

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-09-0043
PETITION TO AMEND RULE 48,)
RULES OF PROCEDURE FOR THE) **FILED 09/02/2010**
JUVENILE COURT)
_____)

ORDER

Rules 41, 48(c), 52, and 54, Rules of Procedure for the Juvenile Court

A petition having been filed proposing to amend Rule 48(c), Rules of Procedure for the Juvenile Court, and a comment having been received proposing additional amendments to Rules 41, 52 and 54, Rules of Procedure for the Juvenile Court, upon consideration,

IT IS ORDERED that Rules 41, 48(c), 52 and 54, Rules of Procedure for the Juvenile Court, be amended in accordance with the attachment hereto, effective as of the date hereof.

DATED this _____ day of September, 2010.

REBECCA WHITE BERCH
Chief Justice

TO:
Rule 28 Distribution
David K Byers

ATTACHMENT*

RULES OF PROCEDURE FOR THE JUVENILE COURT

Rule 41. Attendance at hearings

A. [No Change]

B. [No Change]

C. [No Change]

D. [No Change]

E. [No Change]

F. [No Change]

G. The court may close an open proceeding at any time for good cause shown and after considering the factors prescribed in Section ~~D~~ E.

H. [No Change]

I. [No Change]

Rule 48. Petition, temporary orders and findings, notice of hearing, and service of process.

A. [No change]

B. [No change]

* Changes and additions in rule text are indicated by underscoring and deletions from text are indicated by ~~strikeouts~~.

C. Notice of hearing. In addition to information required by law, the notice of hearing shall advise the parent, guardian or Indian custodian that failure to appear, without good cause shown, may result in a finding that the parent, guardian or Indian custodian has waived legal rights and is deemed to have admitted the allegations in the petition. The notice shall state that the hearings may go forward in the absence of the parent, guardian or Indian custodian and may result in an adjudication of dependency, the termination of parental rights or the establishment of a permanent guardianship based upon the record and evidence presented. The notice of hearing shall also advise of the right to make a request, or motion prior to any hearing, that the hearing be ~~open~~ closed to the public.

D. [No change]

E. [No change]

Rule 52. Initial dependency hearing

A. [No Change]

B. [No Change]

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

1. Inquire if any party has reason to believe that the child at issue is subject to the Indian Child Welfare Act;

2. Appoint counsel pursuant to Rule 38(B);

3. Determine whether service of process has been completed pursuant to Rule 48 or waived as to each party;

4. Advise the parent, guardian or Indian custodian of their rights as follows:

a. The right to counsel, including court appointed counsel if the parent, guardian or Indian custodian is indigent;

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- b. The right to cross examine all witnesses who are called to testify against the parent, guardian or Indian custodian;
- c. The right to trial by the court on the allegations in the dependency petition;
- d. The right to use the process of the court to compel the attendance of witnesses; and
- e. The right to request prior to the hearing that any hearing be ~~open~~ closed to the public.

5. [No change]

6. [No Change]

D. [No Change]

E. [No Change]

Rule 54. Pretrial conference

A. [No Change]

B. Procedure.

1. [No Change]

2. If the parties advise the court that the matter will proceed to trial, the parties and the court shall confer to determine:

- a. Whether disclosure has been made pursuant to Rule 44(B)(2);
- b. The time needed for trial;
- c. The scheduling of witnesses;
- d. Any other issues raised by the parties as may be appropriate; and
- e. Whether the trial will be ~~open~~ closed to the public.
- f. How a verbatim record of the dependency adjudication hearing will be made.

C. [No Change]