In determining whether a person is indigent, the court shall order the person to provide proof of financial resources by filing a financial questionnaire provided by the court. The court may question the person under oath. If the court determines the person is not indigent the court may order the person to pay a reasonable portion of the cost of counsel or deny the request for appointment of counsel. A person may knowingly, intelligently, and voluntarily waive the right to counsel. Waiver of counsel shall be set out in writing or in the minute entry of the court.

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

C. Manner of Appointment. If the court enters an order appointing or denying counsel, a copy of the order or minute entry shall be provided to the parties and any attorney appointed.

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Rule 40. Appointment of Guardian Ad Litem

A. The court may appoint a guardian ad litem to protect the interest of the child. The guardian ad litem ~~may~~ shall be an attorney~~, volunteer special advocate or other qualified person~~ and shall not also serve as the child's attorney in dependency proceedings. The guardian ad litem shall meet with the child before the preliminary protective hearing, if possible, or if not possible, within fourteen (14) days after the preliminary protective hearing. The guardian ad litem shall also meet with the child before all substantive hearings. Upon a showing of extraordinary circumstances, the judge may modify this requirement for any substantive hearing.

B. – C. [No change]

* * *

Rule 62. Initial Guardianship Hearing

A. – B. [No change]

C. Procedure. At the initial hearing the court shall:

1. – 2. **[No change]**

~~3. Appoint counsel for the child if a guardian ad litem has not been appointed;~~

~~4.~~3. **[No change in text]**

~~5.~~4. **[No change in text]**

~~6.~~5. **[No change in text]**

~~7.~~6. **[No change in text]**

~~8.~~7. **[No change in text]**

D. [No change]

* * *

Rule 64. Motion, Petition, Notice of Hearing and Service of Process and Orders

A. – D. [No change]

E. Orders. The court shall assign counsel for the child as provided in Rule 38 for the initial termination hearing unless counsel was previously appointed and may enter other orders, pending the hearing, as the court determines to be in the best interests of the child.

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Rule 65. Initial Termination Hearing

A. – B. [No change]

C. Procedure. At the initial hearing the court shall:

1. – 2. **[No change]**

~~3.Appoint counsel for the child if a guardian ad litem has not been appointed~~;

~~4.~~3. **[No change in text]**

~~5.~~4. **[No change in text]**

~~6.~~5. **[No change in text]**

~~7.~~6. **[No change in text]**

D. [No change]