



in accordance with the amendments shown on the attachment to this order, effective immediately.

**IT IS FURTHER ORDERED** that the amendments shown in the attachment to this order apply:

(1) in all cases filed on or after the filing date of this order; and

(2) in all cases pending in the superior courts and appellate courts on the filing date of this order, unless the court in an affected family law case determines that applying the amendments would be infeasible or work an injustice, in which event the former rules apply.

**IT IS FURTHER ORDERED** that during its August 2025 Rules Agenda, the Court will consider whether to adopt the rule amendments on a permanent basis.

**IT IS FURTHER ORDERED** that this petition and the amendments are opened for public comment under Rule 28(c), Rules of the Supreme Court of Arizona, as to whether the amendments should be adopted on a permanent basis, with all comments due no later than May 1, 2025, and any reply due no later than June 2, 2025.

The petition may be viewed by going to: <http://www.azcourts.gov/Rules-Forum>. This opens the "Welcome" page. Petitions are posted under the appropriate body of rules.

For example, the Rules of Family Law Procedure can be found by scrolling down the page.

For instructions on how to post comments electronically, click on <https://www.azcourts.gov/rules/Forum-FAQ> at the top of the "Forum FAQ" page and then "How do I file a comment on a Rule 28 petition?"

Alternatively, commenters may submit comments by filing an original and one paper copy of the comment and one electronic copy of the written comments and supporting documents in Microsoft Word format on a CD or other compatible electronic medium with the Clerk of the Supreme Court, 1501 West Washington St., Room 402, Phoenix, AZ 85007 in an envelope marked "Rule Comment."

Any person filing a comment must send a copy of the comment to the Petitioner electronically or by ordinary mail.

DATED this 28th day of January, 2025.

\_\_\_\_\_/s/\_\_\_\_\_  
ANN A. SCOTT TIMMER  
Chief Justice

TO:

Rule 28 Distribution  
Hon Joseph C Welty

## ATTACHMENT<sup>1</sup>

### RULES OF FAMILY LAW PROCEDURE

#### Rule 3. Definitions.

(a)-(j) [No change]

**(k) Family Law Case.** A “family law case” is a court case assigned a unique case number upon the filing of an initial pleading under Rule 23. The filing of a post-decree petition under Rule 23, including a petition for civil contempt under Rule 92, does not create a separate family law case.

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#### Rule 6. Change of Judge as a Matter of Right

(a) Definitions.

(1) [No change]

(2) *Presiding judge.* The term “presiding judge” as used in this rule refers to the presiding superior court judge in the county where the ~~action~~ family law case is pending, or that judge's designee.

**(b) Generally.** In each ~~action~~ family law case, whether single or consolidated, each party is entitled as a matter of right to a change of judge.

**(c) Notice Requirements.** A party seeking a change of judge as a matter of right must either file a written notice, or make an oral request on the record, in the manner provided below:

(1) *Written Notice.* A written notice of change of judge must be served on all other parties, the presiding judge, the noticed judge, and the court administrator, if any, by any method provided in Rule 43(b). The notice must contain:

(A) [No change]

(B) a statement that:

(i)-(ii) [No change]

(iii) the party has not been granted a change of a judge as a matter of right previously in the ~~action~~ family law case. The notice cannot specify grounds for the change of judge.

(2) [No change]

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<sup>1</sup> Additions to the text of the rule are shown by underscoring and deletions are shown by ~~strike-through~~.

**(d) [No change]**

**(e) Waiver.** A party waives the right to change a judge assigned to preside over any proceeding in the ~~action~~ family law case, if:

**(1)-(5) [No change]**

**(f) Actions Remanded from an Appellate Court.** In actions remanded from an appellate court, the right to a change of judge is renewed and no event connected with the first trial constitutes a waiver:

**(1) [No change]**

(2) the party seeking a change of judge has not previously exercised the party's right to a change of judge in the ~~action~~ family law case.

**(g) Post-Decree Petitions.** In proceedings on a post-decree petition, the right to a change of judge is renewed and no event connected with prior proceedings constitutes a waiver if:

(1) the judge assigned to preside over the post-decree proceeding has not previously ruled on a contested issue or held a hearing or conference in the family law case; and

(2) the party seeking a change of judge has not previously exercised the party's right to a change of judge in the family law case.

**(g) (h) Procedures on Notice.**

(1) *On Proper Notice.* If a notice is timely filed and no waiver has occurred, the judge named in the notice should proceed no further in the ~~action~~ family law case except to make such temporary orders as are necessary to prevent immediate and irreparable injury, loss, or damage from occurring before the ~~action~~ family law case can be transferred to another judge. If the named judge is the only judge in the county, that judge may also reassign the case.

(2) *On Improper Notice.* If the court determines that the party who filed the notice is not entitled to a change of judge, the named judge may proceed with the ~~action~~ family law case.

**(3) *Reassignment.***

(A) *On Stipulation.* If a notice of change of judge is filed, the parties should inform the court in writing whether they have agreed on an available judge who is willing to hear the ~~action~~ family law case. An agreement of all parties may be honored and, if so, bars further changes of judge as a matter of right unless the agreed-on judge becomes unavailable. If a judge to whom an ~~action~~ family law case is assigned by agreement later becomes unavailable because of a change of calendar assignment, death, illness, or other incapacity, the parties may assert any rights under this rule that existed immediately before the assignment to that judge.

(B) Absent Stipulation. If no judge is agreed on, the presiding judge must promptly reassign the ~~action~~ family law case.