

1 The Honorable Robert Brutinel  
2 Presiding Judge  
3 Superior Court in Yavapai County  
4 Chair Committee on Juvenile Courts  
5 c/o Legal Services Office  
6 1501 W. Washington, Suite 414  
7 Phoenix, Arizona 85007-3231  
8 602-452-3283

9 **IN THE SUPREME COURT OF THE STATE OF ARIZONA**

10 In the Matter of: )  
11 )  
12 PETITION TO AMEND RULES OF ) Supreme Court No. R-\_\_\_\_\_  
13 PROCEDURE FOR THE JUVENILE COURT )  
14 PROVIDING FOR THE PROMULGATION OF )  
15 EMANCIPATION PROCEDURES; ) PETITION FOR AMENDMENT  
16 RENUMBERING PART V, APPEALS; ) PURSUANT TO RULE 28, RULES  
17 AND PROMULGATING RULE 81.1, ) OF THE SUPREME COURT  
18 ARIZONA RULES OF CIVIL PROCEDURE )  
19 )

20 Pursuant to Rule 28, Rules of the Supreme Court, Petitioner asks the Court to consider  
21 the following amendment to the Rules of Procedure for the Juvenile Court providing for  
22 emancipation procedures and renumbering Part V, Appeals. The proposed amendments are  
23 attached.

24 **I. INTRODUCTION**

25 On April 18, 2005, the Governor approved HB 2428, which amended Title 12, Arizona  
Revised Statutes, by adding A.R.S. 12-284(J) pertaining to Fees and chapter 15, A.R.S. 12-  
2451 et seq. which provides a process for the Emancipation of Minors. The effective date for  
this legislation was August 12, 2005. The legislation set forth an emancipation process with  
requirements, factors, notice, mediation, and investigation of allegations of child abuse or neglect  
that come to light in the petition. Through the process, a minor who is at least sixteen years of  
age may file a petition for an emancipation order with the clerk of the court in the county where  
the minor resides.

1 On July 13, 2005, the Chief Justice signed Administrative Order 2005-47 assigning all  
2 cases brought pursuant to A.R.S. 12-2451 et. seq. to the juvenile divisions of the superior court  
3 in each county. It was further ordered that these matters be entered in JOLTS as directed by the  
4 Administrative Office of the Courts.

5 In October 2005, members of the Court Improvement Advisory Workgroup were  
6 surveyed about possible involvement on a work group whose task would be to review the need  
7 for procedural rules to address the emancipation process. Eileen Bond, Esq., became the chair of  
8 the newly formed Emancipation Rules Workgroup. Also involved in this workgroup were the  
9 Hon. Elizabeth Peasley-Fimbres, Hon. Brian Rees, Paul Bennett, Esq., Linda Huston, Roger  
10 Murray, Frank Owens, Melody Tinsley, and Patricia Trebesch, Esq. This group met in January  
11 and February of 2006, and, through these meetings and continued e-mail correspondence, a draft  
12 of prospective rules was developed. The first draft of these rules was presented to the  
13 Committee on Juvenile Court (COJC) on June 20, 2006, whereupon suggestions were made  
14 regarding possible changes to the draft rules. The Emancipation Rules group considered these  
15 suggestions in subsequent efforts to make changes to the rules petition. This petition was once  
16 again submitted to the COJC during the September 22, 2006 meeting where, after discussion,  
members voted to approve the content and authorize the filing of this petition.

## 17 **II. SUMMARY OF MAJOR PROPOSED AMENDMENTS**

### 18 **Definitions and General Requirements.**

19 The proposed new rules set forth definitions as well as general procedures, and  
20 requirements concerning fees, venue and legal representation.

### 21 **Records, Hearings, and Proceedings.**

22 The proposed rules establish that the emancipation case record is maintained as a public  
23 record and that hearings are open to the public. A court may, upon order, close a hearing or  
24 record. The proposed rules also set forth Notice and Hearing requirements. The proposed  
25 rules further govern the filing, content and documentation requirements in Emancipation

1 proceedings. Provision is made for responses and objections as well as a description of  
2 Proceedings and Court Orders.

3 **Mediation and Alternative Dispute Resolution.**

4 The proposed rules offer a mediation and alternative dispute resolution option.

5 **Discovery, Time Limits and Exclusions.**

6 The proposed rules describe discovery procedures and prescribe time limits.

7 **III. CONCLUSION**

8 Petitioner respectfully requests that the Supreme Court adopt the proposed amendments,  
9 attached as Appendix A.

10 Respectfully submitted this 1<sup>st</sup> day of November, 2006.

11 

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# APPENDIX “A”



1 **Rule 93. Fees and Waivers.**

2 At any time prior to a hearing or at the hearing the court may reduce or waive the fee prescribed  
3 in A.R.S. §12-284 for filing a petition for emancipation of a minor due to financial hardship.

4 **3. EMANCIPATION PROCEEDINGS**

5 **Rule 94. Petition, Filing, Content and Documentation Requirements.**

6 A. **Filing of Petition.** A minor seeking emancipation may file a petition for emancipation  
7 with the clerk of the court in the county in which the minor resides if all of the following  
8 apply:

- 9 1. The minor is at least sixteen years of age.
- 10 2. The minor is a resident of this state.
- 11 3. The minor is financially self-sufficient.
- 12 4. The minor acknowledges in writing that the minor has read and understands the  
13 information that is provided by the court which explains the rights and obligations of  
14 an emancipated minor and the potential risks and consequences of emancipation.
- 15 5. The minor is not a ward of the court and is not in the care, custody and control of a  
16 state agency.

