

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-09-0013
PETITION TO AMEND RULES 48.1,)
50, 52, 53, 54, 55, 56, 57, 58,)
59, 60, 62 and 65 and FORMS I,)
II and III RULES OF PROCEDURE)
FOR THE JUVENILE COURT)
))
_____)

ORDER

An Amended Petition having been filed proposing to amend Rules 48.1, 50, 52, 53, 54, 55, 56, 57, 58, 59, 60, 62 and 65 and Forms I, II and III, Rules of Procedure for the Juvenile Court, and to add Form IA, Rules of Procedure for the Juvenile Court, and no comments having been received, upon consideration,

IT IS ORDERED that the proposed amendments to Rule 48.1, 50, 52, 53, 54, 55, 56, 57, 58, 59, 60, 62 and 65 and Forms I, II and III, Rules of Procedure for the Juvenile Court, and new Form 1A, Rules of Procedure for the Juvenile Court, are hereby adopted, as set forth in the attachment hereto, effective January 1, 2010.

DATED this _____ day of September, 2009.

REBECCA WHITE BERCH
Chief Justice

TO:
Rule 28 Distribution

ATTACHMENT*

AMENDMENTS TO RULES 48.1, 50, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, AND 65, ARIZONA RULES OF PROCEDURE FOR THE JUVENILE COURT

Rule 48.1. In-home Intervention Hearings.

A. – B. [No change.]

C. Procedure. After the filing of a dependency petition, the court may order in-home intervention, whether or not it is requested, if the court makes all of the findings required by this rule. If the court orders in-home intervention, it may provide the parent, guardian or Indian custodian with a copy of Form 1A, request that the parent, guardian or Indian custodian sign and return a copy of the Form, and note on the record that the Form was provided.

1. – 4. [No change.]

Rule 50. Preliminary ~~p~~Protective ~~h~~Hearing.

A. – 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.-4. [No change.]

5. Address the parent, guardian, or Indian custodian in open court and advise the parent, guardian ~~of~~ or Indian custodian that failure to attend the pretrial conference, the settlement conference ~~of~~ or the dependency adjudication hearing, without good cause shown, may result in a finding that the parent, guardian or

* Changes and additions to text are indicated by underlining and deletions from text are indicated by ~~strikeouts~~.

Indian custodian has waived legal rights and is deemed to have admitted the allegations in the dependency petition. The court shall advise the parent, guardian or Indian custodian that the hearings may go forward in the absence of the parent, guardian or Indian custodian and may result in a finding of dependency based upon the record and evidence presented. The court shall also inform the parent that substantially neglecting or willfully refusing to remedy the circumstances that cause the child to be in an out-of-home placement, including refusing to participate in reunification services, is grounds for termination of parental rights to a child. The court shall make specific findings that it advised the parent, guardian or Indian custodian of the consequences of failure to attend subsequent proceedings and participate in reunification services. The court may provide the parent, guardian or Indian custodian with a copy of Form 1, request that the parent, guardian or Indian custodian sign and return a copy of the Form, and note on the record that the Form was provided;

6.-7. [No change.]

Rule 52. Initial ~~d~~Dependency ~~h~~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.-7. [No change.]

8. Address the parent, guardian or Indian custodian in open court and advise the parent, guardian or Indian custodian that failure to attend the pretrial conference, the settlement conference or the dependency adjudication hearing, without good cause shown, may result in a finding that the parent, guardian or Indian custodian has waived legal rights and is deemed to have admitted the allegations in the dependency petition. The court shall advise the parent, guardian or Indian custodian that the hearings may go forward in the absence of the parent, guardian or Indian custodian and may result in a finding of dependency based upon the record and evidence presented. The party shall also be advised that failure to participate in reunification services may result in the termination of parental rights or the establishment of a permanent guardianship of the child. The court shall make specific findings that it advised the parent, guardian or Indian custodian of

the consequences of failure to attend subsequent proceedings and participate in reunification services. The court may provide the parent, guardian or Indian custodian with a copy of Form 1, request that the parent, guardian or Indian custodian sign and return a copy of the Form, and note on the record that the Form was provided;

9.-10. [No change.]

E. [No change.]

Rule 53. Settlement Conference.

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 settlement conference, the court may:

1.-3. [No change.]

