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**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of) Arizona Supreme Court No. R-
)
PETITION TO AMEND RULES)
47, 47.1, 47.2, 48, & 91.5,)
ARIZONA RULES OF FAMILY)
LAW PROCEDURE)
_____)

The Committee on Family Court (“COFC”) respectfully requests that the Court amend Rules 47, 47.1, 47.2, 48, and 91.5 of the Arizona Rules of Family Law Procedure. The proposed changes address temporary orders and post-judgment enforcement matters regarding legal decision-making and parenting time and are in response to concerns raised by the public and the family court bench.

Members of the public have expressed concerns to the COFC regarding various issues involving the family court. Those concerns include the following:

- The family court’s handling of a parent’s domestic violence allegations, especially during temporary orders hearings. A frequent

criticism is that the family court does not allocate sufficient time for the allegations and evidence to be considered at the temporary orders hearing.

- The family court's sometimes failure to provide an explanation for its temporary orders.
- The lack of a mechanism for the family court to review temporary orders in cases where the final trial or evidentiary hearing is delayed.

In addition, judicial members of COFC have raised related concerns regarding the following:

- As a response is not required to a motion for temporary orders, there is a lack of clarity in the rules as to how the family court should proceed if no response is filed and the moving party seeks to withdraw the motion before the temporary orders hearing.
- The existing tension in Rule 91.5 regarding complex post-judgment petitions to enforce legal decision-making and parenting time where a ruling must be issued in 21 days, yet the family court needs additional information before it can make an informed decision on the petition.

To address these concerns consistent with its purpose to improve the quality of justice in family court operations, the COFC proposes:

- When there are domestic violence allegations in temporary order filings, the party alleging the domestic violence must state what happened and provide factual allegations supporting the allegations.
 - The proposed language tracks, in part, the existing language in a Petition for an Order of Protection. The proposal would improve the existing process where often the moving party has only checked a box indicating that there has been domestic violence with no factual details alleged. It would allow the opposing party to prepare for the hearing, and the family court to triage the case to determine how much time may be needed for the temporary orders hearing.
- When there are domestic violence allegations in temporary order filings, the family court must prioritize the hearing and schedule the hearing with reasonable time limits appropriate to address the allegations and any defenses.
 - The proposal does not attempt to impose a one-size-fits-all approach to time limits for temporary orders hearings but emphasizes the importance that should be given to cases involving domestic violence allegations in both priority for setting the hearing and the time allocated to the hearing.

- When there is a motion for temporary orders, the family court may refer the motion to a judge pro tempore or a family law master under Rule 72.
 - The proposal would allow each local family court additional flexibility in addressing motions for temporary orders.
- When a family court enters a ruling on a contested motion for temporary orders involving A.R.S. § 25-403, the court need not make findings (consistent with existing law as explained in *Gutierrez v. Fox*, 242 Ariz. 259, 268 ¶ 35 (App. 2017)); however, it should identify which facts it found to be most important in deciding legal decision-making or parenting time.
 - This proposal is a compromise approach to the extremes of either requiring findings on all the 403 factors, which may place an unworkable strain on the family court, and requiring no findings or explanation. It would also give the parties additional insights into what facts the judicial officer found important issuing the temporary orders.
- When temporary orders have issued, the family court could review those orders if there are extraordinary circumstances demonstrated within the first 180 days, or thereafter, there has been a material change in circumstances.

- This proposal allows a specific mechanism and standards to apply for requests that the family court review temporary orders before a final trial or evidentiary hearing.
- If no response is filed to a motion for temporary orders, the moving party may file a Notice of Withdrawal at least three days before the date set for a conference or hearing.
 - The proposal would provide additional clarity for how and when a party may withdraw a motion for temporary orders.
- When the family court finds that additional information is necessary before deciding a Rule 91.5 petition, it may make additional findings to ensure it has the necessary information, and to protect the child's safety, if necessary.
 - When addressing post-judgment petitions to enforce legal decision-making and parenting time, the family court is often confronted by two very divergent stories from the parents. The applicable statute rightly requires a prompt hearing within 25 days of service, and Rule 91.5 requires a ruling within 21 days of the concluded hearing. Those tight time frames often place the family court judicial officer in a difficult position of making a decision without all the relevant information regarding the minor child's best interests. The proposal would allow the

family court to defer the ruling on the petition under certain limited circumstances and also allow the family court to issue temporary orders to ensure the child's safety while additional information can be obtained.

- The proposal also provides clarity that the family court should consider good causes defenses to an enforcement action when the party opposing the enforcement petition is seeking to protect the child from domestic violence or child abuse. *See, e.g.*, A.R.S. §§ 25-403(A)(6) & 13-1302(C)-(D).

The COFC respectfully requests that the Court adopt the proposals in the attached Appendix.

DATED this 9th day of January, 2026

/s/ Greg Sakall

Chair, Committee on Family Court

Appendix

Rule 47. Motions for Temporary Orders

(a) No change.

