

SUPREME COURT OF ARIZONA

In the Matter of	)	Arizona Supreme Court
	)	No. R-25-0044
RULES 28.1 AND 28.2, RULES	)	
OF CRIMINAL PROCEDURE; VARIOUS	)	FILED 11/26/2025
OTHER RULE SETS	)	
	)	
	)	
	)	
	)	

**ORDER ADOPTING ON A PERMANENT BASIS
AMENDMENTS TO VARIOUS RULES
REGARDING RECORD RETENTION AND DISPOSITION**

On July 17, 2025, David K. Byers, Administrative Director of the Administrative Office of the Court ("AOC"), filed a petition on AOC's behalf proposing to amend, on an emergency basis, various rules regarding record retention and disposition as recommended by the Advisory Committee on Evidence Retention. On August 28, 2025, this Court entered an order: (a) adopting the proposed amendments on an emergency basis; and (b) opening the petition for public comment about whether the amendments should be adopted on a permanent basis. Having considered the petition, public comment, and a reply,

IT IS ORDERED that the amendments to the rules that were adopted on an emergency basis on August 28, 2025, are adopted on a permanent basis, as modified in accordance with Attachment A to this order, effective January 1, 2026. Attachment B to this

order shows the changes the Court made to Rule 28.1 of the Rules of Criminal Procedure that was adopted on an emergency basis. The amendments shown in Attachment A are otherwise the same as those shown in the attachment to the Court's order of August 28, 2025.

DATED this 26th day of November, 2025.

_____/s/
ANN A. SCOTT TIMMER
Chief Justice

TO:

Rule 28 Distribution

David K Byers

Jessica Fotinos

ATTACHMENT A¹

RULES OF CRIMINAL PROCEDURE

Rule 28.1. Duties of Clerk

(a) Retention of Records and Evidence. The clerk receives and maintains illustrative aids used under Rule 107 of the Arizona Rules of Evidence and all court filings and evidence admitted in criminal cases, including:

- (1) exhibits offered for admission in evidence but not received in evidence; and
- (2) exhibits admitted in evidence.

(b) ~~Destruction~~ Disposition of Certain Records.

(1) *Generally.* When a case is no longer subject to modification, the clerk must ~~destroy~~ dispose of certain records under retention and ~~destruction~~ disposition schedules established by the Supreme Court.

(2) *Definition of “Subject to Modification.”* A criminal case is no longer “subject to modification:” when a defendant is acquitted on all charges. Absent an acquittal on all charges, a criminal case is no longer “subject to modification:”

~~(A) after the defendant is acquitted or the court dismisses with prejudice the charges against the defendant;~~

~~(B) 60 days after the entry of judgment and sentence, unless a party files a notice of appeal or a post-trial motion;~~

~~(C) 90 days after either a court denies a post-trial motion or receives an appellate court mandate affirming the defendant's conviction, unless a petition for writ of certiorari is filed with the United States Supreme Court;~~

~~(D) 25 days after the United States Supreme Court denies certiorari or issues a mandate affirming a conviction, unless a petition for rehearing is filed;~~

~~(E) after the United States Supreme Court denies a petition for rehearing; or~~

~~(F) one year after exhausting all state court remedies, if the defendant did not file a petition for a writ of habeas corpus in federal court, or~~

(B) 90 days after exhausting all federal remedies a decision on the first petition for a writ of habeas corpus in federal court, if the defendant filed a petition for a writ of habeas corpus one.

¹ Additions to the text of the rules are shown by underscoring and deletions are shown by ~~strike-through~~.

(3) Definition of “All State Court Remedies Are Exhausted.” All state court remedies are exhausted 90 days after:

(A) the trial court dismisses, with or without prejudice, the charges against the defendant, unless a party files a notice of appeal;

(B) the entry of judgment and sentence, unless a party files a notice of appeal, a post-trial motion or, when the defendant enters a guilty plea that is accepted, a timely notice requesting post-conviction relief under Rule 33;

(C) the trial court denies a post-trial motion, unless a party files a notice of appeal from that denial of that motion;

(D) the trial court receives an appellate court mandate affirming, unless the defendant files a timely notice requesting post-conviction relief under Rule 32; or

(E) the final resolution of the first timely Rule 32 or 33 petition for post-conviction relief.

