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IN THE SUPREME COURT

STATE OF ARIZONA

In the Matter of:)
)
PETITION TO AMEND RULES 26) Supreme Court No. _____
& 47 OF THE ARIZONA RULES) (expedited consideration requested)
OF FAMILY LAW PROCEDURE)
_____)

Pursuant to Rule 28 of the Arizona Supreme Court, David K. Byers, Administrative Director, Administrative Office of the Courts, respectfully petitions this Court to amend Rules 26 and 47 of the Arizona Rules of Family Law Procedure on an expedited basis. The proposed change is a response to A.R.S. § 25-808, enacted through Senate Bill 1297 (Laws 2016, Chapter 271).

I. Background and Purpose of the Proposed Rule Amendments. Senate Bill 1297 was passed and signed into law in the Second Regular Session of the Fifty-second Legislature. The bill, which the Arizona Judicial Council proposed and approved, takes effect August 6, 2016.

Senate Bill 1297, codified in A.R.S. § 25-808, expands the courts' authority to issue a preliminary injunction or temporary restraining order to include

paternity/maternity actions and actions to establish legal decision-making and parenting time for children born out of wedlock. This authority is currently limited by A.R.S. § 25-315 to actions for dissolution, legal separation, and annulment.

Rules 26 and 47 currently outline the preliminary injunction procedures for actions under A.R.S. § 25-315. Thus, the proposed amendments to Rules 26 and 47, shown in the Appendix to this petition, simply add appropriate references to the courts' expanded areas of authority.

II. Preliminary Comments. This petition has not been circulated for pre-petition comments.

III. Request for Emergency Adoption. Because A.R.S. § 25-808 will become effective August 6, 2016, the expedited adoption of the proposed amendment is necessary to ensure that the Arizona Rules of Family Law Procedure conform with Arizona law. Accordingly, petitioner requests expedited adoption of the proposed rule changes with a formal comment period to follow, as outlined by Rule 28(G) of the Rules of the Supreme Court.

RESPECTFULLY SUBMITTED this 28th day of June, 2016

By /s/ _____
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APPENDIX

(language to be removed is shown in ~~strikethrough~~, new language is underlined)

Rule 26. Additional Filings

A. Preliminary Injunction and Summons with Petition for Annulment, Dissolution, Legal Separation, Dissolution of Covenant Marriage, ~~or Legal Separation in Covenant Marriage, Paternity or Maternity~~. Along with the original petition for annulment, dissolution, legal separation, dissolution of covenant marriage, or legal separation in covenant marriage, paternity, maternity, or action to establish legal decision-making and parenting time for a child who was born out of wedlock, the party shall present to the clerk of the court a preliminary injunction for issuance pursuant to A.R.S. § 25-315(A) or §25-808(A), a summons and a copy of the summons so that the clerk of the court may issue the summons and the copy of the summons for service on the opposing party.

B. Summons with Original Petition for Child Custody by Parent, ~~Paternity or Maternity~~. Along with the original petition for child custody by parent, ~~paternity, or maternity~~, the party shall present to the clerk of the court a summons and a copy of the summons so that the clerk of the court may issue the summons and the copy of the summons for service on the opposing party.

C. Order to Appear. In all actions other than those listed in paragraphs A and B, and Rule 91(D), along with the original petition seeking relief the party shall also present to the court an original and copy of an order to appear for the court to schedule a hearing on the petition.

D. Notices, Forms and Orders. A party filing a petition shall present to the clerk of the court for issuance of all notices, forms and orders required by statute, these rules, local rule or administrative order to be served on the opposing party.

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, 25-817, 25-808 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. *Legal Decision-Making and Parenting Time*. If a party seeks a temporary legal decision-making, parenting time, or visitation order, the motion shall set forth a proposed parenting plan specifically stating the legal decision-making, parenting time, and visitation requested for all parties to the action.
2. *Child Support*. If a party seeks a temporary child support order, the party shall include and file with the motion a completed a Child Support Worksheet setting forth the amount requested in accordance with the current *Arizona Child Support Guidelines*. The movant shall also provide copies of all child support disclosure documents required by Rule 49(C) to the opposing party within the time period specified in paragraph E, and shall provide an additional copy of these documents to the court at the time of any evidentiary hearing held on the motion.
3. *Spousal Maintenance*. If a party seeks a temporary spousal maintenance order, that party shall state the specific duration and amounts requested and file an affidavit substantially similar to Form 2, Affidavit of Financial Information.
4. *Property, Debt, and Attorneys' Fees*. If a party seeks temporary orders to exclude a party from a residence, to divide community property, or to order payment of debt, expenses, or attorneys' fees, the motion shall set forth the specific relief requested, the proposed division of property, the income and assets that will be available to each party, and the responsibility each will have for payment of debt, expenses, and attorneys' fees if the order is granted. If a party seeks a temporary order for payment of attorneys' fees that party shall state the specific amount requested and file an affidavit substantially similar to Form 2, Affidavit of Financial Information.

B. through N. [no changes]