17 B. **Content of petition.** A petition for emancipation shall be made in writing, under oath,  
18 captioned: "In the Matter of Emancipation of \_\_\_\_\_, a minor." It shall set forth:

- 19 1. The petitioner's name, mailing address, social security number and date of birth.
- 20 2. The name and mailing address of the petitioner's parent or legal guardian if known.  
21 The petitioner shall state the efforts taken to obtain the address.
- 22 3. Specific facts and documentation to support the petition, including:
  - 23 (a) The petitioner's demonstrated ability to manage the petitioner's financial affairs  
24 including proof of employment or other means of support.
  - 25 (b) The petitioner's demonstrated ability to manage the petitioner's personal and  
social affairs, including proof of housing.
  - (c) The petitioner's demonstrated ability to live wholly independent of the petitioner's  
parent(s) or guardian.
  - (d) The petitioner's demonstrated ability and commitment to obtain or maintain  
education, vocational training or employment.

1 (e) How the petitioner will obtain or maintain health care.

2 (f) Any other information considered necessary to support the petition.

3 **C. Supporting Documentation.** At least one of the following shall be provided to support  
4 the petition:

5 1. Documentation that the petitioner has been living on petitioner's own for at least  
6 three consecutive months.

7 2. A statement explaining why the petitioner believes the home of the petitioner's parent  
8 or guardian is not a healthy or safe environment.

9 3. A notarized statement that contains written consent to the emancipation and an  
10 explanation by the petitioner's parent or guardian.

11 **D. Lack of Documentation or Proper form.**

12 1. A petition that fails to include the required information may be dismissed without  
13 prejudice or the court may require the petitioner to file supplemental information.

14 2. If the court requires supplemental information, such notice shall be in writing to the  
15 petitioner and shall provide a date certain for the filing of the required supplement.

16 3. The petition for emancipation shall be dismissed without prejudice if the petitioner  
17 fails to respond by the date certain granted by the court.

18 **Rule 95. Hearing, Service of Petition and Notice.**

19 A. **Hearing.** Upon receipt of a completed petition, the court shall set a hearing within  
20 ninety (90) days of the filing of the petition.

21 B. **Notice of Hearing.** The court shall notify the petitioner and the petitioner's parent or  
22 legal guardian of the date and place of the hearing by certified mail at least sixty (60)  
23 days before the hearing date. Notice is effective upon mailing. The notice shall include a  
24 copy of the petition and notice that the court may find that the failure to file an objection  
25 within thirty (30) days constitutes a waiver of objection.

26 **C. Incorrect or Unknown Address.**

27 1. If the notice of hearing and service of petition are returned due to an incorrect  
28 address, or if the petition fails to provide an address to a necessary party, the court  
29 may make further inquiry or require the juvenile to provide full explanation  
30 concerning efforts to locate the parent/guardian or the circumstances why the  
31 parent/guardian cannot be located and served with notice of proceedings.

- 1           2. If no parent or guardian can be located and the court does not grant emancipation, the  
2           court may require child protective services to investigate and make a written report of  
3           the investigation to the court.

4           **Rule 96. Allegation of Abuse or Neglect.**

5           At any time in these proceedings, if the court reasonably believes that the petition for  
6           emancipation contains an allegation of child abuse or neglect, the court shall require child  
7           protective services to investigate the allegation and make a written report of the investigation to  
8           the court.

9           **Rule 97. Responses and Objections.**

10          The petitioner's parent or legal guardian may file a written response or objection to the petition  
11          for emancipation. An objection to the petition for emancipation shall state the specific facts in  
12          support of the objection upon which the petition for emancipation is inaccurate or should be  
13          denied. A copy of the response or objection shall be provided to the petitioner pursuant to Rule  
14          5(c)(1) of the Rules of Civil Procedure.

15          **Rule 98. Proceedings and Court Orders.**

16           A. **Attendance.**

- 17           1. **Petitioner.** The petitioner shall appear personally before the court for all proceedings  
18           as directed. Absence of the petitioner where the petitioner had notice of the date,  
19           time and place of the hearing may be deemed to be voluntary and the court may  
20           proceed in determination of any other findings or making any further orders including  
21           the dismissal of the petition for emancipation.
- 22           2. **Parent(s) or Guardian.** The parent(s) or guardian may attend any hearing, but shall  
23           appear personally or through counsel before the court for all proceedings if the  
24           parents or guardian have filed an objection to the emancipation. Absence of the  
25           parent(s) or guardian where the parent(s) or guardian had notice of the date, time and  
              place of the hearing may be deemed to be voluntary and the court may proceed in  
              determination of any other findings or making any further orders.

              B. **Mediation/Alternative Dispute Resolution.**

1. At any time before an emancipation hearing proceeds, the court may stay the  
              proceedings and refer the petitioner and parent or guardian to mediation.
2. If the petitioner's parent or guardian objects to the petition for emancipation, the court  
              shall stay any further proceedings and refer the matter to mediation or alternative  
              dispute resolution unless the court reasonably believes that mediation would not be in  
              the best interest of the petitioner. The court may consider any of the following in its  
              decision:

- 1 (a) The petitioner's parent or guardian has been convicted of abuse, neglect or  
2 abandonment.
- 3 (b) The petitioner's parent or guardian is named as a perpetrator of abuse, neglect or  
4 abandonment in the protective services central registry.
- 5 (c) Any other relevant information.
- 6 3. If agreement is reached through mediation or alternative dispute resolution, the signed  
7 agreement shall be submitted to the court. The court may reset and conduct the  
8 emancipation hearing or enter other appropriate orders.
- 9 4. If agreement is not reached through mediation or alternative dispute resolution, the  
10 court shall reset and conduct the emancipation hearing.