(c) [No change]

* * *

Rule 28.2. Disposition of Evidence and Illustrative Aids

(a) Manner of Disposition. Unless the court orders otherwise, after the case is no longer subject to modification under Rule 28.1, the clerk must ~~return~~ dispose of evidence ~~to the party who submitted it~~ and illustrative aids in the case as follows:

(1) Any exhibit submitted through a digital evidence portal (a “digital exhibit”) must be deleted by the clerk without further notice.

(2) For any exhibit or evidence not submitted through a digital evidence portal (a “physical exhibit”) and illustrative aids, the clerk must provide at least 30 days’ notice to the party who submitted the physical exhibit or illustrative aid for that party to claim and, if claimed, return it to the party who submitted it. If the party who submitted the physical exhibit or illustrative aid does not claim it after 30 days from such notice, the clerk may dispose of the physical exhibit or illustrative aid.

(b)-(d) [No change]

RULES OF CIVIL PROCEDURE

Rule 80.1. Retention and Disposition of Evidence and Illustrative Aids

(a) Generally. The clerk receives and maintains:

(1) all exhibits offered for admission in evidence but not received in evidence;

(2) all exhibits admitted in evidence; and

(3) any illustrative aid used under Rule 107 of the Arizona Rules of Evidence.

(b) Manner of Disposition. Unless the court orders otherwise, after the case is no longer subject to modification, the clerk must dispose of evidence and illustrative aids in the case as follows:

(1) Any exhibit submitted through a digital evidence portal (a “digital exhibit”) must be deleted by the clerk without further notice.

(2) For any exhibit or evidence not submitted through a digital evidence portal (a “physical exhibit”) and illustrative aids, the clerk must provide at least 30 days’ notice to the party who submitted the physical exhibit or illustrative aid for that party to claim and, if claimed, return it to the party who submitted it. If the party who submitted the physical exhibit or illustrative aid does not claim it after 30 days from such notice, the clerk may dispose of the physical exhibit or illustrative aid.

(c) Definition of “Subject to Modification.” For purposes of this rule, a case is “no longer subject to modification” when no further matters remain pending and 90 days after:

(1) the trial court dismisses all claims, unless a party files a notice of appeal;

(2) the entry of an appealable judgment or appealable order, unless a party files a notice of appeal or a post-trial motion;

(3) the trial court denies a post-trial motion, unless a party files a notice of appeal from the denial of that motion; or

(4) the trial court receives an appellate court mandate affirming.

RULES OF FAMILY LAW PROCEDURE

Rule 90.1. Retention and Disposition of Evidence and Illustrative Aids

(a) Generally. The clerk receives and maintains:

(1) all exhibits offered for admission in evidence but not received in evidence;

(2) all exhibits admitted in evidence; and

(3) any illustrative aid used under Rule 107 of the Arizona Rules of Evidence.

(b) Manner of Disposition. Unless the court orders otherwise, after the case is no longer subject to modification, the clerk must dispose of evidence and illustrative aids in the case as follows:

(1) Any exhibit submitted through a digital evidence portal (a “digital exhibit”) must be deleted by the clerk without further notice.

(2) For any exhibit or evidence not submitted through a digital evidence portal (a “physical exhibit”) and illustrative aids, the clerk must provide at least 30 days’ notice to

the party who submitted the physical exhibit or illustrative aid for that party to claim and, if claimed, return it to the party who submitted it. If the party who submitted the physical exhibit or illustrative aid does not claim it after 30 days from such notice, the clerk may dispose of the physical exhibit or illustrative aid.

(c) Definition of “Subject to Modification.” For purposes of this rule, a case is “no longer subject to modification” when no further matters remain pending and 90 days after:

(1) the trial court dismisses all claims, unless a party files a notice of appeal;

(2) the entry of an appealable judgment or appealable order, unless a party files a notice of appeal or a post-trial motion;

(3) the trial court denies a post-trial motion, unless a party files a notice of appeal from the denial of that motion; or

(4) the trial court receives an appellate court mandate affirming.

