

Honorable Jay M. Polk, Chair  
Task Force on the Arizona Rules for Court-Ordered Mental Health Proceedings  
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SUPREME COURT OF ARIZONA

In the Matter of: ) Supreme Court No. R-25-0059  
ADOPTION OF RULES FOR )  
COURT-ORDERED MENTAL ) **PETITION**  
HEALTH PROCEEDINGS )  
\_\_\_\_\_ )

1. **Introduction.** Petitioner is the Task Force on the Arizona Rules for Court-Ordered Mental Health Proceedings (“Task Force”), which the Court established by [Administrative Order No. 2025-157](#). Petitioner requests this Court to adopt the proposed Rules for Court-Ordered Mental Health Proceedings (the “Mental Health Rules”) that are attached as Appendix A to this petition. Because the entire set of rules is new, Appendix A does not contain any underlining or strikethrough. Appendix B contains a detailed, rule-by-rule explanation of the proposed Mental Health Rules. Appendix C is a copy of Administrative Order No. 2025-157, which established the Task Force and appointed its members. Appendix D is a description of statutory and other rule changes that the Task Force identified as being advisable but beyond the scope of the Task Force’s mandate.

2. **Meaning of “Mental Health Proceedings.”** For purposes of this petition, a “mental health case” or a “mental health proceeding” is a court case or proceeding brought pursuant to Chapter 5, Title 36, Arizona Revised Statutes (“A.R.S.”), such as a proceeding for a court-ordered mental health evaluation (“COE”) or for court-ordered mental health treatment (“COT”). These cases and proceedings do **not** include Criminal Rule 11 proceedings, Sexually Violent Persons proceedings brought under Chapter 37, Title 36, A.R.S., or guardianship or conservatorship proceedings brought under Title 14, A.R.S.

3. **Need for These Rules.** Although mental health cases have been the fastest-growing area of law in Arizona for more than a decade, no set of rules expressly governs these cases. By default, practitioners and the courts have attempted to apply the Arizona Rules of Civil Procedure (“Civil Rules”) to mental health proceedings even though the Civil Rules were never created with these proceedings in mind. Among other things, mental health proceedings have accelerated statutory timeframes. As a result, application of the Civil Rules to mental health proceedings has proven to be awkward and inapt.

From a long historical perspective, court cases were deemed to be either criminal or civil. A civil case was anything that was not a criminal case. Thus, “civil” cases included proceedings related to family law, juvenile dependency, probate, or court-ordered mental health treatment (what was then referred to as “civil

commitment”). All civil cases were governed by the Civil Rules, which were modeled after the Federal Rules of Civil Procedure (“Federal Rules”). However, the Federal Rules were not created to govern state-specific areas of law, such as family, dependency, probate, or mental health treatment, all of which are creatures of state statutes and do not exist under federal law.

As Arizona’s legal system evolved, the legal community began to realize that the Civil Rules did not work well for certain types of cases. Thus, over time, this Court has adopted special rule sets for juvenile, family, probate, and tax cases in the superior court.

In his February 2006 *Arizona Attorney* article about the newly adopted Family Law Rules, the Honorable Mark. W. Armstrong (ret.) said the following:

Adoption of this comprehensive set of procedural rules was imperative to this state’s family courts in light of pervasive confusion and **conflict over applicability of the rules of civil procedure** in family law cases. The new rules are intended to **provide uniformity, stem the proliferation of diverse local rules, and assist the family courts in the efficient administrative of justice.**

(Emphasis added.) Petitioner submits that Judge Armstrong’s reasoning equally applies to mental health cases.

Over the past decade, Arizona has experienced an explosive growth in mental health cases. In the 2015 fiscal year, statewide mental health filings totaled 7,334. By the 2025 fiscal year, statewide mental health filings had reached 16,005—more than double what they were ten years earlier. In fact, in 2025, mental health filings

exceeded juvenile filings (16,005 versus 11,774). In Maricopa County alone, from July 1, 2021, through June 2022, 10,444 petitions for court-ordered evaluations were filed (an average of 870 per month) and 3,667 petitions for court-ordered treatment were filed (an average of 306 per month). The 2023 Annual Report for the Superior Court in Maricopa County observed, “Over the past 10 years, the number of mental health cases has grown by 169% and they are projected to keep rising.”

For the past five fiscal years (2021, 2022, 2023, 2024, and 2025) statewide mental health case filings have exceeded juvenile filings. Although juvenile cases have their own specific set of rules, mental health cases do not. Likewise, Arizona has a specific set of rules for tax court cases, yet the number of filings for that case type is substantially smaller than the number of mental health case filings. And the number of mental health case filings continues to increase every year.