11 **Rule 99. Discovery.**

- 12 A. Unless otherwise ordered by the court, the parties shall disclose the following  
13 information twenty (20) days prior to the emancipation hearing to each other and the  
14 court, in the form of a disclosure statement:
- 15 1. A list of the witnesses the party intends to call at the emancipation hearing including  
16 the names, addresses and telephone numbers in addition to a description of the  
17 substance of the witness' expected testimony. Witnesses whose testimony will be in  
18 the form of a deposition shall be noted.
- 19 2. A list and copies of all exhibits the party intends to use at the emancipation hearing.
- 20 B. At the emancipation hearing, no witness shall be called nor exhibit admitted that was not  
21 disclosed except in rebuttal or for good cause shown.
- 22 C. If a party objects to the admission of an exhibit, the party shall file a notice of objection  
23 and the specific grounds for each objection and provide a copy of the notice to all parties  
24 and the court within ten (10) days of receipt of the disclosure statement.
- 25 D. The court may rule on discovery objections at any time between the notice of objection  
and the emancipation hearing.

26 **Rule 100. Time Limits and Exclusions.**

27 The emancipation hearing shall be held within ninety (90) days of the filing of the petition for  
28 emancipation. Delays for the following reasons shall be excluded from the computation:

- 29 A. Time granted by the court for the petitioner to file supplemental information pursuant to  
30 Rule 94.
- 31 B. Time for the court to gather correct address information as provided in Rule 95.

1 C. Delays caused by child protective services investigation and report pursuant to Rule 96.

2  
3 D. Delay caused by the court's referral to mediation or alternative dispute resolution until  
4 notice of agreement or non-agreement pursuant to Rule 98.

5 **4. EMANCIPATION ORDER**

6 **Rule 101. Burden of Proof.**

7 The petitioner has the burden of proof by clear and convincing evidence that emancipation is in  
8 the petitioner's best interest.

9 **Rule 102. Findings, Order of Emancipation.**

10 A. The court shall determine emancipation based on the best interests of the petitioner and  
11 shall consider the following:

- 12 1. The potential risks and consequences of emancipation and to what degree the  
13 petitioner understands these risks and consequences.
- 14 2. The wishes of the petitioner.
- 15 3. The opinions and recommendations of the petitioner's parent(s) or guardian.
- 16 4. The financial resources of the petitioner, including any employment history.
- 17 5. The petitioner's ability to be financially self-sufficient.
- 18 6. The petitioner's educational level and success in school.
- 19 7. Whether the petitioner has any criminal record.
- 20 8. Any other factor deemed relevant by the court.

21 B. If the court finds emancipation is in the best interests of the petitioner, the court shall:

- 22 1. Make the following findings as a matter of record:
  - 23 (a) The petitioner is at least sixteen years of age.
  - 24 (b) The petitioner is a resident of this state.
  - 25 (c) The petitioner is financially self-sufficient
  - (d) The petitioner has acknowledged in writing that the petitioner has read and  
understands the information that is provided by the court that explains the rights  
and obligations of an emancipated minor and the potential risks and consequences

1                   of emancipation.

2                   (e) The petitioner is not a ward of the court and is not in the care, custody and control  
3                   of a state agency.

4                   2. File an order of emancipation with the clerk of the court.

5                   3. Issue a copy of the order to the petitioner and any party entitled to notice of the  
6                   proceeding.

7                   4. Issue a copy of the order to the department of economic security or its agent if the  
8                   petitioner is a child in a title IV-D case.

9                   C. Appeals shall be pursuant to Part VI of the Rules of Procedures for Juvenile Court.

## 10                   **PART VI. APPEALS**

### 11                   **Rule 88 103. Initiation of an Appeal**

12 (A) Any aggrieved party may appeal from a final order of the juvenile court to the court of  
13 appeals. In an appeal in a delinquency, incorrigibility, or transfer matter, the notice of appeal  
14 shall be captioned using the first name and last initial of the minor child involved, as follows: "In  
15 re Abcde F." In an appeal in an adoption, dependency, guardianship, emancipation or termination  
16 of parental rights (severance) matter, the notice of appeal shall be captioned in the names of the  
17 parties to the appeal, with the names of natural persons limited to the first name and last initial,  
18 for example: "Ghijk L., Appellant, v. Arizona Department of Economic Security and Mnopq R.,  
19 Appellees."

20 (B) The order of the juvenile court shall not be suspended or the execution thereof stayed  
21 pending the appeal except the appellate court may suspend or stay the execution thereof provided  
22 suitable provision is made for the care and custody of the child. In exercising its discretion  
23 hereunder, the appellate court may consider the likelihood that the order on appeal will be  
24 reversed, the best interests of the child, and any other pertinent legal or equitable questions. If  
25 restitution is ordered to be paid, monies paid for restitution shall be held by the clerk of the  
superior court from which the appeal is filed pending the final outcome of the appeal.

(C) The appellate court shall give the appeal precedence over all other actions except  
extraordinary writs or special actions. For good cause, the appellate court, on motion of a party  
or on its own initiative may suspend, supplement, or vary the requirements of any section of  
Rules 88 through 93, and may substitute any other appropriate order of proceedings; provided,  
however, that the time specified in Rule 89(A) for the filing of a notice of appeal or notice of  
cross-appeal may not be shortened or extended, except as provided in Rule 93(B).