ARIZONA RULES OF PROTECTIVE ORDER PROCEDURE

Rule 1. Scope and Applicability. Rules 2 through 42 govern procedures in Arizona courts for any case brought under Arizona Revised Statutes (“A.R.S.”) § 13-3602, Order of Protection; A.R.S. § 13-3624, Emergency Order of Protection; A.R.S. § 12-1809, Injunction Against Harassment; or A.R.S. § 12-1810, Injunction Against Workplace Harassment. Rules 3, 4, 42, and 43 govern procedures for any petition filed under A.R.S. § 13-719(D) for an Order for Lifetime No-Contact Injunction. Rule 44 applies to all protective order cases.

COMMENT

[No change]

* * *

Rule 3. Definitions

(a)-(f) [No change]

(g) “Protective order,” as used in Rules 1 and 4 through 42, means an Order of Protection, an Emergency Order of Protection, an Injunction Against Harassment, or an Injunction Against Workplace Harassment, except that “protective order” as used in Rules 1 and 4 also includes an Order for Lifetime No-Contact Injunction issued under A.R.S. § 13-719(D).

* * *

PART XII. MISCELLANEOUS

Rule 44. Retention and Disposition of Evidence and Illustrative Aids

(a) Generally. The clerk receives and maintains:

- (1) all exhibits offered for admission in evidence but not received in evidence;
- (2) all exhibits admitted in evidence; and
- (3) any illustrative aid used under Rule 107 of the Arizona Rules of Evidence.

(b) Manner of Disposition. Unless the court orders otherwise, after the case is no longer subject to modification, the clerk must dispose of evidence and illustrative aids in the case as follows:

(1) Any exhibit submitted through a digital evidence portal (a “digital exhibit”) must be deleted by the clerk without further notice.

(2) For any exhibit or evidence not submitted through a digital evidence portal (a “physical exhibit”) and illustrative aids, the clerk must provide at least 30 days’ notice to the party who submitted the physical exhibit or illustrative aid for that party to claim and, if claimed, return it to the party who submitted it. If the party who submitted the physical exhibit or illustrative aid does not claim it after 30 days from such notice, the clerk may dispose of the physical exhibit or illustrative aid.

(c) Definition of “Subject to Modification.” For purposes of this rule, a case is “no longer subject to modification” when no further matters remain pending and 90 days after:

- (1) the trial court dismisses all claims, unless a party files a notice of appeal;
- (2) the entry of an appealable judgment or appealable order, unless a party files a notice of appeal or a post-trial motion;
- (3) the trial court denies a post-trial motion, unless a party files a notice of appeal from the denial of that motion; or
- (4) the trial court receives an appellate court mandate affirming.

ARIZONA RULES OF PROBATE PROCEDURE

Rule 12.1. Retention and Disposition of Evidence and Illustrative Aids

(a) Generally. The clerk receives and maintains:

- (1) all exhibits offered for admission in evidence but not received in evidence;
- (2) all exhibits admitted in evidence; and
- (3) any illustrative aid used. “Illustrative aid” has the meaning described in Rule 107 of the Arizona Rules of Evidence.

(b) Manner of Disposition. Unless the court orders otherwise, after the case is no longer subject to modification, the clerk must dispose of evidence and illustrative aids in the case as follows:

(1) Any exhibit submitted through a digital evidence portal (a “digital exhibit”) must be deleted by the clerk without further notice.

(2) For any exhibit or evidence not submitted through a digital evidence portal (a “physical exhibit”) and illustrative aids, the clerk must provide at least 30 days’ notice to the party who submitted the physical exhibit or illustrative aid for that party to claim and, if claimed, return it to the party who submitted it. If the party who submitted the physical exhibit or illustrative aid does not claim it after 30 days from such notice, the clerk may dispose of the physical exhibit or illustrative aid.

(c) Definition of “Subject to Modification.” For purposes of this rule, a case is “no longer subject to modification” when no further matters remain pending and 90 days after:

(1) the trial court dismisses all claims, unless a party files a notice of appeal;

(2) the entry of an appealable judgment or appealable order, unless a party files a notice of appeal or a post-trial motion;

(3) the trial court denies a post-trial motion, unless a party files a notice of appeal from the denial of that motion; or

(4) the trial court receives an appellate court mandate affirming.

RULES OF PROCEDURE FOR THE JUVENILE COURT

Rule 110.1. Retention and Disposition of Evidence and Illustrative Aids

(a) Generally. The clerk receives and maintains:

(1) all exhibits offered for admission in evidence but not received in evidence;

(2) all exhibits admitted in evidence; and

(3) any illustrative aid used. “Illustrative aid” has the meaning described in Rule 107 of the Arizona Rules of Evidence.