4. Address the parent, guardian or Indian custodian in open court and advise the parent, guardian or Indian custodian that failure to attend the pretrial conference or the dependency adjudication hearing, without good cause shown, may result in a finding that the parent, guardian or Indian custodian has waived legal rights and is deemed to have admitted the allegations in the dependency petition. The court shall advise the parent, guardian or Indian custodian that the hearings may go forward in the absence of the parent, guardian or Indian custodian and may result in a finding of dependency based upon the record and evidence presented. The party shall also be advised that failure to participate in reunification services may result in the termination of parental rights or the establishment of a permanent guardianship of the child. The court shall make specific findings that it advised the parent, guardian or Indian custodian of the consequences of failure to attend subsequent proceedings and participate in reunification services. The court may provide the parent, guardian or Indian custodian with a copy of Form 1, request that the parent, guardian or Indian custodian sign and return a copy of the Form, and note on the record that the Form was provided;

5.-6. [No change.]

Rule 54. Pretrial Conference.

A. – B. [No change.]

C. 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 pretrial conference, the court may:

1. [No change.]

2. [No change.]

a. [No change.]

b. Address the parent, guardian or Indian custodian in open court and advise the parent, guardian or Indian custodian that failure to attend the dependency adjudication hearing, without good cause shown, may result in a finding that the parent, guardian or Indian custodian has waived legal rights and is deemed to have admitted the allegations in the dependency petition. The court shall advise the parent, guardian or Indian custodian that the hearings may go forward in the absence of the parent, guardian or Indian custodian and may result in a finding of dependency based upon the record and evidence presented. The party shall also be advised that failure to participate in reunification services may result in the termination of parental rights or the establishment of a permanent guardianship of the child. The court shall make specific findings that it advised the parent, guardian or Indian custodian of the consequences of failure to attend subsequent proceedings and participate in reunification services. The court may provide the parent, guardian or Indian custodian with a copy of Form 1, request that the parent, guardian or Indian custodian sign and return a copy of the Form, and note on the record that the Form was provided;

c.-d. [No change.]

Rule 55. Dependency Adjudication Hearing.

A.-B. [No change.]

C. [Text is set forth in the order in Supreme Court No. R-09-0015.]

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. As to each parent, guardian or Indian custodian, based upon the record and evidence presented, the court shall:

1.-5. [No change.]

6. Address the parent, guardian or Indian custodian in open court and advise the parent, guardian or Indian custodian that failure to attend further proceedings without good cause shown and failure to participate in reunification services may result in the termination of parental rights or the establishment of a permanent guardianship of the child, based upon the record and evidence presented. The court shall advise the parent, guardian or Indian custodian that the hearings may go forward in the absence of the parent, guardian or Indian custodian. The court shall make specific findings that it advised the parent, guardian or Indian custodian of the consequences of failure to attend subsequent proceedings and participate in reunification services. The court may provide the parent, guardian or Indian custodian with a copy of Form 1, request that the parent, guardian or Indian custodian sign and return a copy of the Form, and note on the record that the Form was provided;

7.-8. [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.-4. [No change.]

5. Address the parent, guardian or Indian custodian in open court and advise the parent, guardian or Indian custodian that failure to attend further proceedings

without good cause shown and failure to participate in reunification services may result in the termination of parental rights or the establishment of a permanent guardianship of the child, based upon the record and evidence presented. The court shall advise the parent, guardian or Indian custodian that the hearings may go forward in the absence of the parent, guardian or Indian custodian. The court shall make specific findings that it advised the parent, guardian or Indian custodian of the consequences of failure to attend subsequent proceedings and participate in reunification services. The court may provide the parent, guardian or Indian custodian with a copy of Form 1, request that the parent, guardian or Indian custodian sign and return a copy of the Form, and note on the record that the Form was provided;

6.-8. [No change.]

Rule 57. Provision of Reunification Services Hearing.

A.-B. [No change.]

C. Findings and Orders. All findings shall be in writing, in the form of a minute entry or order. If the court finds, by clear and convincing evidence, that reunification efforts are not required, the court shall:

1.-4. [No change.]

5. Address the parent, guardian or Indian custodian in open court and advise the parent, guardian or Indian custodian that failure to attend further proceedings without good cause shown may result in the termination of parental rights or the establishment of a permanent guardianship of the child, based upon the record and evidence presented. The court shall advise the parent, guardian or Indian custodian that the hearings may go forward in the absence of the parent, guardian or Indian custodian. The court shall make specific findings that it advised the parent, guardian or Indian custodian of the consequences of failure to attend subsequent proceedings. The court may provide the parent, guardian or Indian custodian with a copy of Form 1, request that the parent, guardian or Indian custodian sign and return a copy of the Form, and note on the record that the Form was provided;

6.-7. [No change.]

