

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-13-0056
RULE 47, RULES OF)
FAMILY LAW PROCEDURE)
)
)
) **FILED 09/02/2014**
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_____)

**ORDER
AMENDING RULE 47, ARIZONA RULES OF FAMILY LAW PROCEDURE**

A petition having been filed proposing to amend Rule 47, Arizona Rules of Family Law Procedure, and comments having been received, upon consideration,

IT IS ORDERED that Rule 47, Arizona Rules of Family Law Procedure, be amended in accordance with the attachment hereto, effective January 1, 2015.

DATED this 2ND day of September, 2014.

SCOTT BALES
Chief Justice

TO:
Rule 28 Distribution
John A Furlong
Hon. Sean E Brearcliffe

ATTACHMENT¹

ARIZONA RULES OF FAMILY LAW PROCEDURE

Rule 47. Temporary Orders

A. Motions for Pre-Decree or Pre-Judgment Temporary Orders. A party seeking temporary orders under A.R.S. §§ 25-315, 25-324, 25-404, 25-407, 25-408, 25-409, ~~25-415~~, 25-817 or 25-905 shall do so by filing a separate verified motion with the court setting forth the legal and jurisdictional basis for the motion and the specific relief requested. The motion shall be filed after or concurrently with the initial petition, shall incorporate the relevant allegations of a filed petition by reference and not separately repeat them, and shall include the following information and documents, where relevant:

1. ~~Custody~~ Legal Decision-Making and Parenting Time. If a party seeks a temporary ~~custody~~ legal decision-making, parenting time, or visitation order, the motion shall set forth a proposed parenting plan specifically stating the ~~custody~~ legal decision-making, parenting time, and visitation requested for all parties to the action.

2. through 4. [No change in text.]

B. Motions for Post-Decree or Post-Judgment Temporary ~~Custody~~ Legal Decision-Making Orders. A party seeking a temporary ~~custody~~ legal decision-making, parenting time, or visitation order following a previous ~~custody~~ determination, shall do so by filing a separate verified motion setting forth the legal and jurisdictional basis for the motion and the specific relief requested. The motion shall be filed after or concurrently with a post-decree or post-judgment petition authorized by statute, shall incorporate the relevant allegations of the pending post-decree or post-judgment petition by reference and not separately repeat them, and shall set forth the relief requested, including a proposed parenting plan stating the ~~custody~~ legal decision-making and parenting time requested for all parties to the action. Upon receiving a post-decree or post-judgment motion for temporary ~~custody~~ legal decision-making, parenting time, or visitation orders, the court shall schedule a post-decree or post-judgment management conference, or an evidentiary hearing at an appropriate time determined by the court.

C. [No change in text.]

¹Changes or additions in rule text are indicated by underscoring and deletions from text are indicated by ~~strikeouts~~.

D. Hearing.

1. Generally. Upon receiving a Motion for Temporary Orders and documents required by paragraph C in a pre-decree matter, the court shall schedule a pretrial conference, a Resolution Management Conference pursuant to Rule 76(A), or an evidentiary hearing, which shall be set not later than thirty (30) days after receiving the motion. In the event the court holds a pretrial conference or Resolution Management Conference at which all issues are not resolved, the court shall then set an evidentiary hearing not later than thirty (30) days thereafter to resolve the remaining issues, unless the parties agree to a different timeframe or procedure. The court shall not resolve disputed issues of fact at a pretrial conference or Resolution Management Conference absent agreement of the parties. The court for good cause shown may extend the timeframes set forth in this ~~paragraph~~ subdivision.

2. Pre-Decree Legal Decision-Making and Parenting Time Actions. Notwithstanding the provisions of subdivision D(1), if a party to a legal decision-making or parenting time action files a motion for temporary orders in any pre-decree matter, the court shall hold an evidentiary hearing within sixty days after the party files the motion unless:

a. The filing party waives the requirement for a hearing to be conducted within sixty days after the party files the motion.

b. Temporary orders are established through a separate conference or hearing within sixty (60) days after the party files the motion.

c. Extraordinary circumstances exist and the court is not able to schedule the hearing. If the court is not able to schedule the hearing within sixty days after the motion is filed, it must make a written finding on the record as to the cause of the delay.

When a temporary order regarding other matters, including matters of child support and spousal maintenance, is sought at the time of the pre-decree request for temporary orders regarding legal decision-making or parenting time, notwithstanding the provisions of subdivision D(1), an evidentiary hearing on those other matters may be held in conjunction with the legal decision-making and parenting time evidentiary hearing held pursuant to this subdivision.

Nothing in this paragraph D precludes the court from setting any other conference or hearing deemed appropriate.

E. through N. [No change in text.]

Comment to 2015 Amendment

Rule 47(D)(2) has been added to conform to legislative changes made to A.R.S. § 25-407 in Senate Bill 1073, which was passed in the First Regular Session of the Fifty-first Legislature with an effective date of September 13, 2013 (Laws 2013, Chapter 31).

COMMITTEE COMMENT

[No change in text.]