

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-08-0038
PETITION TO AMEND SUPREME COURT)
RULE 96)
_____)

**ORDER
AMENDING RULE 96, RULES OF THE SUPREME COURT**

A petition having been filed proposing to amend Rule 96, Rules of the Supreme Court, and comments having been received, upon consideration,

IT IS ORDERED that Rule 96, Rules of the Supreme Court, be amended in accordance with the attachment hereto, effective January 1, 2010.

DATED this _____ day of September, 2009.

REBECCA WHITE BERCH
Chief Justice

TO:
Rule 28 Distribution

mwa

ATTACHMENT¹

Rule 96. Powers and Duties of Court Commissioners

All court commissioners and juvenile court commissioners appointed in accordance with Article VI, Section 24, of the Constitution of the State of Arizona, and Sections 12-213 and ~~8-231-03~~ 8-231 of the Arizona Revised Statutes, shall have such powers and duties as are provided by this Rule.

(a) Powers of Commissioner; Hearings and Determinations; Order; Contempt. Each court commissioner shall, except as otherwise provided by this Rule, have the power to:

(1) through (3) [no changes]

4. Hear and determine, when so assigned by the presiding judge of the Superior Court, any matter arising under Article 10, Chapter 9, Title ~~12~~ 25, Arizona Revised Statutes (entitled “Uniform ~~Enforcement of~~ Interstate Family Support Act”), ~~except determinations of paternity, unless the commissioner finds that the respondent’s denial of paternity is frivolous.~~

(5) through (10) [no changes]

11. Hear and determine any matter governed by Rules 4, 6, 7, 12.7, 12.26, 14, 17.1, 17.2, 17.3, 17.4, 17.6, ~~27.7(a), 27.7(e) and 27.8(a) and (e), and 27.9~~, Rules of Criminal Procedure, and, if approved by the presiding judge due to a commissioner’s extensive litigation or judicial experience, hear and determine any matter governed by Rules 5, 8, 10, 11, 12.9, 12.28, 15, 16.2, 16.3, 17.5, and 27, Rules of Criminal Procedure; Rule 609, Rules of Evidence; and A.R.S. §13-804.

(12) through (17) [no changes]

(b) (1) [no changes]

2. Adjudicate any person in contempt of court or impose any fine or punishment therefor, except as provided in Rule ~~94~~ 96(a)(10) and (16).

(c) through (e) [no changes]

(f) Powers of Juvenile Court Commissioner; Hearings and Determination; Order; Contempt. All juvenile court commissioners appointed in accordance with Article VI, Section 24, of the Constitution of the State of Arizona, and Section ~~8-231-03~~ of the Arizona Revised Statutes, shall have the power to:

(1) through (3) [no changes]

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

4. Hear and determine under ~~Rules 15 and 16~~ 48, Rules of Procedure of the Juvenile Court, any uncontested petition commenced under Chapter 2, Title 8, Arizona Revised Statutes, concerning a dependent child, provided, however, that if the matter becomes contested the juvenile court commissioner shall transfer the matter to a judge of the juvenile court for further proceedings. Notwithstanding the foregoing provision, a juvenile court commissioner shall have the power to hear and determine requests for review of temporary custody filed pursuant to ~~A.R.S. § 8-546.06~~ Rule 51, Rules of Procedure for the Juvenile Court, and to enter necessary temporary orders when declaring a child a temporary ward of the court upon the filing of a dependency petition pursuant to ~~Rule 15(b) 48(B)~~, Rules of Procedure for the Juvenile Court.

5. Hear and determine any matter arising under ~~A.R.S. § 8-242.01~~ Title 8, Chapter 2, Article 6 and Title 36, Chapter 5, Article 4, Arizona Revised Statutes, pertaining to evaluation, treatment and placement of a mentally ill child and mental health services for such a child.

6. Hear and determine an application filed pursuant to ~~Section 8-247~~ 8-349, Arizona Revised Statutes (~~entitled "Destruction of Records"~~).

(7) through (9) [no changes]

10. Hear and dispose of any and all cases wherein a child under the age of 18 years on the date of the alleged offense and on the date of the hearing is charged with ~~an alcohol offense, as defined by Section 8-201, Arizona Revised Statutes,~~ the purchase, possession or consumption of spirituous liquor or a violation of the motor vehicle code not declared to be a felony.

(11) through (14) [no changes]

(g) Restrictions on Powers; Ex Parte Orders; Contempts. A juvenile court commissioner shall not make ex parte orders which would deprive a person from custody of his child or deprive a person of his liberty, except in default hearings or for necessary temporary matters preceding a hearing. Nor shall a juvenile court commissioner adjudicate any person in contempt of court, or impose any fine or punishment therefor, except as provided in ~~Rule 91~~ 96(f)(14).

(h) [no changes]

(i) Part-Time Pro Tempore Court Commissioners and Part-Time Pro Tempore Juvenile Court Commissioners. A part-time pro tempore court commissioner and a part-time pro tempore juvenile court commissioner, under this rule, are lawyers who serve or expect to serve on less than a full-time basis under a separate appointment for each period of less than full-time service or for each case heard. As such, the conduct of part-time pro tempore court commissioners or part-time pro tempore juvenile court commissioners shall be governed by ~~section B~~ Part D of the ~~compliance~~ application section of Rule 81, Rules of the Supreme Court.