No statute or court rule expressly states that the Civil Rules, as a set, apply to mental health proceedings. Chapter 5, Title 36, A.R.S. refers to the Civil Rules, but only for the following three limited purposes:

- (1) A.R.S. § 36-510.01 refers to service of process by a person authorized under Civil Rule 4;
- (2) A.R.S. § 36-535 refers to the Civil Rules on the matter of intervention; and

- (3) A.R.S. § 36-539 refers to the Civil Rules regarding the conduct of a hearing on a petition for court-ordered treatment.

The terminology used in the Civil Rules renders them generally inapplicable to mental health cases. Civil Rule 3 states, “A civil action is commenced by filing a complaint with the court.” However, complaints are not used in mental health cases; instead, the Title 36 statutes refer to a “petition for court-ordered evaluation,” a “petition for court-ordered treatment,” and an “application for continued court-ordered treatment” as the only methods for commencing mental health proceedings. Similarly, whereas the Civil Rules refer to a “plaintiff” and a “defendant,” the Title 36 statutes refer to the “patient.”

Putting aside the terminology conflicts, applying the Civil Rules to a mental health proceeding is like attempting to put the proverbial square peg in the round hole. This largely is due to the accelerated timeframes required by the mental health statutes, which make the Civil Rules unworkable for mental health proceedings. For example, A.R.S. § 36-535(B) requires the trial court to hear a petition for COT within 6 business days after the petition is filed. However, many of the Civil Rules provide timeframes that go beyond those 6 business days. By way of illustration,

- Civil Rule 7.1 allows 10 business days to file a response to a motion, followed by 5 business days for a reply;

- Civil Rule 12 allows a defendant at least 20 days from the time of service to file an answer to the complaint; and
- Civil Rule 42.1 allows a party to file a notice of change of judge as a matter of right within 90 days after the party appears.

Other Civil Rules, such as 16 (case management procedures) and 26.1 (disclosure), are too broad and do not work from a time perspective in mental health proceedings. Similarly, due to the statutory time limits applicable to mental health proceedings, the formal discovery devices authorized in Civil Rules 30, 33, 34, and 36 (e.g., depositions, interrogatories, requests for production of documents or things, and requests for admissions), are rarely—if ever—used in mental health proceedings. In addition, the following Civil Rules simply are inapplicable to mental health proceedings:

- Civil Rule 26.2 (tiered limits for discovery);
- Civil Rules 14, 38, and 56 (third-party practice, jury trials, and summary judgment);
- Civil Rules 64 through 70.1 (provisional and final remedies); and
- Civil Rules 72 through 78 (compulsory arbitration).

Court-ordered mental health treatment “may result in a serious deprivation of liberty.” *In re Coconino Cty. No. MH 1425*, 181 Ariz. 290, 293 (1995). As a result, courts require strict adherence to the statutory requirements. *Id.* In addition, the

patient is entitled to procedural due process. *See, e.g., In re MH 2004-001987*, 211 Ariz. 255, 259-60, ¶ 20 (App. 2005). Having a set of workable procedural rules specifically tailored to the needs of, and statutory requirements for, mental health proceedings is critical to helping ensure such due process.

Recent legislation also necessitated the drafting of some rules specific to mental health proceedings. For example, 2022 Arizona Session Laws Chapter 299 added subsections R and S to A.R.S. § 36-540. Although the former *authorizes* this Court to adopt rules to address modification and enforcement of court orders for treatment throughout the state, the latter *requires* this Court to adopt a rule to address access to mental health case files. The Court entered [Administrative Order 2023-202](#) and [Administrative Order 2022-118](#), respectively, to implement those statutory changes. However, an administrative order is not the same as a rule. Whereas administrative orders are directives managing court operations in general, court rules govern the procedures to be followed in court cases. Moreover, court rules typically are adopted only after a formal public vetting process that allows stakeholders the opportunity to provide input, but administrative orders are entered at the discretion of the Chief Justice without a formal process for obtaining public input.