(D) When required by law, the presiding judge of the juvenile court shall appoint an attorney for  
a party to an appeal from a final order of the juvenile court. Unless the presiding judge of the  
juvenile court finds on motion or on its own initiative that a party who had appointed counsel  
before the juvenile court is currently able to employ counsel, that party may continue with  
appointed counsel on appeal without further authorization, subject to substitution of new

1 appointed counsel in the discretion of the presiding judge of the juvenile court. A party who did  
2 not proceed with appointed counsel in the juvenile court may seek to proceed with appointed  
3 counsel on appeal by filing in the juvenile court no later than 5 days after service of the notice of  
4 appeal a request for appointment of counsel on appeal. If the presiding judge of the juvenile  
5 court finds that the party is not entitled to proceed with appointed counsel, the party may petition  
6 the appellate court to so proceed upon the docketing of the appeal.

7 (E) No bond shall be required in any court in connection with an appeal from a final order of the  
8 juvenile court.

9 (F) During the pendency of an appeal, the juvenile court may proceed within its legal authority  
10 on an issue remaining before it or newly presented to it to the extent (1) the appellate court has  
11 specifically authorized or directed the juvenile court to rule on the issue; (2) the juvenile court's  
12 ruling on the issue would be in furtherance of the appeal; (3) applicable statutory law or judicial  
13 rule confers continuing jurisdiction on the juvenile court; (4) the juvenile court's ruling on the  
14 issue would not legally or practically prevent the appellate court from granting the relief  
15 requested on appeal; or (5) the issue arises from a motion to dismiss the appeal filed by the  
16 appellant and presented to the juvenile court for ruling at a time before the clerk of the superior  
17 court forwards the record to the appellate court pursuant to Rule 90(D). This rule shall not be  
18 interpreted to authorize the juvenile court to extend the time for filing briefs, motions,  
19 transcripts, or other documents or items with the clerk of the court of appeals or the supreme  
20 court.

21 (G) To the extent that they are not inconsistent with or expressly varied by these rules, the  
22 following rules in the Arizona Rules of Civil Appellate Procedure (ARCAP) shall apply to  
23 appeals from final orders of the juvenile court: Rules 2 (Definitions), 4 (Filing and Service), 5  
24 (Computation; Shortening or Extension of Time), 6 (Motions), 8(b) (Joint and Consolidated  
25 Appeals); 1 l(c), (d), (f), (g), and (h) (Narrative Statements; Agreed Statements; No Duplication  
of Transcript; "Transcript" Includes Narrative and Agreed Statements; Certified Copies of  
Portions of Record for Preliminary Hearing in Appellate Court), 17 (Supplemental Citation of  
Legal Authority), 18 (Oral Argument), 20 (Notice of Decisions and Orders), 24 (Issuance of  
Mandates by Appellate Courts and Mandates from United States Supreme Court), 25 (Sanctions  
for Delay or Other Infractions), 26 (Voluntary Dismissal), 27 (Substitution of Parties), and 28  
(Publication of Opinions of the Supreme Court and the Court of Appeals). ARCAP 25 shall not  
apply to permit the imposition of sanctions against a juvenile appellant or cross-appellant or  
counsel for a juvenile appellant or cross-appellant for filing a frivolous appeal from a final order  
in a delinquency or transfer matter.

22 **Rule 89 Rule 104. Time Within Which an Appeal May be Taken and Notice Thereof;  
23 Preparation of Transcript and Record on Appeal**

24 (A) A notice of appeal shall be filed with the clerk of the superior court no later than 15 days  
25 after the final order is filed with the clerk. A notice of cross-appeal shall be filed with the clerk of  
the superior court no later than 10 days after the filing of a notice of appeal. A final order shall  
be in writing and signed by the judge before an appeal can be taken. The final order shall be by  
minute entry or separate written order. Filing with the clerk shall take place when the clerk

1 affixes a file stamp or otherwise marks the date of filing on the signed minute entry or separate  
2 written order, or separately memorializes the date of filing in the clerk's official records.

3 **(B)** The notice of appeal or notice of cross-appeal shall specify the party taking the appeal or  
4 cross-appeal, designate the final order or part thereof appealed from, and in the case of appeal by  
5 a non-governmental party, state whether the party was proceeding with appointed counsel in the  
6 juvenile court when the final order was filed.

7 **(C)(1)** Immediately upon the filing of a notice of appeal, the clerk of the superior court shall  
8 serve copies of the notice of appeal on all parties or their counsel; on each court reporter who  
9 reported any juvenile court proceeding that is part of the transcripts defined by subsection (D)(2)  
10 of this rule; upon each juvenile court word processing operator who has possession of a tape  
11 recording of any such proceeding; and on the clerk of the court of appeals. The clerk of the  
12 superior court shall include with the copy of the notice of appeal served on the clerk of the court  
13 of appeals a copy of the order from which the appeal is taken and the names of the court  
14 reporters and word processing operators who were sent a copy of the notice of appeal.

15 **(2)** No later than 10 calendar days after the clerk of the superior court has served copies of the  
16 notice of appeal pursuant to subsection (C)(1) of this rule, any party to the proceeding from  
17 which the appeal arises or any fiduciary who appeared in the proceeding on behalf of a party  
18 thereto may file with the clerk of the superior court and serve on all persons on whom service  
19 was made under subsection (C)(1) of this rule a notice stating that the party or fiduciary does not  
20 intend to participate actively in the appeal and instead adopts and agrees in advance to be bound  
21 by the appellate positions, filings, representations, actions, and omissions of another party or  
22 parties, who shall be specifically identified. A notice under this subsection may not be used or  
23 relied upon as a substitute for a notice of appeal, notice of cross-appeal, petition for review, or  
24 cross-petition for review. By filing a notice under this subsection, a party or fiduciary does not  
25 waive the right to continue to receive service of orders, notices, or other documents issued by the  
juvenile court or the appellate court, or motions, briefs, notices, or other documents filed by any  
other party in connection with the appeal. Filing a notice under this subsection does not relieve a  
party or fiduciary of the obligation to serve upon the remaining parties, or other persons or  
entities entitled by law or court rule to receive them, any motions, briefs, notices, or other  
documents filed by the party or fiduciary in the juvenile court or the appellate court in  
connection with the appeal.

