

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-20-0044
PETITION TO AMEND THE RULES OF)
PROCEDURE FOR THE JUVENILE COURT,)
AND TO AMEND CIVIL RULE 81)
)
)
)
)
) FILED 08/29/2022

**ORDER ADOPTING ON A PERMANENT BASIS RULES 349, 350, AND 419
OF THE RULES OF PROCEDURE FOR THE JUVENILE COURT,
ADOPTING ON A PERMANENT BASIS AN AMENDMENT TO RULE 43.1
OF THE RULES OF FAMILY LAW PROCEDURE,
AND AMENDING RULES 341 AND 352 AND FORMS 7 AND 8 OF
THE RULES OF PROCEDURE FOR THE JUVENILE COURT**

In April 2021, Justice Rebecca White Berch, chair of the Task Force on the Rules of Procedure for the Juvenile Court (“the Task Force”), filed a petition on the Task Force’s behalf proposing extensive revisions in the Rules of Procedure for the Juvenile Court (“the Juvenile Court Rules”).

In September 2021, when the Task Force filed its reply to the public comments on the petition, it also filed a supplemental petition proposing three additional rules—Juvenile Court Rules 349, 350, and 419—as well as proposing an amendment to Rule 43.1 of the Rules of Family Law Procedure (“the Family Law Rules”). In an order dated December 8, 2021, this Court adopted the new rules and the rule amendment on an emergency basis, effective July 1, 2022. The order also opened these

rules and the rule amendment for public comment about whether they should be adopted on a permanent basis, with all comments due no later than May 1, 2022, with any reply due by no later than June 1, 2022.

Having considered the supplemental petition, comments, and reply,

IT IS ORDERED that Juvenile Court Rules 349 and 350, which were adopted on an emergency basis on December 8, 2021, are adopted permanently in accordance with Attachment A to this order, effective January 1, 2023. The rules as shown in Attachment A to this order are the same as the rules shown in Attachment B of this Court's December 8, 2021 order.

IT IS FURTHER ORDERED that Juvenile Court Rule 419, which was adopted on an emergency basis on December 8, 2021, is adopted permanently, as modified in accordance with Attachment B to this order, effective January 1, 2023.

IT IS FURTHER ORDERED that the amendment to Family Law Rule 43.1, adopted on an emergency basis on December 8, 2021, is adopted permanently in accordance with Attachment C to this order, effective January 1, 2023. The rule amendment as shown in Attachment C to this order is the same as the rule amendment shown in Attachment D of this Court's December 8, 2021 order.

IT IS FURTHER ORDERED that recommended Form 7 to the Juvenile Court Rules, which this Court approved for posting on

the Arizona Judicial Branch website in its December 8, 2021 order, is amended in accordance with Attachment D to this order, effective January 1, 2023.

IT IS FURTHER ORDERED that recommended Form 8 to the Juvenile Court Rules, which this Court approved for posting on the Arizona Judicial Branch website in its December 8, 2021 order, is amended in accordance with Attachment E to this order, effective immediately.

IT IS FURTHER ORDERED that to correct several erroneous cross-references to other rules, Juvenile Court Rules 341(f)(2)(G) and 352(f)(2) are amended in accordance with Attachment F to this order, effective immediately.

DATED this 29th day of August, 2022.

/s/
ROBERT BRUTINEL
Chief Justice

TO:

Rule 28 Distribution
Rebecca White Berch
Dawn Rachelle Williams
Molly L Dunn
Rebecca Smith Masterson
Samuel A Thumma
Paul D Bennett
Amanda Helen Glass
Paul J McMurdie
Susan Pickard
Donna McQuality

ATTACHMENT A

NEW RULES 349 AND 350

RULES OF PROCEDURE FOR THE JUVENILE COURT

Rule 349. Revocation of a Permanent Guardianship

(a) Generally. The child's guardian or any party to the dependency proceeding may file a petition pursuant to A.R.S. § 8-873 for the revocation of an order granting permanent guardianship.

(b) Petition. The petition must state a factual basis describing a significant change of circumstances supporting a revocation and address the appropriate factors cited in A.R.S. § 8-873(A). The petition must be verified.

(c) Petitioner's Duties.

(1) *Generally.* The petitioner must provide a serve of the petition to the child's parents and the permanent guardian under Rule 106. The court must provide a copy of the petition to the attorney and GAL appointed for the child under subpart (d)(1).

(2) *Indian Child.* If the child is an Indian child, the petitioner must provide notice as required by ICWA to the parent, Indian custodian, and tribe by registered or certified mail with return receipt requested. If the identity or location of the parent or Indian custodian cannot be determined, the petitioner must notify the Secretary of the Interior by registered or certified mail, who has 15 days after receipt of mailing to provide the requisite notice to the parent or Indian custodian and the tribe. The notice must advise the parent or Indian custodian and the tribe of their right to intervene.