(b) Manner of Disposition. Unless the court orders otherwise, after the case is no longer subject to modification, the clerk must dispose of evidence and illustrative aids in the case as follows:

(1) Any exhibit submitted through a digital evidence portal (a “digital exhibit”) must be deleted by the clerk without further notice.

(2) For any exhibit or evidence not submitted through a digital evidence portal (a “physical exhibit”) and illustrative aids, the clerk must provide at least 30 days’ notice to

the party who submitted the physical exhibit or illustrative aid for that party to claim and, if claimed, return it to the party who submitted it. If the party who submitted the physical exhibit or illustrative aid does not claim it after 30 days from such notice, the clerk may dispose of the physical exhibit or illustrative aid.

(c) Definition of “Subject to Modification.” For purposes of this rule, a case is “no longer subject to modification” when no further matters remain pending and 90 days after:

- (1) the trial court dismisses all claims, unless a party files a notice of appeal;
- (2) the entry of an appealable judgment or appealable order, unless a party files a notice of appeal or a post-trial motion;
- (3) the trial court denies a post-trial motion, unless a party files a notice of appeal from the denial of that motion; or
- (4) the trial court receives an appellate court mandate affirming.

ARIZONA TAX COURT RULES OF PRACTICE

Rule 18. Application of Small Tax Claims Rules

Rules 1 through 17 and 27 apply to all Tax Court cases, including Small Tax Claims. Rules 19 through 26 apply only to Small Tax Claims cases.

* * *

Rule 27. Retention and Disposition of Evidence and Illustrative Aids

(a) Generally. The clerk receives and maintains:

- (1) all exhibits offered for admission in evidence but not received in evidence;
- (2) all exhibits admitted in evidence; and
- (3) any illustrative aid used. “Illustrative aid” has the meaning described in Rule 107 of the Arizona Rules of Evidence.

(b) Manner of Disposition. Unless the court orders otherwise, after the case is no longer subject to modification, the clerk must dispose of evidence and illustrative aids in the case as follows:

- (1) Any exhibit submitted through a digital evidence portal (a “digital exhibit”) must be deleted by the clerk without further notice.
- (2) For any exhibit or evidence not submitted through a digital evidence portal (a “physical exhibit”) and illustrative aids, the clerk must provide at least 30 days’ notice to the party who submitted the physical exhibit or illustrative aid for that party to claim and, if claimed, return it to the party who submitted it. If the party who submitted the physical

exhibit or illustrative aid does not claim it after 30 days from such notice, the clerk may dispose of the physical exhibit or illustrative aid.

(c) Definition of “Subject to Modification.” For purposes of this rule, a case is “no longer subject to modification” when no further matters remain pending and 90 days after:

- (1) the trial court dismisses all claims, unless a party files a notice of appeal;
- (2) the entry of an appealable judgment or appealable order, unless a party files a notice of appeal or a post-trial motion;
- (3) the trial court denies a post-trial motion, unless a party files a notice of appeal from the denial of that motion; or
- (4) the trial court receives an appellate court mandate affirming.

RULES OF PROCEDURE FOR JUDICIAL REVIEW OF ADMINISTRATIVE DECISIONS

Rule 11.1. Retention and Disposition of Evidence and Illustrative Aids

(a) Generally. The clerk receives and maintains:

- (1) all exhibits offered for admission in evidence but not received in evidence;
- (2) all exhibits admitted in evidence; and
- (3) any illustrative aid used under Rule 107 of the Arizona Rules of Evidence.

(b) Manner of Disposition. Unless the court orders otherwise, after the case is no longer subject to modification, the clerk must dispose of evidence and illustrative aids in the case as follows:

(1) Any exhibit submitted through a digital evidence portal (a “digital exhibit”) must be deleted by the clerk without further notice.

(2) For any exhibit or evidence not submitted through a digital evidence portal (a “physical exhibit”) and illustrative aids, the clerk must provide at least 30 days’ notice to the party who submitted the physical exhibit or illustrative aid for that party to claim and, if claimed, return it to the party who submitted it. If the party who submitted the physical exhibit or illustrative aid does not claim it after 30 days from such notice, the clerk may dispose of the physical exhibit or illustrative aid.