**(D)(1)** The record on appeal to the appellate court shall consist of:

- (a) a certified copy of the transcript;
- (b) a certified copy of all pleadings, orders, and other documents filed with the clerk of the superior court;
- (c) the originals of all paper, book, binder, and photographic exhibits of manageable size introduced into evidence; and
- (d) documents and other items added pursuant to subsections (E) or (F)(1) of this rule.

Notwithstanding the preceding provisions of Rule 89(D)(1), the record on appeal shall not include any document or other item deleted pursuant to Rule 89(E).

**(2)** The transcript shall consist of the following:

- 1 (a) in a delinquency or incorrigibility appeal, the adjudication and disposition hearings and any  
2 separate restitution hearing;  
3 (b) in a transfer appeal, the probable cause and transfer phases of the transfer hearing;  
4 (c) in a dependency matter, the contested dependency, report and review, or other hearing that  
5 generated the order being appealed;  
6 (d) in a guardianship or termination of parental rights (severance) appeal, the contested  
7 guardianship or termination or other hearing that generated the order being appealed; and  
8 (e) in an adoption appeal, any hearing on the validity of a parent's consent to adoption and any  
9 final adoption hearing.

10 Notwithstanding the preceding provisions of Rule 89(D)(2), the transcript shall not include any  
11 proceeding or portion thereof excluded pursuant to Rule 89(E).

12 **(E)** No later than five days after filing the notice of appeal the appellant may file with the clerk  
13 of the superior court and serve a pleading entitled "designation of record" (1) requesting that the  
14 clerk of the superior court add to the record on appeal specifically identified subpoenas or  
15 praecipes, or specifically identified studies, reports or medical or psychological evaluations, or  
16 compilations of such studies, reports or evaluations, prepared as required by statute, court rule or  
17 order for the use of the juvenile court in the proceedings resulting directly or indirectly in the  
18 order from which the appeal is taken and not otherwise part of the record; (2) requesting that the  
19 clerk of the superior court delete from the record specifically identified items otherwise  
20 automatically included in the record on appeal; and (3) requesting that one or more court  
21 reporters or juvenile court word processing personnel add to the transcript any proceeding or part  
22 thereof not automatically included, and to exclude from the transcript any portion thereof  
23 otherwise automatically included. The appellant shall serve the designation of record on all  
24 parties and on each affected court reporter or Juvenile court word processing operator.

25 **(F)(1)** No later than 12 days after the Filing of the notice of appeal any appellee may file with the  
clerk of the superior court and serve a pleading entitled "supplemental designation of record" (1)  
requesting that the clerk of the superior court add to the record on appeal specifically identified  
subpoenas or praecipes, or specifically identified studies, reports or medical or psychological  
evaluations, or compilations of such studies, reports or evaluations, prepared as required by  
statute, court rule, or order for the use of the juvenile court in the proceedings resulting directly  
or indirectly in the order from which the appeal is taken and not otherwise part of the record, or  
any specifically identified items deleted by appellant's designation of record; and (2) requesting  
that one or more court reporters or juvenile court word processing personnel add to the transcript  
any proceeding or part thereof deleted by appellant's designation of record or not automatically  
part of the transcript as defined in Rule 89(D)(2). The supplemental designation of record shall  
be served on all parties and on each affected court reporter and juvenile court word processing  
operator.

**(2)** If any dispute arises about whether the record discloses what actually occurred in the juvenile  
court, it shall be submitted to and resolved by the juvenile court. If anything material to any party  
to the appeal is omitted from or misstated in the record, the parties by stipulation, the juvenile  
court, either before or after the record is transmitted to the appellate court, or the appellate court  
on motion or on its own initiative, may direct that the omission or misstatement be corrected, and

1 if necessary that a supplemental record be certified and transmitted. All other questions  
2 concerning the form and content of the record shall be presented to the appellate court.

3 **(G)** No party shall request that the clerk of the superior court or a court reporter or juvenile court  
4 word processing operator add any item to the record, or any proceeding to the transcript, that is  
5 not essential to deciding the issues presented by the appeal. For any infraction of this rule, the  
6 appellate court may impose sanctions pursuant to ARCAP 25, made applicable in juvenile  
7 appeals by Rule 88(G).

8 **(H)** The court reporter or reporters or word processing personnel of the juvenile court shall  
9 prepare the original transcript and one copy for each party to the appeal who has not filed a  
10 notice pursuant to subsection (C)(2) of this rule promptly upon receiving a notice of appeal filed  
11 by a governmental entity or a notice of appeal stating that the appellant was proceeding with  
12 appointed counsel in the juvenile court when the final order that is the subject of the appeal was  
13 filed.