(d) Court's Duty Upon Receiving a Petition. Upon receiving a petition to revoke a permanent guardianship, the court:

(1) must appoint an attorney and GAL for the child;

(2) must set an initial revocation hearing no later than 45 days after the filing of the petition and notify the petitioner, the child's attorney and GAL, the child's parent, and the permanent guardian of the hearing date; and

(3) may, if the court has reason to believe that the child is at risk of abuse or neglect, order DCS to investigate and provide a report to the court and the parties no later than 10 court days after the order is entered.

(e) Initial Revocation Hearing. At the initial revocation hearing, the court must determine whether a copy of the petition was served as required by section (c); whether DCS, if ordered to investigate, provided its investigative report to the court and parties; and whether a parent, permanent guardian, the child's attorney, or GAL objects to the petition. At the conclusion of the initial revocation hearing, the court may:

(1) continue the initial hearing to allow the petitioner and DCS to complete their responsibilities under subparts (c)(1) and (d)(3);

(2) order the GAL to prepare a report to the court and to provide a copy of the report to the parties, and continue the initial hearing pending completion of those actions;

(3) set a contested hearing if a party objects to the petition;

(4) grant the petition if there is no objection and the court has made the required findings under section (g); and

(5) enter interim orders.

(f) Contested Hearing. If the petition is set for a contested hearing, the petitioner must meet the burden of proof required by A.R.S. § 8-873 (C) or (D). The court may consider any evidence at the hearing that is admissible under Rule 104(b).

(g) Considerations. Before entering findings and orders, the court must consider:

(1) the child's position;

(2) the duration of the guardianship;

(3) the level of contact between the parent and the child during the guardianship;
and

(4) any other relevant factor.

(h) Findings. The court's findings must be contained in a signed minute entry or order. If the child was adjudicated dependent, the court must make findings under A.R.S. § 8-873(C). If the child was not adjudicated dependent, the court must make findings under A.R.S. § 8-873(D). The court must also:

(1) make findings related to the considerations in section (g); and

(2) make findings required by ICWA if the child is an Indian child.

(i) Orders. The court must enter an order granting or denying the petition to revoke the permanent guardianship. Upon revoking the guardianship, the court may:

(1) order the child returned to the legal and physical custody of a parent; and

(2) enter other orders that may be appropriate.

Rule 350. Reunification Services When a Dependency Petition is Filed During a Permanent Guardianship

(a) Generally. The provisions of this rule apply when a dependency petition is filed while the child is in the custody of a permanent guardian. In that circumstance, the court under A.R.S. § 8-873.01 must order reunification services for the parent whose child was previously adjudicated dependent if the parent meets the requirements of section (b).

(b) Requirements. After the parent has been notified of the dependency petition, the parent must:

- (1) be willing to care for the child;
- (2) at the parent's first appearance, request the court – orally or in writing – to participate in reunification services; and
- (3) prove by clear and convincing evidence that there has been a significant change of circumstances demonstrating that the parent may be able to care for the child and that reunification services are in the child's best interests.

(c) Procedure. If a parent is willing to care for the child and requests to participate in reunification services, the court must set a hearing to determine whether the parent can prove the requirements in section (b).

(d) Findings and Orders. Findings must be contained in a signed minute entry or order. If the court finds that the requirements of section (b) have been proven, the court must order DCS to provide reunification services.

ATTACHMENT B¹

NEW RULE 419 (AS AMENDED)

RULES OF PROCEDURE FOR THE JUVENILE COURT

Rule 419. Notice of Completed Adoption

(a) **Generally.** The purpose of this rule is to ensure ~~assure~~ that a parent's child support obligations terminate upon adoption of the child, as required under A.R.S. §§ 8-117, 8-539, and 25-503(Q)(3).

(b) **Verified Parent Information Form (Form 7).**

(1) Either DCS or the prospective adoptive parent must complete a Verified Parent Information form, Form 7, and file ~~provide~~ the completed form with ~~to~~ the juvenile court clerk, under seal, in the adoption case no later than 10 days before the adoption hearing. DCS must complete the form if the child is dependent. Otherwise, the prospective adoptive parent must complete the form.

(2) Form 7 must include:

(A) the child's full name and date of birth; and

(B) the full name, date of birth, and social security number for each parent whose rights were terminated after consent or by court order.

~~(3) The juvenile court clerk must maintain Form 7 as an unfiled document in the adoption case.~~

(c) **Search of the Registry.** At the time the court enters an adoption order and using the information provided in Form 7, the clerk must search the Arizona state case registry established under A.R.S. § 46-442 for both Title IV-D and Non-IV-D cases to determine whether there is a child support order for the adopted child.