(1) *For Legal Decision-Making and Parenting Time.* A motion requesting temporary legal decision-making or parenting time must specify the court's authority to proceed under A.R.S. § 25-402 and must include a proposed parenting plan that specifically states the legal decision-making or parenting time for both parties. If a party alleges A.R.S. § 25-403.03 is applicable, the party must state what happened including what act(s) are claimed to have constituted domestic violence, the exact or approximate dates, and the circumstances constituting the alleged domestic violence.

(2)- (4) **No change.**

(b) No change.

(c) Scheduling.

(1) *Generally.* Upon receiving a motion for temporary orders and the required supporting documents, the court must schedule a resolution management conference. No evidence will be taken at a resolution management conference unless the parties agree. The purpose of a resolution management conference is to facilitate agreements between the parties that permit the entry of temporary orders at the conclusion of the conference. If, at the conclusion of the resolution management conference, issues remain that require an evidentiary hearing concerning temporary orders, the court must schedule an evidentiary hearing on those issues. If the court finds the motion raises disputed issues under A.R.S. § 25-403.03, the court must prioritize the hearing and schedule the hearing with reasonable time limits appropriate to address the allegations and any defenses. If the court finds that the circumstances of a specific case demonstrate that a resolution management conference would not serve the interests of efficiency, it may schedule an evidentiary hearing on temporary orders instead of a resolution management conference. The court must set the conference or hearing on a date not later than 30 days after the motion is filed.

(A) – (C) **No change.**

(2) *Motions for Legal Decision-Making and Parenting Time.* Notwithstanding (c)(1), if a party files a pre-decree motion for a temporary order requesting legal decision-making or parenting time, the court must hold an evidentiary hearing not later than 60 days after the party files the motion unless:

(A) the moving party waives the requirement for a hearing within 60 days;

(B) a temporary order is established during a separate conference or hearing that is held within 60 days after the party files the motion; or

(C) the court makes a finding on the record that the motion raises disputed issues under A.R.S. § 25-403.03, and that a delay is necessary to allow the court to schedule adequate time for a hearing to address the allegations and any defenses; or

(D) extraordinary circumstances exist, and the court is not able to schedule the hearing within 60 days after the motion is filed, and the court makes a finding on the record regarding the cause of the delay.

(3) – (4) **No change.**

(d) No change.

(e) Response. A party who is served with an Order to Appear on a motion for temporary orders is not required to file a response to the motion, but if the party does so, the party must verify the response.

(1) – (2) **No change.**

(3) If responding party files a response and alleges A.R.S. § 25-403.03 is applicable, the party must state what happened including what act(s) are claimed to have constituted domestic violence, the exact or approximate dates, and the circumstances constituting the alleged domestic violence.

(~~3~~ 4) The party who is served also must provide copies of all filed documents to the assigned judicial officer and to the moving party not later than 3 days before the date set for a conference or hearing.

(5) If no response is filed, the moving party may withdraw the motion by filing a Notice of Withdrawal not later than 3 days before the date set for a conference or hearing.

(f) – (h) No change.

(i) Local Procedures. Nothing contained in this rule precludes any county from establishing by local rule or administrative order an alternative process

for temporary orders including, but not limited to, referring a motion to a judge pro tempore, or to a family law master under Rule 72.

(j) Acting on the Motion. The court must rule on the motion no later than 21 days after the date the hearing is concluded. In ruling upon contested motions involving A.R.S. § 25-403, the court is not required to make findings; however, it should identify which facts it found to be most important in deciding legal decision-making or parenting time.

(k) No change.

(l) Review of Temporary Orders. On the court's own motion or upon the written request of any party setting forth a showing of a material change in circumstances, the court must set a conference and, if appropriate, an evidentiary hearing to determine whether a continuation of the existing temporary orders or a modification of the existing temporary orders is appropriate. If a party seeks a review of the temporary orders within 180 days of their issuance, the party must set forth facts in the motion which demonstrate extraordinary circumstances.

Rule 47.1. Simplified Child Support Orders

(a) – (c) No change.

(d) Review of Temporary Orders. On the court's own motion or upon the written request of any party setting forth a showing of a material change in circumstances, the court must set a conference and, if appropriate, an evidentiary hearing to determine whether a continuation of the existing temporary orders or a modification of the existing temporary orders is appropriate. If a party seeks a review of the temporary orders within 180 days of their issuance, the party must set forth facts in the motion which demonstrate extraordinary circumstances.

Rule 47.2. Motions for Post-Decree Temporary Legal Decision-Making, Parenting Time, Placement, Visitation, or Child Support Orders

(a) Generally. A party requesting temporary legal decision-making, parenting time placement, visitation, or child support after entry of a decree must file a verified motion stating the legal and jurisdictional bases for the motion, and the specific relief requested. If a party alleges A.R.S. § 25-403.03

is applicable, the party must state what happened including what act(s) are claimed to have constituted domestic violence, the exact or approximate dates, and the circumstances constituting the alleged domestic violence. The motion must include a proposed parenting plan containing the legal decision-making and parenting time requested for both parties. If the motion requests child support, the party requesting child support must comply with Rule 91.1. The motion must incorporate by reference the relevant allegations of the pending post-decree petition and not separately repeat them.

