



# Supreme Court

STATE OF ARIZONA

402 ARIZONA STATE COURTS BUILDING  
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RACHELLE M. RESNICK  
CLERK OF THE COURT

KATHLEEN E. KEMPLEY  
CHIEF DEPUTY CLERK

September 6, 2007

**RE: RULES OF PROC. JUV. CT & RULE 81.1, ARIZ.R.CIV.P.**  
Arizona Supreme Court No. R-06-0037

GREETINGS:

The following action was taken by the Supreme Court of the State of Arizona on August 27, 2007, in regard to the above-referenced cause:

**ORDERED: Petition for Amendment Pursuant to Rule 28, Rules of the Supreme Court [Rules of Procedure for the Juvenile Court and Rule 81.1, Arizona Rules of Civil Procedure] = ADOPTED as modified, effective January 1, 2008.**

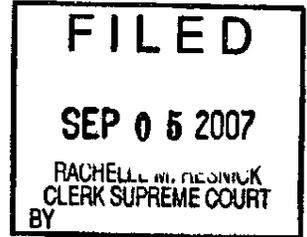
Rachelle M Resnick, Clerk

TO:

Hon Robert M Brutinel, Chairperson, Committee on Juvenile Courts  
Juanita Mann, President, Arizona Association of Superior Court Clerks  
Final Rule Distribution List  
cf

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

Supreme Court No. R-06-0037

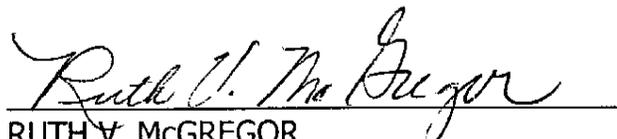


ORDER PROMULGATING RULES 88 – 102 AND AMENDING RULE 103,  
RULES OF PROCEDURE FOR THE JUVENILE COURT,  
AND PROMULGATING  
RULE 81.1, ARIZONA RULES OF CIVIL PROCEDURE

IT IS ORDERED promulgating new Rules 88-102 and amending Rule 103, Rules of Procedure for the Juvenile Court, and promulgating new Rule 81.1, Arizona Rules of Civil Procedure, in accordance with the attachment hereto,\* to be effective as of January 1, 2008.

DATED in the City of Phoenix, Arizona at the Arizona Courts Building, this 5<sup>th</sup> day of September, 2007.

For the Court:

  
RUTH V. MCGREGOR  
Chief Justice

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

## **PART V. EMANCIPATION**

### **1. SCOPE OF RULES**

#### **Rule 88. Scope of Rules**

- A. These rules govern procedures for the emancipation of minors.
- B. Emancipation proceedings shall conform to Ariz. Rules. Civ. Proc. except for the provisions contained herein.

### **2. GENERAL PROVISIONS**

#### **Rule 89. Definitions**

- A. Petitioner. The term petitioner means the minor seeking emancipation.
- B. Respondent. The term respondent means any parent or legal guardian.
- C. Parent. The term parent means the natural or adoptive mother or father of the minor, unless parental rights have been terminated by court order.
- D. Guardian. The term guardian means a legally appointed guardian.

#### **Rule 90. Venue.**

Venue is appropriate within the county where the minor resides.

#### **Rule 91. Legal Representation.**

- A. The parties may participate in the court proceedings on the parties own behalf or be represented by counsel chosen independently by the individual party.
- B. The court may appoint a guardian ad litem for the petitioner at any time during these proceedings. The guardian ad litem may be an attorney, volunteer special advocate or other qualified person. The court may assess the parent or guardian for the costs.

#### **Rule 92. Records and Hearings.**

- A. Emancipation record. The emancipation case record shall be maintained as a public record. Upon motion of a party and for good cause, the court may order the record closed pursuant to Rule 123, S. Ct. rules.
- B. Hearings. Emancipation hearings shall be open to the public, except upon the court's written finding that closing the hearing is necessary to protect a party, or a clear public

interest in confidentiality.

**Rule 93. Fees and Waivers.**

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

**3. EMANCIPATION PROCEEDINGS**

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

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

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

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

1. The petitioner's name, mailing address, social security number (last four digits only) and date of birth.
2. The name and mailing address of the petitioner's parent or legal guardian if known. The petitioner shall state the efforts taken to obtain the address.
3. Specific facts and documentation to support the petition, including:
  - (a) The petitioner's demonstrated ability to manage the petitioner's financial affairs including proof of employment or other means of support.
  - (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.
- (e) How the petitioner will obtain or maintain health care.
- (f) Any other information considered necessary to support the petition.