Rule 58. Review Hearing.

A. – E. [No change.]

F. 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 hearing, the court shall:

1.-5. [No change.]

6. Address the parent, guardian or Indian custodian in open court and advise the parent, guardian or Indian custodian that failure to attend further proceedings without good cause shown and failure to participate in reunification services, if appropriate, may result in the termination of parental rights or the establishment of a permanent guardianship of the child, based upon the record and evidence presented. The court shall advise the parent, guardian or Indian custodian that the hearings may go forward in the absence of the parent, guardian or Indian custodian. The court shall make specific findings that it advised the parent, guardian or Indian custodian of the consequences of failure to attend subsequent proceedings and participate in reunification services. The court may provide the parent, guardian or Indian custodian with a copy of Form 1, request that the parent, guardian or Indian custodian sign and return a copy of the Form, and note on the record that the Form was provided;

7.-8. [No change]

Rule 59. Return of the Child.

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:

1.- 3. [No change.]

4. Address the parent, guardian or Indian custodian in open court and advise the parent, guardian or Indian custodian that failure to attend further proceedings without good cause shown and failure to participate in reunification services may

result in the termination of parental rights or the establishment of a permanent guardianship of the child, based upon the record and evidence presented. The court shall advise the parent, guardian or Indian custodian that the hearings may go forward in the absence of the parent, guardian or Indian custodian. The court shall make specific findings that it advised the parent, guardian or Indian custodian of the consequences of failure to attend subsequent proceedings and participate in reunification services. The court may provide the parent, guardian or Indian custodian with a copy of Form 1, request that the parent, guardian or Indian custodian sign and return a copy of the Form, and note on the record that the Form was provided;

5.- 6. [No change.]

Rule 60. Permanency ~~H~~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 make findings based upon the evidence presented and shall:

1.- 3. [No change.]

4. Address the parent, guardian or Indian custodian in open court and advise the parent, guardian or Indian custodian that failure to attend further proceedings without good cause shown and failure to participate in reunification services, if appropriate, may result in the termination of parental rights or the establishment of a permanent guardianship of the child, based upon the record and evidence presented. The court shall advise the parent, guardian or Indian custodian that the hearings may go forward in the absence of the parent, guardian or Indian custodian. The court shall make specific findings that it advised the parent, guardian or Indian custodian of the consequences of failure to attend subsequent proceedings and participate in reunification services. The court may provide the parent, guardian or Indian custodian with a copy of Form 2 (if the permanent plan is guardianship) or Form 3 (if the permanent plan is termination of parental rights), request that the parent, guardian or Indian custodian sign and return a copy of the Form, and note on the record that the Form was provided;

5.- 7. [No change.]

Rule 61. Motion, Notice of Hearing, Service of Process and Orders for Permanent Guardianship.

A. [No change.]

B. Notice of Hearing. A notice of hearing shall accompany the motion for permanent guardianship and shall advise the parent, guardian or Indian custodian of the location, date and time of the initial guardianship hearing. In addition to the information required by law, the notice of hearing shall advise the parent, guardian or Indian custodian that failure to appear at the initial guardianship hearing, guardianship pre-trial conference, settlement conference, or guardianship adjudication hearing without good cause shown may result in a finding that the parent, guardian or Indian custodian has waived legal rights and is deemed to have admitted the allegations in the motion for guardianship. The notice shall advise the parent, guardian or Indian custodian that the guardianship adjudication hearing may go forward in the absence of the parent, guardian or Indian custodian and may result in the establishment of a permanent guardianship based upon the record and evidence presented. In addition to service of the notice of hearing upon the parties, a copy of the notice of hearing shall also be provided to the following persons:

1.- 4. [No change.]

C.- D. [No change.]

Rule 62. Initial Guardianship 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 hearing, the court shall:

1.- 3. [No change.]

4. Address the parent, guardian or Indian custodian in open court and advise the parent, guardian or Indian custodian that failure to appear at the guardianship pre-trial conference, settlement conference, or guardianship adjudication hearing,

without good cause shown, may result in a finding that the parent, guardian or Indian custodian has waived legal rights and is deemed to have admitted the allegations in the motion for guardianship. The court shall advise the parent, guardian or Indian custodian that the guardianship adjudication hearing may go forward in the absence of the parent, guardian or Indian custodian and may result in the establishment of a permanent guardianship based upon the record and evidence presented. The court shall make specific findings that it advised the parent, guardian or Indian custodian of the consequences of failure to attend subsequent proceedings. The court may provide the parent, guardian or Indian custodian with a copy of Form 2, request that the parent, guardian or Indian custodian sign and return a copy of the Form, and note on the record that the Form was provided;

5.- 6. [No change.]