14 **(I)** No later than five days after the filing of the notice of appeal or five days after the denial of a  
15 request to proceed with appointed counsel, an appellant who is not proceeding with appointed  
16 counsel shall make arrangements with the court reporter or reporters or juvenile court word  
17 processing personnel to pay for the transcript. The court reporter or reporters or juvenile court  
18 word processing personnel shall immediately notify the appellate court in writing if an appellant  
19 fails to make satisfactory arrangements within the prescribed time. When satisfactory payment  
20 arrangements are made, the court reporter or reporters or juvenile court word processing  
21 personnel shall promptly prepare the original transcript and one copy for each party to the appeal  
22 who has not tiled a notice pursuant to subsection (C)(2) of this rule.

23 **(J)** An appellant who is not proceeding with appointed counsel on appeal shall pay for all  
24 portions of the record on appeal that he has designated or requested, and for those portions of the  
25 record on appeal that are required under subsections (D)(1) and (2) of this rule and not deleted by  
a party.

18 **Rule 90-105. Docketing of Appeal; Transmission and Filing of Record on Appeal; Filings**  
19 **in Juvenile Court after Commencement of Appeal**

20 **(A)** The clerk of the court of appeals shall docket the appeal upon receipt of the notice of appeal  
21 and the order from which the appeal is taken. A juvenile appeal shall in the alternative be  
22 docketed on the filing with the clerk of the court of appeals of a motion seeking to suspend or  
23 stay the juvenile court's order pending resolution of the appeal, provided the motion makes an  
24 appropriate showing that a timely notice of appeal was filed in the juvenile court and that the  
25 order from which the appeal is taken was final and appealable. The clerk of the court of appeals  
shall determine and establish the official caption of the appeal pursuant to the criteria set forth in  
Rule 88(A) for captioning the notice of appeal. After the appeal has been docketed, the clerk of  
the court of appeals shall mail notice to all parties and the clerk of the superior court of the date  
on which the appeal was docketed.

1 **(B)** The court reporter or reporters or word processing personnel of the juvenile court shall file  
2 the completed original transcript with the clerk of the court of appeals, marked with the number  
3 assigned to the appeal by the court of appeals, no later than

4 (1) 30 days after the filing of a notice of appeal by a governmental agency or of a notice of  
5 appeal stating that appellant proceeded with appointed counsel in the juvenile court when the  
6 final order that is the subject of the appeal was filed, or

7 (2) 30 days after service of an order of the presiding judge of the juvenile court appointing  
8 counsel to represent the appellant on appeal, or

9 (3) 30 days after the appellant makes satisfactory arrangements to pay for the transcript,  
10 whichever event first occurs. At the time of filing the original transcript, the court reporter or  
11 reporters or word processing personnel of the juvenile court shall serve one copy of the transcript  
12 on each appellant and each appellee who has not filed a notice pursuant to Rule 89(C)(2). The  
13 court reporter or reporters or word processing personnel of the juvenile court shall  
14 contemporaneously file notice of service of the transcript with the appellate court, reflecting  
15 when, upon whom, and by what means service was made. Service of transcript copies shall be  
16 made in the manner prescribed by any applicable local rule or administrative order, or otherwise  
17 in accordance with the prevailing custom in the juvenile court from which the appeal originates.

18 **(C)** If the transcript is not timely filed with the clerk of the court of appeals, the noncomplying  
19 court reporter or reporters or juvenile court word processing personnel shall be subject to such  
20 orders or sanctions as the court of appeals deems appropriate in its discretion.

21 **(D)** No later than 20 days after the notice of appeal is filed, the clerk of the superior court shall

22 (1) prepare a certified copy of the pleadings, orders, and other documents filed with the clerk of  
23 the superior court except for subpoenas or praecipes not added to the record pursuant to Rule  
24 89(E) or (F), and documents deleted from the record pursuant to Rule 89(E), and individually  
25 number each document copy on the first page thereof in filing-date order beginning with the first  
such item to be filed;

(2) identify and assemble the original paper, book, binder, and photographic exhibits in the  
record that are of manageable size, including those added to the record pursuant to Rule 89(E) or  
(F) and excluding those deleted from the record pursuant to Rule 89(E);

(3) prepare a single index of the record on appeal separately listing

(a) the document copies prepared pursuant to subsection (1), in numerical order, indicating for  
each the title or a brief description of the item and the date of its filing with the clerk of the  
superior court, if any,

(b) the exhibits identified and assembled pursuant to subsection (2), by number, with a brief  
description of each and the date, if any, when it was admitted into evidence;

(4) transmit the copies and exhibits and the index thereof to the clerk of the appellate court; and

(5) serve copies of the index on all parties to the appeal.

26 **(E)** Upon receipt, the clerk of the court of appeals shall file each portion of the record on appeal.  
27 The clerk of the court of appeals shall mail notice to all parties of the date on which the record on  
28 appeal is complete.

1 (F) The clerk of the superior court shall immediately forward to the clerk of the court of appeals  
2 certified copies of minute entry orders and instruments that are filed with the clerk of the  
3 superior court after initial transmission of the record on appeal to the court of appeals, marked  
4 with the number assigned to the appeal by the court of appeals.

5 (G) The appellate court, on motion or on its own initiative, may direct the transmission of any  
6 document, exhibit or other item necessary to determining the appeal and not transmitted under  
7 Rule 90(D).

8 **Rule 91 106. Briefing, Consideration and Disposition in the Court of Appeals**

9 (A) ARCAP 13 and 14 shall apply in appeals from final orders of the juvenile court, except that

10 (1) briefs shall be stapled or otherwise securely fastened in the upper left corner and need not  
11 have covers;

12 (2) a principal brief prepared in a proportionately spaced typeface may not exceed 7,000 words,  
13 and a reply brief so prepared may not exceed 3,500 words; and

14 (3) a principal brief prepared in a monospaced typeface may not exceed 20 pages, and a reply  
15 brief so prepared may not exceed 10 pages.