(b) – (d) No change.

(e) Acting on the Motion. The court must rule on the motion no later than 21 days after the date the hearing is concluded. In ruling upon contested motions involving A.R.S. § 25-403, the court is not required to make findings; however, it should identify which facts it found to be most important in deciding legal decision-making or parenting time.

(f) Review of Temporary Orders. On the court’s own motion or upon the written request of any party setting forth a showing of a material change in circumstances, the court must set a conference and, if appropriate, an evidentiary hearing to determine whether a continuation of the existing temporary orders or a modification of the existing temporary orders is appropriate. If a party seeks a review of the temporary orders within 180 days of their issuance, the party must set forth facts in the motion which demonstrate extraordinary circumstances.

Rule 48. Emergency Temporary Orders Without Notice

(a) With Notice; Filing and Timing. A party may request emergency temporary orders at the same time or after filing an initial pre-decree or post-decree petition. A court may set the matter for an accelerated hearing only if the verified motion:

- (1) sets forth the specific relief requested and the specific facts that support that relief; ~~and~~
- (2) provides specific facts that establish why an emergency or accelerated hearing is required; ~~and~~
- (3) If a party alleges A.R.S. § 25-403.03 is applicable, states what happened including what act(s) are claimed to have constituted domestic violence, the exact or approximate dates, and the circumstances constituting the alleged domestic violence.

(b) Without Notice; Filing and Timing. A party may request temporary orders without notice by filing a verified motion, along with a proposed form of orders and a notice of hearing on the motion. A motion may be filed at the same time or after filing an initial pre-decree or post-decree petition.

(1) *Grounds.* A court may grant temporary orders without written or oral notice to an adverse party or that party's attorney only if the verified motion:

(A) clearly shows by specific facts that if an order is not issued before the adverse party can be heard, the moving party or a minor child of the party will be irreparably injured, or irreparable injury, loss, or damage will result to the separate or community property of the moving party; ~~and~~

(B) the moving party or attorney provides written certification of the efforts to give notice to the other party, or why giving notice should not be required; and

(C) if a party alleges A.R.S. § 25-403.03 is applicable, states what happened including what act(s) are claimed to have constituted domestic violence, the exact or approximate dates, and the circumstances constituting the alleged domestic violence.

(2) – (3) **No change.**

(4) *Response.* If a motion is set for hearing, the nonmoving party is not required to file a response to the motion, but if the party does so, the party must verify the response.

(c) – (d) **No change.**

(e) Acting on the Motion. The court must rule on the motion no later than 21 days after the date the hearing is concluded. In ruling upon contested motions involving A.R.S. § 25-403, the court is not required to make findings; however, it should identify which facts it found to be most important in deciding legal decision-making or parenting time.

(f) Review of Temporary Orders. On the court's own motion or upon the written request of any party setting forth a showing of a material change in circumstances, the court must set a conference and, if appropriate, an evidentiary hearing to determine whether a continuation of the existing temporary orders or a modification of the existing temporary orders is appropriate. If a party seeks a review of the temporary orders within 180 days of their issuance, the party must set forth facts in the motion which demonstrate extraordinary circumstances.

Rule 91.5. Post-Judgment Petition for Enforcement of Legal Decision-Making or Parenting Time; Warrant to Take Physical Custody

(a) – (b) No change.

(c) Hearing. Under A.R.S. § 25-414, within 25 days of service of the petition, the court must hold a hearing or conference before a judge, commissioner, or person appointed by the court to review noncompliance with a visitation or parenting time order, and any good cause defense. ~~The court must rule on the petition no later than 21 days after the hearing or conference is concluded.~~

(d) Good Cause Defense. In considering any good cause defense, the court must consider the facts and any applicable law including the following:
(1) A.R.S. § 25-403(A)(6), and
(2) A.R.S. § 13-1302(C)-(D).

(e) Acting on the Petition. The court must rule on the petition no later than 21 days after the hearing or conference is concluded unless the court
(1) finds additional evidence is necessary before making a final ruling and states with specificity the evidence that is necessary, who will provide the evidence to the court, and how the evidence will be provided to the court. In such circumstances, the court must rule on the petition or schedule a continued hearing no later than 21 days after evidence is submitted;
(2) finds there is need for further investigation by a local social service agency. In such circumstances, the court must rule on the petition or schedule a continued hearing no later than 21 days after the report from the local social service agency is submitted;
(3) finds there is a competing petition to modify. In such circumstances, the court may defer a ruling until the resolution of the petition to modify; or
(4) orders that a petition to modify legal decision-making, parenting time, or visitation order must be filed by a designated party within 21 days or other date set by the court, and in such circumstances, the court may defer a ruling until the resolution of the petition to modify.

If the court continues the ruling, the court may issue temporary orders to ensure the safety of any minor child.