

SUPREME COURT OF ARIZONA

In the Matter of	)	Arizona Supreme Court
	)	No. R-10-0028
RULES 38, 40, 47.1, 50, 52 and	)	
56, RULES OF PROCEDURE OF THE	)	
JUVENILE COURT	)	FILED 06/30/2010
	)	
	)	
	)	
	)	

**ORDER
AMENDING RULES 38, 40, 47.1, 50, 52 and 56,
RULES OF PROCEDURE FOR THE JUVENILE COURT**

A petition having been filed proposing to amend Rules 38, 40, 47.1, 50, 52, and 56, Rules of Procedure for the Juvenile Court, to conform the rules to statutory changes effective July 29, 2010, upon consideration,

IT IS ORDERED that said Rules be amended on an emergency basis in accordance with the attachment hereto, effective July 29, 2010.

IT IS FURTHER ORDERED that this matter shall be opened for comment in accordance with Rule 28(G)(2), Rules of the Supreme Court, until May 20, 2011.

DATED this ____ day of June, 2010.

REBECCA WHITE BERCH
Chief Justice

TO:
Rule 28 Distribution
Mark E. Meltzer
David K Byers

ATTACHMENT*

Rule 38. Assignment, Appointment of Counsel

A. Assignment of Counsel. Counsel shall be assigned to represent those persons entitled to counsel as provided by law and the Indian Child Welfare Act, from the filing of a dependency petition through the preliminary protective hearing until the court formally appoints counsel or otherwise relieves assigned counsel. ~~Counsel is required to meet with the client prior to the preliminary protective hearing.~~ The attorney for a child shall meet with the child before the preliminary protective hearing, if possible, or if not possible, within fourteen (14) days after the preliminary protective hearing. The attorney for the child shall also meet with the child before all substantive hearings. Upon a showing of extraordinary circumstances, the judge may modify this requirement for any substantive hearing. Assigned counsel is not counsel of record for purposes of accepting service of process for a parent, guardian or Indian custodian who does not appear for the preliminary protective hearing.

B. Appointment of Counsel. The court shall order the appointment of counsel for those persons entitled to counsel and determined to be indigent, as provided by law. In determining whether a person is indigent, the court shall: ~~1. Order the person to provide proof of financial resources by filing a financial questionnaire provided by the court.~~ The court may question the person under oath. If the court determines the person is not indigent the court may order the person to pay a reasonable portion of the cost of counsel or deny the request for appointment of counsel.

C. [No Change]

Rule 40. Appointment of Guardian Ad Litem

A. The court may appoint a guardian ad litem to protect the interest of the child. The guardian ad litem may be an attorney, volunteer special advocate or other qualified person. The guardian ad litem shall meet with the child before the preliminary protective hearing, if possible, or if not possible, within fourteen (14) days after the preliminary protective hearing. The guardian ad litem shall also meet with the child before all substantive hearings. Upon a showing of extraordinary circumstances, the judge may modify this requirement for any substantive hearing.

* Deletions from text are shown by ~~strikeouts~~; additions to text are shown by underscoring.

B. – C. [No Change]

Rule 47.1. Mandatory Judicial Determinations

If a child has been removed from the child's home by the state authority, the court shall make protecting the child from abuse or neglect the first priority. The court shall make the following determinations within the time periods set forth and shall state on the record a factual basis for each determination:

A. [No Change]

B. At the preliminary protective hearing and the initial dependency hearing, whether the department is attempting to identify and assess placement of the child with the child's grandparent or another member of the child's extended family including a person who has a significant relationship with the child. At the initial dependency hearing, whether the department is attempting to identify and assess placement of the child with the child's siblings if such placement is possible and is in the child's best interests.

C. – G. [No change]

H. At the permanency hearing, unless the court has determined that placement, visitation, or contact with all or any siblings is not possible or would be contrary to the child's or a sibling's safety or well-being, what efforts have been made in the permanency plan to place the child with the child's siblings or to provide the child with frequent visitation or contact with the child's siblings.

Rule 50. Preliminary Protective Hearing

A. [No Change]

B. [No Change]

C. Findings and orders. All findings and orders, including any agreements reached by the parties shall be in the form of a signed order or contained in a minute entry, and shall be provided to the parties at the conclusion of the hearing. The court shall:

1. – 6. [No change]

7. Order the parent or guardian to provide the court with the names, the type of relationship and all available information necessary to locate persons who are related to the child or who have a significant relationship with the child unless the parent or guardian informs the court that there is not sufficient information available to locate a relative or person with a significant relationship with the child. The court shall further order the parent or guardian to inform the department immediately if the parent or guardian becomes aware of new information related to the existence or location of a relative or person with a significant relationship to the child.

8. [No change]

Rule 52. Initial Dependency Hearing

A. - C. [No Change]

D. Findings and Orders. All findings and orders shall be in the form of a signed order or contained in a minute entry. At the conclusion of the initial hearing the court shall:

1. – 9. [No change]

10. Order the parent or guardian to provide the court with the names, the type of relationship and all available information necessary to locate persons who are related to the child or who have a significant relationship with the child unless the parent or guardian informs the court that there is not sufficient information available to locate a relative or person with a significant relationship with the child. The court shall order the parent or guardian to inform the department immediately if the parent or guardian becomes aware of new information related to the existence or location of a relative or person with a significant relationship with the child.

11. [No change]

E. [No Change]

Rule 56. Disposition Hearing

A. - D. [No Change]

E. Findings and Orders. All findings and orders shall be in the form of a signed order or contained in a minute entry. The court shall determine the appropriate case plan and shall:

1. – 6. [No change]

7. Make any determinations required by Rule ~~8.1~~ 47.1 and make any other findings and enter any other orders as may be appropriate or required by law.

8. [No change]