16 The word and page limits specified in this subsection do not include the table of contents, table  
17 of citations, certificate of service, certificate of compliance, and any appendix. The appellate  
18 court may strike a brief that does not substantially conform to the requirements of this rule.

19 (B) ARCAP 15 shall apply in appeals from final orders of the juvenile court, except that

20 (1) appellant's opening brief shall be filed with the clerk of the court of appeals within 20 days  
21 after the mailing of the notice required by Rule 90(e);

22 (2) each appellee shall file an answering brief with the clerk of the court of appeals within 20  
23 days after service of the appellant's opening brief;

24 (3) appellant may file a reply brief within 10 days after service of appellee's answering brief, or  
25 appellant may file a notice stating that no reply brief will be filed; and

(4) the appeal will be deemed "at issue" upon the filing of the reply brief, upon the filing of a  
notice that no reply brief will be filed, or 10 days after service of the answering brief, whichever  
first occurs.

(C) ARCAP 16 shall apply in appeals from final orders of the juvenile court, except that briefs  
amicus curiae shall be stapled or otherwise securely fastened in the upper left corner and need  
not have covers. A brief amicus curiae shall not exceed 6,000 words if prepared in a  
proportionately spaced typeface or 18 pages if prepared in a monospaced typeface, exclusive of  
pages containing the table of contents, the table of citations, certificate of service, certificate of  
compliance, and any appendix.

(D) ARCAP 19 shall apply in appeals from final orders of the juvenile court, except that a party's  
petition for transfer of the appeal to the supreme court shall be filed on or before the earlier of  
the date the reply brief is due or filed.

1 (E) The appellate court, upon motion of the appellee, or upon its own initiative after notice to all  
2 parties, may dismiss an appeal for any legal cause including want of prosecution, unless an  
3 affected party makes a showing of good cause why the appeal should not be dismissed. The clerk  
4 of the court of appeals shall give notice of dismissal of an appeal to the parties, the clerk of the  
superior court, and if the transcript has not yet been filed, to the appropriate court reporter or  
reporters or word processing personnel of the juvenile court.

5 (F) Upon consideration of the appeal, the appellate court may:

- 6 (1) Affirm the action of the juvenile court; or  
7 (2) Reverse and remand for appropriate action by the juvenile court; or  
8 (3) Take the matter under advisement and order the filing of additional matters in the appellate  
court; or  
9 (4) Take such other actions as to the court may appear just and proper under the circumstances.

9 **Rule 92 107. Petition for Review**

10 (A) Any party may, within 30 days after the clerk of the court of appeals has given notice that a  
11 decision or final order disposing of the appeal has been rendered, file with the clerk of the court  
12 of appeals a petition for review of the case by the supreme court. No motion for reconsideration  
13 in the court of appeals shall be permitted. A cross-petition for review may be filed with the clerk  
of the supreme court within 15 days after service of a petition for review.

14 (B) The petition for review and cross-petition for review shall be bound or fastened and shall  
15 comply with ARCAP 6(c). The parties shall be designated as in the court of appeals. A copy of  
16 the decision of the court of appeals shall be attached to the petition. The petition and cross-  
petition shall not exceed 12 pages whether done in a proportionately spaced typeface or a  
monospaced typeface, exclusive of the appendix and attached decision, and shall contain concise  
statements of the following:

- 17 1. The issues that were decided by the court of appeals and that the petitioner wishes to present  
18 to the supreme court for review. The petitioner shall also list, separately and without argument,  
19 any additional issues that were presented to but not decided by the court of appeals and may need  
to be decided if review is granted.  
20 2. The facts material to a consideration of the issues presented to the supreme court for review  
with appropriate references to the record on appeal. No evidentiary matter shall be included  
21 unless material to a proper consideration of the issues presented, in which instance a reference  
shall be made to the record or page of the transcript where such evidence appears.  
22 3. The reasons why the petition should be granted, which may include, among others, the fact  
23 that no Arizona decision controls the point of law in question, that a decision of the supreme  
court should be overruled or qualified, that conflicting decisions have been rendered by the court  
of appeals, or that important issues of law have been incorrectly decided.  
24 4. If the record on appeal contains documents that are necessary for a determination of the issues  
25 raised by the petition or cross-petition, the petitioner or cross-petitioner shall file, simultaneously  
with a copy of the petition or cross-petition, an appendix that contains only those documents. If  
the appendices exceed 15 pages in length, they shall be bound or fastened together separately

1 from the petition and attached the copy of the decision of the court of appeals or from the cross-  
2 petition. An original and two copies of any separately bound or fastened appendices shall be filed

3 The clerk of the appellate court may in his or her discretion return to the petitioner or cross-  
4 petitioner any petition for review or cross-petition for review presented for filing that does not  
5 substantially comply with this rule. The clerk of the appellate court shall include with the  
6 returned petition written instructions to the petitioner or cross-petitioner to file a proper petition  
7 or cross-petition within 30 days from the date on which the clerk of the appellate court mails the  
8 written instructions to the petitioner or cross-petitioner.