**4. Events Leading to Establishment of Task Force.** In its September 2020 Final Report, the Arizona Supreme Court Committee on Mental Health and the Justice System recommended, among other things, that this Court “[c]onvene a Task

Force to create a set of Mental Health Rules for purposes of improving consistency, clarity and coordination among courts that oversee matters involving individuals and families living with mental illness.” Approximately two years later, a group of four individuals, colloquially known as the “Core Group,” began drafting a proposed comprehensive set of rules for mental health proceedings. The Core Group members were as follows:

- The undersigned, who at the time of the Core Group’s formation was the Presiding Judge of the Probate and Mental Health Department of the Superior Court in Maricopa County and had presided over countless mental health proceedings;
- Honorable James McDougall (ret.), who has significant experience in the area of mental health proceedings, including presiding over those proceedings when he was on the bench, practicing in the field for 20 years after his retirement from the bench, drafting legislation in the area, and serving on the original Arizona Supreme Court Committee on Mental Health and the Justice System;
- John H. Barron, III, a private attorney with more than 30 years of mental health law experience and who earlier in his career was the sole Special Deputy County Attorney for Pima, Pinal, La Paz, and Yuma Counties, and then the sole Deputy Maricopa County Attorney, handling mental health proceedings and now represents both individuals and outpatient providers in mental health proceedings; and
- Mark Meltzer, a specialist with the Arizona Administrative Office of the Courts and who has substantial experience in drafting court rules.

Over a span of more than two years, the Core Group met more than 20 times with most meetings lasting all day and totaling hundreds of hours of collective effort. The Core Group began by reviewing other rule sets and the Title 36 statutes. Those statutes, which are not derived from any uniform laws, are (a) not in a logical or

sequential order, (b) lengthy and complex, and (c) difficult to comprehend. The Core Group's objectives included making the rules sequential and easy to understand. Other objectives were filling in the statutory procedural gaps, including what is required or prohibited, specifying the parties' rights and duties, and providing timelines. The Core Group also drafted the rules in a manner that conforms to the Court's current styling conventions.

Ultimately, the Core Group drafted 45 rules that it divided into seven parts. In June 2025, the undersigned presented those rules to Chief Justice Ann Timmer and the Superior Court Presiding Judges and requested that the Court convene a formal task force to vet the Core Group's proposed rules and to file a rules petition for the 2026 rules cycle. The presiding judges supported the request. As a result, on August 20, 2025, Chief Justice Timmer entered [Administrative Order No. 2025-157](#), which established the Task Force to "review the draft Rules for Court-Ordered Mental Health Proceedings, assure that they conform with restyling conventions used in other recent restyling projects, and draft additional changes to the draft Rules necessary to effectively operationalize the rules."

**5. Task Force Membership and Methodology.** The Task Force is composed of distinguished members from six counties. A list of Task Force members appears on the last page of this petition. The members include judicial officers from Gila, Maricopa, Pima, Yavapai, and Yuma counties; public and private

attorneys; a court administrator, and a clerk of court representative. Each member has experience in some aspect of court-ordered mental health proceedings.

The Task Force members represent a variety of stakeholders. Two members work for public defense agencies that represents patients in mental health proceedings. One member works for a county attorney's office, which prosecutes mental health proceedings. A third member is a private practitioner who represents outpatient providers in connection with COT renewal proceedings. Six members are judicial officers from five counties, and all have experience presiding over mental health proceedings. Before her appointment to the bench, one of those judicial officers regularly represented patients in COT renewal proceedings. As already mentioned, other Task Force members include the Probate and Mental Health Department Court Administrator from Maricopa County and a representative of the Maricopa County Clerk of Court.

Between September 19, 2025, and January 9, 2026, the Task Force met seven times, with each meeting lasting approximately three hours. At its final meeting, the Task Force unanimously authorized the Chair to convene a workgroup for the limited purpose of reviewing the draft Mental Health Rules approved by the Task Force to ensure that they comport with the Court's style guidelines; to correct any clerical, punctuation, grammatical, and similar errors; and to make any stylistic changes to improve readability of the Mental Health Rules.

**6. Styling, Organization, and Numbering of the Proposed Mental Health Rules.** The proposed Mental Health Rules employ consistent formatting and nomenclature and generally follow the conventions used in previous rule restyling projects. The 46 proposed Mental Health Rules are divided among the following seven parts:

- Part I. General Provisions
- Part II. Rules Relating to Court Proceedings
- Part III. Court-Ordered Evaluations
- Part IV. Proceedings for Court-Ordered Treatment
- Part V. Proceedings for Continued Court-Ordered Treatment
- Part VI. Post-Hearing Relief; Appellate Review
- Part VII. Habeas Corpus

Modeled after the numbering system used by the Arizona Rules of Procedure for the Juvenile Court, the proposed Mental Health Rules use a 100s-based numbering system. For example, each rule in Part I is numbered 1##, each rule in Part II is numbered 2##, etc. Like other rulesets (e.g., criminal, civil appellate, family, probate, juvenile, and special action), the proposed Mental Health Rules include references to the pertinent statutes. In addition, some of the comments include citations to case law.