Rule 65. Initial Termination 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 hearing, the court shall:

1.- 2. [No change.]

3. Address the parent, guardian or Indian custodian in open court and advise the parent, guardian or Indian custodian that failure to appear at the pretrial conference, status conference or termination adjudication hearing, without good cause shown, may result in a finding that the parent, guardian or Indian custodian has waived legal rights, and is deemed to have admitted the allegations in the motion or petition for termination. The court shall advise the parent, guardian or Indian custodian that the termination adjudication hearings may go forward in the absence of the parent, guardian or Indian custodian and may result in the termination of parental rights based upon the record and evidence presented. The court shall make specific findings that it advised the parent, guardian or Indian custodian of the consequences of failure to attend subsequent proceedings. The court may provide the parent, guardian or Indian custodian with a copy of Form 3, request that the parent, guardian or Indian custodian sign and return a copy of the Form, and note on the record that the Form was provided;

4.- 5. [No change.]

FORM 1A

Notice to Parent in In-home Intervention Action

You are a party in an in-home intervention action. The Court will make decisions about the care and custody of your child until you demonstrate that you are able to do so. Except as otherwise provided by law, court hearings relating to dependent children are open to the public. You may request that the hearings be closed, and the Court may order them closed for good cause.

If the Court orders the in-home intervention, the Court will order services for you. You must participate in these services. The Court’s in-home intervention order will include a specific time for you to complete the in-home intervention services, and that time cannot exceed one year without review and approval by the Court.

If you violate the in-home intervention orders made by the Court, including failing or refusing to participate in services, the Court may take whatever steps it deems necessary to obtain your compliance, may remove your child from your care, or may rescind the in-home intervention order and set an adjudication hearing on the dependency petition.

The Court will presume that you understand the contents of this notice unless you tell the Court at today’s hearing that you do not understand this notice.

Next Hearing Type:

Date & Time:

Judicial Officer:

At: _____

[address of court facility]

My signature confirms that I have received a copy of this document on this date.

Parent's Signature

Printed Name

Date

FORM 1

Notice to Parent in Dependency Action

~~(To be given to parent at each dependency hearing prior to adjudication and noted on the record.)~~

You are a party in a dependency case. If the €Court determines that your child is dependent, then ~~this~~ the Court will make decisions about the care and custody of your child until you demonstrate that you are able to do so. Except as otherwise provided by law, court hearings relating to dependent children are open to the public. You may request that the hearings be closed, and the Court may order them closed for good cause.

If you cannot be reunited ~~re-united~~ with your child within legal time frames ~~time-frames~~, the Court may terminate your parental rights ~~may be terminated~~ and your child may be adopted, or the Court may appoint a permanent guardian ~~may be appointed~~ for your child.

As a parent or Indian custodian in a dependency case, your legal rights include:

1. The right to counsel, including court appointed counsel if you are indigent;
2. The right to trial by the Court on the allegations in the dependency petition
~~The right to cross-examine witnesses who are called to testify against you;~~
3. The right to cross-examine witnesses who are called to testify against you ~~The right to trial by the court on the allegations in the dependency petition;~~ and
4. The right to use the process of the court to compel the attendance of witnesses.

As part of this case, there will be additional ~~several~~ court hearings. You are required to ~~appear for~~ attend all court hearings. If you cannot attend a court hearing, you must prove to the €Court that you ~~did not appear for~~ had good cause for not attending. If you

fail to ~~appear without good cause for~~ attend the Pre-trial Conference, Settlement Conference, or Dependency Adjudication Hearing without good cause, the eCourt may determine that you have waived your legal rights, and admitted the allegations of ~~dependency~~ in the dependency petition. The Court may go forward with the Dependency Adjudication Hearing in your absence and may rule that your child is dependent based on the record and evidence presented.

You must also actively participate in reunification services if they are offered to you. Substantially neglecting or wilfully refusing to remedy the circumstances that cause your child to be in an out-of-home placement, including refusing to participate in reunification services, will be grounds for terminating your parental rights to your child. If you do not participate in reunification services, or fail to attend further proceedings without good cause, the Court may terminate your parental rights ~~may be terminated~~ or appoint a permanent guardian ~~may be appointed~~ for your child.

~~It will be~~ The Court will presumed that you understand the contents of this notice unless you tell the eCourt at today's hearing that you do not understand this notice.