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

- 1. Documentation that the petitioner has been living on petitioner's own for at least three consecutive months.
- 2. A statement explaining why the petitioner believes the home of the petitioner's parent or guardian is not a healthy or safe environment.
- 3. A notarized statement that contains written consent to the emancipation and an explanation by the petitioner's parent or guardian.

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

- 1. A petition that fails to include the required information may be dismissed without prejudice or the court may require the petitioner to file supplemental information.
- 2. If the court requires supplemental information, such notice shall be in writing to the petitioner and shall provide a date certain for the filing of the required supplement.
- 3. The petition for emancipation shall be dismissed without prejudice if the petitioner fails to respond by the date certain granted by the court.

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

- A. **Hearing.** Upon receipt of a completed petition, the court shall set a hearing within ninety (90) days of the filing of the petition.
- B. **Notice of Hearing.** The court shall notify the petitioner and the petitioner's parent or legal guardian of the date and place of the hearing by certified mail at least sixty (60) days before the hearing date. Notice is effective upon mailing. The notice shall include a copy of the petition and notice that the court may find that the failure to file an objection within thirty (30) days constitutes a waiver of objection.

**C. Incorrect or Unknown Address.**

1. If the notice of hearing and service of petition are returned due to an incorrect address, or if the petition fails to provide an address to a necessary party, the court may make further inquiry or require the juvenile to provide full explanation concerning efforts to locate the parent/guardian or the circumstances why the parent/guardian cannot be located and served with notice of proceedings.
2. If no parent or guardian can be located and the court does not grant emancipation, the court may require child protective services to investigate and make a written report of the investigation to the court.

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

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

**Rule 97. Responses and Objections.**

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

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

**A. Attendance.**

1. **Petitioner.** The petitioner shall appear personally before the court for all proceedings as directed. Absence of the petitioner where the petitioner 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 including the dismissal of the petition for emancipation.
2. **Parent(s) or Guardian.** The parent(s) or guardian may attend any hearing, but shall appear personally or through counsel before the court for all proceedings if the parents or guardian have filed an objection to the emancipation. Absence of the 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:
  - (a) The petitioner's parent or guardian has been convicted of abuse, neglect or abandonment.
  - (b) The petitioner's parent or guardian is named as a perpetrator of abuse, neglect or abandonment in the protective services central registry.
  - (c) Any other relevant information.
3. If agreement is reached through mediation or alternative dispute resolution, the signed agreement shall be submitted to the court. The court may reset and conduct the emancipation hearing or enter other appropriate orders.
4. If agreement is not reached through mediation or alternative dispute resolution, the court shall reset and conduct the emancipation hearing.

**Rule 99. Discovery.**

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

- D. The court may rule on discovery objections at any time between the notice of objection and the emancipation hearing.

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

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

- A. Time granted by the court for the petitioner to file supplemental information pursuant to Rule 94.
- B. Time for the court to gather correct address information as provided in Rule 95.
- C. Delays caused by child protective services investigation and report pursuant to Rule 96.
- D. Delay caused by the court's referral to mediation or alternative dispute resolution until notice of agreement or non-agreement pursuant to Rule 98.

**4. EMANCIPATION ORDER**

**Rule 101. Burden of Proof.**

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

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

- A. The court shall determine emancipation based on the best interests of the petitioner and shall consider the following:
1. The potential risks and consequences of emancipation and to what degree the petitioner understands these risks and consequences.
  2. The wishes of the petitioner.
  3. The opinions and recommendations of the petitioner's parent(s) or guardian.
  4. The financial resources of the petitioner, including any employment history.
  5. The petitioner's ability to be financially self-sufficient.
  6. The petitioner's educational level and success in school.
  7. Whether the petitioner has any criminal record.
  8. Any other factor deemed relevant by the court.

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

1. Make the following findings as a matter of record:
  - (a) The petitioner is at least sixteen years of age.
  - (b) The petitioner is a resident of this state.
  - (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 of emancipation.
  - (e) The petitioner is not a ward of the court and is not in the care, custody and control of a state agency.
2. File an order of emancipation with the clerk of the court.
3. Issue a copy of the order to the petitioner and any party entitled to notice of the proceeding.
4. Issue a copy of the order to the department of economic security or its agent if the petitioner is a child in a title IV-D case.

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

## PART VI. APPEALS

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

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

(B)-(G) [No change in text.]

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

(A)-(J) [No change in text.]

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

(A)-(G) [No change in text.]

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

(A)-(F) [No change in text.]

**Rule 92 107. Petition for Review**

(A)-(J) [No change in text.]

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

(A)-(B) [No change in text.]

## ARIZONA RULES OF CIVIL PROCEDURE

### **Rule 81.1. Juvenile emancipation**

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