9 **(C)** Upon the filing of a petition for review, the clerk of the court of appeals shall transmit to the  
10 clerk of the supreme court the original and all copies of the petition for review, the original and  
11 all copies of the briefs filed in the court of appeals, and one copy of the decision of the court of  
12 appeals

13 **(D)** The petitioner or cross-petitioner shall serve a copy of the petition or cross-petition and any  
14 appendices on all parties who have appeared in the court of appeals. Any party wishing to  
15 oppose the petition or cross-petition may file with the clerk of the supreme court a response  
16 within 30 days from the date upon which the petition or cross-petition for review is served. The  
17 response shall comply with ARCAP 6(c) and shall not exceed 12 pages whether prepared in a  
18 proportionately spaced or monospaced typeface, exclusive of any appendix. If the record on  
19 appeal contains documents that are necessary for a determination of the issues raised by the  
20 petition or cross-petition, the respondent shall file, simultaneously with a copy of the response,  
21 an appendix that contains only those documents not included in the appendix filed with the  
22 petition or cross-petition. If the appendices exceed 15 pages in length, they shall be bound or  
23 fastened together separately from the response. An original and two copies of any separately  
24 bound or fastened appendices shall be filed with the response. Failure to file a response shall not  
25 be considered an admission that the petition or cross-petition should be granted. If a response is  
filed, it shall list, separately and without argument, any additional issues not listed by the  
petitioner or cross-petitioner that were presented to but not decided by the court of appeals and  
may need to be decided if review is granted. No reply shall be filed by petitioner or cross-  
petitioner, unless the supreme court has so directed by specific order, in which event a reply may  
be filed within the time set by the supreme court.

**(E)** If the supreme court grants review, its order shall specify the issue or issues which are to be  
reviewed. The supreme court may order that the parties file additional briefs or that oral  
argument be heard, or both. If the order granting review does not provide for supplementation of  
briefs or for oral argument, either party may, within 15 days after the clerk mails notice of the  
court's order, request the court to do so by a motion specifying the reasons for supplementation  
or for oral argument, or both.

**(F)** Upon notification by the clerk of the supreme court that a petition for review or cross-petition  
for review has been granted, the clerk of the court of appeals shall transmit the remaining record  
to the clerk of the supreme court.

1  
2 (G) When all petitions and cross-petitions for review have been denied, the clerk of the supreme  
3 court shall so notify the clerk of the court of appeals and the parties, and shall return the original  
4 copies of the briefs and the petition or cross-petition for review to the clerk of the court of  
5 appeals. Unless permitted by specific order of the supreme court, no party shall file a motion for  
6 re consideration of an order denying a petition for review or cross-petition for review.

7 (H) The mandate shall issue out of the court of appeals in the manner and at the times provided  
8 in this rule. If there has been no petition for review, the clerk shall issue the mandate at the  
9 expiration of the time for the filing of a petition for review. If a petition for review is filed, the  
10 mandate shall not issue until the receipt by the clerk of an order of the supreme court denying the  
11 petition for review, at which time the clerk will issue and forward the mandate. If the petition for  
12 review is granted by the supreme court, the mandate shall issue out of the supreme court. Any  
13 exhibits or other objects transmitted as originals by the clerk of the superior court to the appellate  
14 court shall be returned with the mandate to the clerk of the superior court. Any papers, exhibits  
15 or other objects which were transmitted as certified copies to the appellate court may either be  
16 returned with the mandate to the clerk of the superior court, or destroyed pursuant to rule or  
17 administrative order of the appellate court.

18 (I) Dispositions.

19 (1) If an appeal is resolved by agreement of the parties after a petition for review by the supreme  
20 court is filed, the supreme court may order that the decision of the court of appeals be vacated, or  
21 that any opinion of the court of appeals be redesignated as a memorandum decision.

22 (2) When review has been granted, the supreme court may remand the appeal to the court of  
23 appeals for reconsideration in light of authority identified in the supreme court's order.

24 (3) If issues were raised in, but not decided by, the court of appeals and review has been granted,  
25 the supreme court may consider and decide such issues, may remand the appeal to the court of  
26 appeals for decision of such issues, or may make such other disposition with respect to such  
27 issues as it deems appropriate.

28 (J) Motions to Extend Time. The court of appeals shall have authority to grant or deny motions  
29 to extend the time to file petitions for review. These motions shall be filed in the court of  
30 appeals. Motions to extend the time to file cross-petitions for review shall be filed in the supreme  
31 court.

32 **Rule 93 108. Service; How Made; Filing; Extensions of Time**

33 (A) Unless otherwise specified, any pleadings, motions, notices, or other documents required to  
34 be filed under any provision of Rules 88 through 90 of these rules shall be filed with the clerk of  
35 the superior court and a copy thereof lodged with the presiding judge of the juvenile court.  
36 Whenever under Rules 88 through 92 service of pleadings, motions, notices, or other documents  
37 filed with the clerk of the superior court or the appellate court is required or permitted, such  
38 service shall be made in accordance with the provisions of Rule 5(c), Ariz.R.Civ.P., 16 A.R.S.

1 (B) Any requests for extensions of time for filing pleadings, motions, or other documents with  
2 the clerk of the superior court under the provisions of Rules 88 through 90 of these rules shall be  
3 made to the presiding judge of the juvenile court and shall be governed by the provisions of Rule  
4 6(b), Ariz.R.Civ.P.; provided, however, that the time specified in Rule 89(A) for filing a notice  
5 of appeal or cross-appeal may not be extended, but where the failure to timely file was the result  
6 of excusable neglect, the juvenile court may excuse the untimely filing upon motion made after  
7 the expiration of the specified period.

8 *Petition to amend Rules of Civil Procedure providing for further guidance of emancipation  
9 procedures.*

10 **RULES OF CIVIL PROCEDURE**  
11 **(PROPOSED)**

12 **Rule 81.1. Juvenile Emancipation.**

13 Juvenile emancipation proceedings shall conform to the provisions of these rules except as  
14 provided for in Part V, Rules of Proc. Juv. Court.