

Greg Sakall
Judge, Division 23
Pima County Superior Court
110 W Congress
Tucson, AZ 85701
Telephone: (520) 724-8301
SPickard@courts.az.gov

IN THE SUPREME COURT

STATE OF ARIZONA

In the Matter of:)	Supreme Court No. R-23-0041
)	
PETITION TO AMEND RULES 44.1)	Reply in Support of Petition
and 45 RULES OF FAMILY LAW)	
PROCEDURE)	
_____)	

Earlier this year, the Family Court Improvement Committee petitioned the Court to amend Arizona Rules of Family Law Procedure (ARFLP) 44.1 and 45 in light of the Court's adoption of the Spousal Maintenance Guidelines. At its August 2023 Rules Agenda, the Court adopted the amended rules on an emergency basis, allowed an additional time period for comments, and scheduled the Petition on the December 2023 Rules Agenda.

While no formal comments were filed with the Court, the Family Court Improvement Committee and its members received feedback about the amended rules that it believes merit modification of the rules before final adoption. Those proposed modifications are found in Appendix A.

As to Rule 44.1(f), there are some minor edits, and also a substantive edit to include that the Spousal Maintenance Calculator Worksheet also includes the applicable duration range, not just the amount range.

As to Rule 45(b)(1),

1. The rule as originally proposed has caused some confusion about whether rule requires a separate Spousal Maintenance Order. The Family Court Improvement Committee does not believe that there is a need for a separate order so removes that confusing language. The language below removes that confusing language.
2. The Petition contained language regarding the parties' stipulated amount or duration outside the Guidelines' ranges as being a deviation. That was in error as the Guidelines specifically provide that the parties' agreement outside the ranges is not a deviation. Guidelines § VI(E)(4). The language below removes that erroneous language.
3. There has been some question as to why the parties need to submit a Spousal Maintenance Calculator Worksheet when they have agreed to the amount and duration. There are at least two reasons. First, the Guidelines require that the parties know what the Guidelines would provide for but for the agreement. Guidelines § VI(E)(5). Second, if the award is modifiable, the Worksheet will provide a baseline for any modification request in the future.
4. Additional language is proposed below to require that the Decree contain the necessary findings in the event the award is outside the relevant ranges and to comply with the statutory purpose of spousal maintenance as contained in A.R.S. § 25-319(B).

The Family Court Improvement Committee respectfully requests adoption of the amended Rules as set forth in Appendix A, effective January 1, 2024.

DATED this ____ day of October 2023.

Greg Sakall
Chair, FCIC

APPENDIX A

Rule 44.1. Default Decree or Judgment by Motion and Without a Hearing

(a) through (e)(8) no change.

(f) Spousal Maintenance. If a party requests spousal maintenance and chooses to proceed by motion without a hearing, the party must file a form substantially similar to Form 6, Rule 97, Default Information for Spousal Maintenance, with the Rule 44 application for default. **THE PARTY MUST FILE SEPARATELY THE SPOUSAL MAINTENANCE CALCULATOR WORKSHEET THAT SPECIFIES THE REQUESTED AMOUNT AND DURATION.**

(g) through end no change.

Rule 45. Consent Decree, Judgment, or Order

(a) through (a)(3) no change.

(b) Content of Consent Decree, Judgment, or Order. The consent decree, order, or judgment must meet these requirements:

(1) It must state the terms of the parties' agreement. **FOR DISSOLUTION OR LEGAL SEPARATION DECREES THAT INCLUDE AN AWARD OF SPOUSAL MAINTENANCE, THE PARTIES MUST SEPARATELY FILE A SPOUSAL MAINTENANCE CALCULATOR WORKSHEET. IF THE STIPULATED AMOUNT OR**

**DURATION OF SPOUSAL MAINTENANCE IS OUTSIDE THE APPLICABLE
GUIDELINE RANGES, THE DECREE MUST INCLUDE THE REQUIRED FINDINGS
FROM THE GUIDELINES, AND STATE THAT THE STIPULATED AMOUNT AND
DURATION WILL ALLOW THE RECEIVING PARTY TO BECOME SELF-
SUFFICIENT.**

(b)(2) through (c)(7) no change.