(c) Definition of “Subject to Modification.” For purposes of this rule, a case is “no longer subject to modification” when no further matters remain pending and 90 days after:

- (1) the trial court dismisses all claims, unless a party files a notice of appeal;

(2) the entry of an appealable judgment or appealable order, unless a party files a notice of appeal or a post-trial motion;

(3) the trial court denies a post-trial motion, unless a party files a notice of appeal from the denial of that motion; or

(4) the trial court receives an appellate court mandate affirming.

RULES OF PROCEDURE FOR CIVIL TRAFFIC, BOATING, MARIJUANA, AND PARKING AND STANDING VIOLATIONS

Rule 24.2. Retention and Disposition of Evidence and Illustrative Aids

(a) Generally. The clerk receives and maintains:

(1) all exhibits offered for admission in evidence but not received in evidence;

(2) all exhibits admitted in evidence; and

(3) any illustrative aid used. “Illustrative aid” has the meaning described in Rule 107 of the Arizona Rules of Evidence.

(b) Manner of Disposition. Unless the court orders otherwise, after the case is no longer subject to modification, the clerk must dispose of evidence and illustrative aids in the case as follows:

(1) Any exhibit submitted through a digital evidence portal (a “digital exhibit”) must be deleted by the clerk without further notice.

(2) For any exhibit or evidence not submitted through a digital evidence portal (a “physical exhibit”) and illustrative aids, the clerk must provide at least 30 days’ notice to the party who submitted the physical exhibit or illustrative aid for that party to claim and, if claimed, return it to the party who submitted it. If the party who submitted the physical exhibit or illustrative aid does not claim it after 30 days from such notice, the clerk may dispose of the physical exhibit or illustrative aid.

(c) Definition of “Subject to Modification.” For purposes of this rule, a case is “no longer subject to modification” when no further matters remain pending and 90 days after:

(1) the trial court dismisses all claims, unless a party files a notice of appeal;

(2) the entry of an appealable judgment or appealable order, unless a party files a notice of appeal or a post-trial motion;

(3) the trial court denies a post-trial motion, unless a party files a notice of appeal from the denial of that motion; or

(4) the trial court receives an appellate court mandate affirming.

JUSTICE COURT RULES OF CIVIL PROCEDURE

Rule 103.1. Retention and Disposition of Evidence and Illustrative Aids

(a) Generally. The clerk receives and maintains:

- (1) all exhibits offered for admission in evidence but not received in evidence;
- (2) all exhibits admitted in evidence; and
- (3) any illustrative aid used under Rule 107 of the Arizona Rules of Evidence.

(b) Manner of Disposition. Unless the court orders otherwise, after the case is no longer subject to modification, the clerk must dispose of evidence and illustrative aids in the case as follows:

(1) Any exhibit submitted through a digital evidence portal (a “digital exhibit”) must be deleted by the clerk without further notice.

(2) For any exhibit or evidence not submitted through a digital evidence portal (a “physical exhibit”) and illustrative aids, the clerk must provide at least 30 days’ notice to the party who submitted the physical exhibit or illustrative aid for that party to claim and, if claimed, return it to the party who submitted it. If the party who submitted the physical exhibit or illustrative aid does not claim it after 30 days from such notice, the clerk may dispose of the physical exhibit or illustrative aid.

(c) Definition of “Subject to Modification.” For purposes of this rule, a case is “no longer subject to modification” when no further matters remain pending and 90 days after:

- (1) the trial court dismisses all claims, unless a party files a notice of appeal;
- (2) the entry of an appealable judgment or appealable order, unless a party files a notice of appeal or a post-trial motion;
- (3) the trial court denies a post-trial motion, unless a party files a notice of appeal from the denial of that motion; or
- (4) the trial court receives an appellate court mandate affirming.

RULES OF SMALL CLAIMS PROCEDURE

Rule 18.1. Retention and Disposition of Evidence and Illustrative Aids

(a) Generally. The clerk receives and maintains:

- (1) all exhibits offered for admission in evidence but not received in evidence;
- (2) all exhibits admitted in evidence; and

(3) any illustrative aid used. “Illustrative aid” has the meaning described in Rule 107 of the Arizona Rules of Evidence.