Next hearing type: _____,

Date: _____, Time: _____,

Judicial Officer: _____

Address of court facility: _____

Next Hearing Type:

Date & Time:

Judicial Officer:

At: _____

[address of court facility]

My signature confirms that I have received a copy of this document on this date.

Parent's Signature

Printed Name

Date

FORM # 2

Notice to Parent in Guardianship Action

~~(To be given to parent at permanency hearing if guardianship is ordered and each subsequent hearing until adjudication and noted on the record)~~

You are a party in a guardianship action. If the Court determines that guardianship would be in your child's best interests, if you cannot be re-united with your child within legal time frames, your parental rights may be terminated and your child may be adopted, or the Court may appoint a permanent guardian may be appointed for your child. Except as otherwise provided by law, court hearings relating to dependent children are open to the public. You may request that the hearings be closed, and the Court may order them closed for good cause.

As a parent or Indian custodian in a guardianship case, your legal rights include:

1. The right to counsel, including court appointed counsel if you are indigent;
2. The right to trial by the Court on the allegations in the guardianship motion
~~The right to cross-examine witnesses who are called to testify against you;~~
3. The right to cross-examine witnesses who are called to testify against you ~~The right to trial by the court on the allegations in the dependency petition;~~ and
4. The right to use the process of the court to compel the attendance of witnesses.

You are required to ~~appear for~~ attend all guardianship hearings. If you cannot attend a court hearing, you must prove to the eCourt that you ~~did not appear for~~ had good cause for not attending. If you fail to ~~appear without good cause for~~ attend the Initial Guardianship Hearing, Pre-trial Conference, Settlement Conference, or Guardianship Adjudication Hearing without good cause, the eCourt may determine that you have waived your legal rights, and admitted the ~~legal basis for~~ allegations in the motion for

guardianship. The Court may go forward with the Guardianship Adjudication Hearing in your absence, and ~~the court~~ may establish a guardianship for your child based on the record and evidence presented.

~~It will be~~ The Court will presumed that you understand the contents of this notice unless you tell the ~~€~~Court at today's hearing that you do not understand this notice.

Next hearing type: _____,

Date: _____, Time: _____,

Judicial Officer: _____

Address of court facility: _____

Next Hearing Type:

Date & Time:

Judicial Officer:

At: _____

[address of court facility]

My signature confirms that I have received a copy of this document on this date.

Parent's Signature

Printed Name

Date

FORM # 3

Notice to Parent in Termination Action

~~(To be given to parent at permanency hearing if termination is ordered and each subsequent hearing until termination adjudication and noted on the record)~~

You are a party in a termination action. If the Court determines that termination of your parental rights would be in your child's best interests, if you cannot be re-united with your child within legal time frames, the Court may terminate your parental rights may be terminated and your child may be adopted, or a permanent guardian may be appointed for your child. Except as otherwise provided by law, court hearings relating to dependent children are open to the public. You may request that the hearings be closed, and the Court may order them closed for good cause.

As a parent or Indian custodian in a termination action, your legal rights include:

1. The right to counsel, including court appointed counsel if you are indigent;
2. The right to trial by the Court on the allegations in the termination motion or petition ~~The right to cross-examine witnesses who are called to testify against you;~~
3. The right to cross-examine witnesses who are called to testify against you ~~The right to trial by the court on the allegations in the dependency petition;~~ and
4. The right to use the process of the court to compel the attendance of witnesses.

You are required to ~~appear for~~ attend all termination hearings. If you cannot attend a court hearing, you must prove to the eCourt that you ~~did not appear for~~ had good cause for not attending. If you fail to ~~appear without good cause for~~ attend the Initial Termination Hearing, Termination Pre-trial Conference, ~~Termination Settlement~~ Status Conference, or Termination Adjudication Hearing without good cause, the eCourt may determine that you have waived your legal rights; and admitted the grounds alleged in

the motion/petition for termination. The Court may go forward with the Termination Adjudication Hearing in your absence and may terminate your parental rights to your child based on the record and evidence presented.

~~It will be~~ The Court will presumed that you understand the contents of this notice unless you tell the ~~€~~Court at today's hearing that you do not understand this notice.

Next hearing type: _____,

Date: _____, Time: _____,

Judicial Officer: _____

Address of court facility: _____

Next Hearing Type:

Date & Time:

Judicial Officer:

At: _____

[address of court facility]

My signature confirms that I have received a copy of this document on this date.

Parent's Signature

Printed Name

Date