(d) **Search Results; Notice of Completed Adoption (Form 8).** If the clerk's search confirms the existence of a child support order, the clerk must take the following action, as applicable, no later than 30 days after entry of the adoption order ~~as applicable~~.

(1) If there is a child support order in a Title IV-D case, whether it is an in-state or out-of-state order, the clerk must transmit a completed Notice of Completed Adoption, Form 8, to the Arizona IV-D agency.

(2) If there is a child support order in an in-county, non-IV-D case, the clerk must send a completed Form 8 to the last known address of the parties in the family law case and their attorneys of record.

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

(3) If there is a child support order in an out-of-county, non-IV-D case, the clerk must transmit a completed Form 8 to the clerk of that county. The receiving clerk also must send a completed Form 8 to the to the last known address of the parties in the family law case and their attorneys of record; or

(4) If a child support order is listed on Form 7 for an out-of-state court in a non-IV-D case, the clerk must send a completed Form 8 to the address of the parties listed on Form 7.

(5) After completing the responsibilities specified above, the clerk must file Form 8 in the Arizona family law case, if an Arizona case has been identified, as a confidential record under Rule 43.1(h) of the Rules of Family Law Procedure.

~~(e) Clerk's Subsequent Duties. After completing the responsibilities specified above, the clerk must:~~

~~(1) file Form 8 in the Arizona family law case, if an Arizona case has been identified, as a confidential record under Family Law Rule 43.1(h); and~~

~~(2) destroy Form 7.~~

ATTACHMENT C²

ARIZONA RULES OF FAMILY LAW PROCEDURE

Rule 43.1. Filings, Pleadings, and Other Documents

(a)–(g) [No change]

(h) Notice of Completed Adoption. A notice of completed adoption (Juvenile Form 8), a motion to modify or terminate child support based on the adoption of a child, any response, or an associated minute entry or order terminating child support, must be treated as a confidential record.

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

ATTACHMENT D

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Representing [] Self or Attorney for [] _____
Lawyer's Bar Number: _____

_____ **COURT OF ARIZONA**
IN _____ **COUNTY**

In the Matter of:

(Names of Child(ren) under 18 years of age)

Case Number: _____
**CONFIDENTIAL VERIFIED
PARENT INFORMATION FORM
[Form 7]**
(Assigned to Hon. _____
Division _____)

- **This form must be ~~submitted to~~ filed under seal with the juvenile court clerk not later than 10 days before the adoption hearing. Please use additional sheets if necessary.³**

[No changes to the remainder of the form]

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

ATTACHMENT E

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Representing [] Self or Attorney for [] _____
State Bar No. (if any): _____

_____ **COURT OF ARIZONA**
_____ **COUNTY**

In the Matter of:

(Names of Child(ren) under 18 years of age)

Case Number: _____
**NOTICE OF COMPLETED ADOPTION
[Form 8]**
(Assigned to Hon. _____
Division _____)

You are hereby notified that the following child/children were adopted.

Full Name of Child	Date of Birth	Date of Adoption
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

The obligation to pay child support is terminated by operation of law when a child is adopted under A.R.S. §§ 8-539 and 25-530(Q). However:

- You may ~~may~~ need to request that your income withholding order be stopped.⁴
[No changes to the remainder of the form]

⁴ Additions to the text of the form is shown by underscoring and deletions are shown by ~~strike-through~~.

ATTACHMENT F⁵

RULES OF PROCEDURE FOR THE JUVENILE COURT

Rule 341. Review Hearing

(a)-(e) [No change]

(f) **Findings and Orders.** All findings and orders must be in a signed minute entry or order.

(1) [No change]

(2) If the court finds that the child continues to be dependent, the court must:

(A)-(F) [No change]

(G) if there is reason to know child is an Indian child, make findings pursuant to the standards and burdens of proof required under ICWA, including whether placement of the Indian child is in accordance with ICWA § 1915, 25 C.F.R. § 23.131, and Rule 321 ~~50.2~~; and

(H) [No change]

* * *

Rule 352. Initial Termination Hearing

(a)-(e) [No change]

(f) **Failure to Appear.**

(1) [No change]

(2) At the hearing, the court may terminate parental rights based on the record and evidence presented if the requirements of subpart (f)(1) are satisfied and the petitioner or moving party has met the burden of proof required for termination. The court must enter its findings and orders pursuant to Rule 353(h) ~~351(h)~~. If the child is an Indian child, the court must make findings pursuant to the standards and burdens of proof required under ICWA and as set forth in Rule 353(d) ~~351(h)(2)(D)~~.

⁵ Additions to the text of the rule are shown by underscoring and deletions are shown by ~~strike-through~~.