**7. Comments in the Proposed Mental Health Rules.** The Task Force was mindful of two generally acknowledged principles regarding comments to court rules that developed during previous restyling projects. First, matters of substance usually belong in the body of a rule rather than in a comment. Second, if the rule requires a comment to understand the rule, the rule probably is not clearly written.

The proposed set of 46 rules includes comments to only 8 of those rules. These comments are informative rather than substantive. Because the proposed Mental Health Rules bridge procedural gaps in the Title 36 statutes, most of the comments are intended to direct the reader to the pertinent statute(s).

A comment to proposed Rule 101 (Applicability of These Rules) explains that Tribal Court involuntary commitment orders are governed by a different ruleset.

A comment to proposed Rule 106 (Duties of Attorneys and Parties) directs the trial court to the Arizona Court of Appeals case that sets forth the procedure to be followed when a patient requests to be self-represented.

Comments to proposed Rule 110 (Evidence) give examples of relevant evidence in mental health proceedings and note that, pursuant to case law, the best practice is to avoid incorporation by reference in certain affidavits.

The comment to proposed Rule 202(d) (Attendance at Court Proceedings; Exceptions) provides examples of steps that the court may take to ensure

confidentiality of case records and information relating to mental health proceedings.

A comment to proposed Rule 204(d) (Effect of an Existing Guardianship for a Patient) cites the applicable statute to provide guidance to courts considering whether to transfer venue for a guardianship.

The comment to proposed Rule 302 (Review of Petition and Determination) explains considerations relating to the court's review of a petition for COE.

The comment to proposed Rule 303 (Service of the Evaluation Petition and Court Orders) cites to the statute that governs the manner of service and the requirements for filing proof of service.

Similarly, the comment to proposed Rule 401 (Commencing a Proceeding for Court-Ordered Treatment), cites to the applicable statutes and case law.

**8. Stakeholder Input.** As previously explained, the Task Force includes an array of stakeholders. In addition, all seven Task Force meetings were open to the public, and a call to the public was made at each meeting. However, only at the last meeting did a single member of the public respond, and that person's comments were general in nature.

**9. Similar Petitions Filed in Last 5 Years.** To the best of the undersigned's knowledge, no similar petition has been filed in the last five years.

**10. Additional Task Force Recommendations.** The Task Force has identified a couple areas requiring follow-up that are beyond the scope of the Mental Health Rules. One area relates to statutory amendments that would be needed if the Court adopts the Mental Health Rules. The other area concerns Supreme Court Rule 123, which addresses access to judicial records. These areas are described in detail in Appendix D.

**11. Conclusion.** The Task Force requests that the Court adopt the proposed new Mental Health Rules contained in Appendix A to this petition, subject to any modifications to those rules that the Task Force might propose in its reply.

On December 19, 2025, the Task Force filed a motion requesting an extension of time to file this petition, as well as an extension of the comment and reply periods. Pursuant to the Court's December 30, 2025, Order granting that motion, Petitioner requests that the Court open this petition for public comments until June 1, 2026, and allow the Task Force to file its Reply on or before June 30, 2026, and that the Court then consider this petition during its August 2026 Rules Agenda.

RESPECTFULLY SUBMITTED this \_\_ day of February 2026.

By /s/ Jay M. Polk  
Honorable Jay M. Polk  
on behalf of the Task Force

## **Task Force Members**

### **Task Force Chair:**

Hon. Jay M. Polk, Superior Court of Arizona in Maricopa County

### **Judicial Officers:**

Hon. Julia Connors, Superior Court of Arizona in Pima County

Hon. Elisa Donnadieu, Superior Court of Arizona in Maricopa County

Hon. Diana Kanon, Superior Court of Arizona in Gila County

Hon. James McDougall (ret.), Superior Court of Arizona in Maricopa County

Hon. Michael McGill, Superior Court of Arizona in Yavapai County

Hon. Darci Weede, Superior Court of Arizona in Yuma County

### **Court Community:**

Brian Bledsoe, Administrator, Maricopa County Probate and Mental Health Dept.

Nancy Rodriguez, Office of the Clerk of the Superior Court in Maricopa County

### **Attorneys:**

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Robert Lerman, Maricopa County Public Advocate

Kate Milewski, Pinal County Public Defender

### **Contributing Guest:**

Mark Meltzer, Administrative Office of the Courts

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