

Rebecca White Berch (Justice, ret.), Chair
Task Force on the Rules of Procedure for the Juvenile Court, Petitioner
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SUPREME COURT OF ARIZONA

SUPPLEMENTAL PETITION) Supreme Court No. R-20-0044
TO ADOPT NEW JUVENILE)
RULES 349, 350, AND 419 AND) SUPPLEMENTAL PETITION
NEW FORMS 7 AND 8, AND TO)
AMEND FAMILY LAW RULE 43.1) Expedited Consideration
_____) and Emergency Adoption Requested

Introduction. Petitioner, the Task Force on the Rules of Procedure for the Juvenile Court, files this supplemental petition requesting the adoption of three additional juvenile rules, two additional juvenile forms, and an amendment to the Rules of Family Law Procedure. These rules and forms were not included in petitioner’s April 2021 petition. These items, however, are closely related to the subject matter of the April petition, and their inclusion in the set of rules proposed in April would make those rules more complete.

The Task Force requests the Court to add two new rules in Part III of the restyled rules. One rule, Rule 349, establishes procedures for a revocation of a permanent guardianship. The other, Rule 350, concerns reunification services if a

dependency proceeding is filed when the child is in the custody of a permanent guardian.

New Rule 419 in Part IV on adoptions would address the termination of child support orders when a child is adopted. In conjunction with this rule, petitioner also proposes two new forms, Form 7 and Form 8, and an amendment to Family Law Rule 43.1.

The proposed new rules and forms are shown in the “Supplemental Appendix,” which Petitioner is filing as a separate document. The Supplemental Appendix also includes an alternative derivation table that contains the proposed new juvenile rules and forms.

Rules 349 and 350. A.R.S. § 8-873 authorizes the filing of a petition to revoke a Title 8 Guardianship. A.R.S. § 8-873.01 allows a parent to seek an order from the court for reunification services when a dependency petition is filed in the course of a permanent guardianship.

The statutes themselves do not provide adequate procedures for these proceedings, and the current Juvenile Rules do not contain corresponding rules on these subjects. A procedural rule for each statute would provide a framework, including required allegations, hearings, proofs, and judicial findings, for petitioning to revoke a permanent guardianship under A.R.S. § 8-873 (Rule 349) and for ordering reunification services in the circumstances described by A.R.S. § 8-873.01

(Rule 350). These two rules would provide straightforward and beneficial guidance to the court, parents, permanent guardians, attorneys, and others.

The April petition filed by the Task Force included three rules concerning termination proceedings: Rules 349, 350, and 351. Petitioner proposes that those rules be renumbered, respectively, as Rules 351, 352, and 353, to accommodate the appropriate numbering of these two new guardianship rules.

Rule 419, Forms 7 and 8, Family Law Rule 43.1. The other items requested by this supplemental petition would establish a process for notifying the family division or other interested parties of the entry of an adoption order. When a child is adopted, ongoing support obligations terminate by operation of law under A.R.S. §§ 8-539 and 25-503(Q)(3). There is currently no mechanism, however, for providing any notification of the adoption to the family law division or to the parties in the underlying family case, and parents subject to such orders occasionally unwittingly continue to pay child support. The notification process established by Rule 419 (“Notice of Completed Adoption”) would facilitate termination of those ongoing support orders.

The procedure required by proposed Rule 419 entails the use of two new forms, identified as Form 7 (“verified parent information form”) and Form 8 (“notice of completed adoption”). The proposal also includes an amendment to Family Law Rule 43.1 (“filing pleadings and other documents”), specifically, a new section (h)

(“notice of completed adoption”), to assure that pertinent documents associated with this procedure are treated as confidential by the family court.

Pre-filing Vetting. The Task Force reviewed drafts of the proposed rules and forms, and its members generally support the principles of the new rules. One Task Force member, however, expressed concerns about the ability to readily access child support information in an out-of-state non-IV-D case. The Clerks’ representative on the Task Force also observed that Rule 419 entails additional and unfunded duties for court clerks, which could be burdensome. The Maricopa County Clerk’s Office supports the Rule 419 procedure.

Request for Expedited Consideration and Emergency Adoption. Pursuant to Supreme Court Rule 28(h), Petitioner asks the Court to consider this supplemental petition at its December 2021 Rules Agenda, concurrently with the main body of rules proposed by the Task Force in its April rule petition. Petitioner further requests the Court’s emergency adoption of this supplemental petition. By emergency adoption, these rules could (1) become effective on July 1, 2022, concurrently with the effective date for the main body of Petitioner’s restyled rules; (2) have sequential rules numbers that are integrated with the main body of rules; and (3) facilitate the publication of these supplemental rules with the main body of rules in a single 2022 volume. Petitioner requests the Court to concurrently approve the posting of Forms 7 and 8 on the Arizona Judicial Branch website.

Petitioner further requests a public comment period for this supplemental petition to follow the December Rules Agenda, and that the Court also provide an opportunity for filing a reply to those comments. Because the proposed comment period would extend beyond the term of the Juvenile Rules Task Force, the members of the Editorial Group, with the Court's permission, could prepare and submit that reply.

RESPECTFULLY SUBMITTED this 30th day of September 2021.

By /s/ Rebecca White Berch
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Chair, Juvenile Rules Task Force