(b) Manner of Disposition. Unless the court orders otherwise, after the case is no longer subject to modification, the clerk must dispose of evidence and illustrative aids in the case as follows:

(1) Any exhibit submitted through a digital evidence portal (a “digital exhibit”) must be deleted by the clerk without further notice.

(2) For any exhibit or evidence not submitted through a digital evidence portal (a “physical exhibit”) and illustrative aids, the clerk must provide at least 30 days’ notice to the party who submitted the physical exhibit or illustrative aid for that party to claim and, if claimed, return it to the party who submitted it. If the party who submitted the physical exhibit or illustrative aid does not claim it after 30 days from such notice, the clerk may dispose of the physical exhibit or illustrative aid.

(c) Definition of “Subject to Modification.” For purposes of this rule, a case is “no longer subject to modification” when no further matters remain pending and 90 days after:

(1) the trial court dismisses all claims;

(2) the entry of a judgment, unless a party files a post-trial motion;

(3) the trial court denies a post-trial motion, unless a party files a notice of appeal from the denial of that motion; or

(4) the trial court receives an appellate court mandate affirming.

ARIZONA RULES OF PROCEDURE FOR EVICTION ACTIONS

Rule 21. Retention and Disposition of Evidence and Illustrative Aids

(a) Generally. The clerk receives and maintains:

(1) all exhibits offered for admission in evidence but not received in evidence;

(2) all exhibits admitted in evidence; and

(3) any illustrative aid used under Rule 107 of the Arizona Rules of Evidence.

(b) Manner of Disposition. Unless the court orders otherwise, after the case is no longer subject to modification, the clerk must dispose of evidence and illustrative aids in the case as follows:

(1) Any exhibit submitted through a digital evidence portal (a “digital exhibit”) must be deleted by the clerk without further notice.

(2) For any exhibit or evidence not submitted through a digital evidence portal (a “physical exhibit”) and illustrative aids, the clerk must provide at least 30 days’ notice to

the party who submitted the physical exhibit or illustrative aid for that party to claim and, if claimed, return it to the party who submitted it. If the party who submitted the physical exhibit or illustrative aid does not claim it after 30 days from such notice, the clerk may dispose of the physical exhibit or illustrative aid.

(c) Definition of “Subject to Modification.” For purposes of this rule, a case is “no longer subject to modification” when no further matters remain pending and 90 days after:

- (1) the trial court dismisses all claims, unless a party files a notice of appeal;
- (2) the entry of an appealable judgment or appealable order, unless a party files a notice of appeal or a post-trial motion;
- (3) the trial court denies a post-trial motion, unless a party files a notice of appeal from the denial of that motion; or
- (4) the trial court receives an appellate court mandate affirming.

ATTACHMENT B²
(Showing Changes from the Rules Adopted on an Emergency Basis)

RULES OF CRIMINAL PROCEDURE

Rule 28.1. Duties of Clerk

(a) [No change]

(b) Disposition of Certain Records.

(1) [No change]

(2) *Definition of “Subject to Modification.”* A criminal case is no longer “subject to modification” when a defendant is acquitted on all charges. Absent an acquittal on all charges, a criminal case is no longer “subject to modification:”

(A) one year after exhausting all state court remedies, if the defendant did not file a petition for a writ of habeas corpus in federal court, or

(B) 90 days after ~~exhausting all federal remedies~~ a decision on the first petition for a writ of habeas corpus in federal court, if the defendant ~~filed a petition for a writ of habeas corpus one.~~

(3) *Definition of “All State Court Remedies Are Exhausted.”* All state court remedies are exhausted 90 days after:

(A) the trial court dismisses, with or without prejudice, the charges against the defendant, unless a party files a notice of appeal;

(B) the entry of judgment and sentence, unless a party files a notice of appeal, ~~or a post-trial motion~~ or, when the defendant enters a guilty plea that is accepted, a timely notice requesting post-conviction relief under Rule 33;

(C) the trial court denies a post-trial motion, unless a party files a notice of appeal from that denial of that motion;~~or~~

(D) the trial court receives an appellate court mandate affirming, unless the defendant files a timely notice requesting post-conviction relief under Rule 32; or

(E) the final resolution of the first timely Rule 32 or 33 petition for post-conviction relief.

(c) [No change]

² Additions to the text of the rule adopted on an emergency basis are shown by underlining and deletions are shown by ~~strike-through~~.