

David K. Byers
Administrative Director
Administrative Office of the Courts
1501 W. Washington, Suite 411
Phoenix, AZ 85007-3327
Phone: (602) 452-3301
Projects2@courts.az.gov

**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of	)	
	)	
PETITION TO AMEND RULES 38	)	Supreme Court No. R-26_____
AND 39 OF THE RULES OF THE	)	
SUPREME COURT OF ARIZONA	)	(expedited consideration and
	)	emergency adoption requested)
_____	)	

Pursuant to Rule 28 of the Rules of the Supreme Court of Arizona, Petitioner David K. Byers, in his role as Administrative Director, respectfully petitions this Court to amend the Rules of the Supreme Court of Arizona as shown in Attachment A.

For the reasons stated in this Petition, Petitioner also seeks expedited consideration such that this Petition be considered at this Court's August 2026 Rules Agenda. As detailed below, Petitioner asks that the amendments be adopted on an emergency basis at that time with consideration of adoption on a permanent basis after a period for public comment.

I. Grounds for Petition Approval

The Court has long recognized in Rule 39(d) the unique mobility requirements of military families and provided a path for a spouse of a member of the United States Uniformed Services stationed within Arizona to practice law. Prior to December 2024, the Servicemember Civil Relief Act (“SCRA”) excepted attorneys from the section concerning the portability of professional licenses. That exception was removed when the Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025 (H.R. 5009) became law on December 23, 2024. *See* 50 U.S.C. § 4025a.

The Court has been and remains available to consider applications for licensure made directly under SCRA. The Certification and Licensing Division (CLD) is not aware of any specific request having been made based on SCRA since the exception concerning attorneys was removed. This is not surprising, given that there are several pathways for an individual practicing law in another jurisdiction to obtain admission in Arizona. The proposed amendments to Rules 38 and 39 are designed to better facilitate applications for licensure sought per SCRA.

A. Accommodation of Federal Law with Deviations

The Arizona Constitution created an integrated judiciary that grants the Arizona Supreme Court “the power not just to regulate all courts but also to regulate the practice of law. *Scheehle v. Justs. of the Supreme Ct. of the State of Arizona*,

211 Ariz 282, 290 ¶ 29 (2005). “[T]he practice of law is a matter exclusively within the authority of the Judiciary. The determination of who shall practice law in Arizona and under what condition is a function placed by the state constitution in this court.” *Id.* at 289 ¶ 22.

Read in isolation, SCRA requires state licensing authorities to recognize a servicemember’s or spouse’s license or certification to practice law in another U.S. jurisdiction as valid to practice law in another state with minimal restrictions. While this Court is available to consider applications for licensure made directly under SCRA, the Court’s current rules for admission do not strictly align with federal law. Petitioner asks that the Court add a process to Rule 38 to signal the Court’s willingness to consider applications for licensure from a servicemember or servicemember’s spouse as an accommodation.

Proposed Rule 38(e) Certification of Military Servicemember and Military Servicemember Spouse mimics the process specified in SCRA, except for the following areas where it arguably deviates from a narrow reading of the federal law:

- Requires an applicant to attest, under penalty of perjury, that they hold a juris doctor degree from an ABA-accredited law school;
- Requires an applicant to attest, under penalty of perjury, that they have achieved a passing score as established in Arizona on the Multistate Professional Responsibility Examination;

- Requires an applicant to attest, under penalty of perjury, that they have successfully completed the course on Arizona law described in Rule 34(j); and
- Requires an applicant to pay an application fee established by the Court.

Proposed Rule 38(e) also makes clear that the certification terminates under certain circumstances, including when the attorney is no longer a servicemember, the attorney no longer holds status as a servicemember spouse due to divorce or the servicemember's death, and the servicemember is transferred outside of Arizona or is no longer under military orders to reside in Arizona.

Proposed Rule 38(e)(6) allows an applicant to seek a waiver of any of the requirements in Rule 38(e), such as that they hold a juris doctor degree from an ABA-accredited law school. Petitioner, through counsel, is monitoring a federal case in New Mexico involving such a circumstance. The lawsuit was filed in June 2026 against the licensing authority for alleged violations of SCRA. The complaint in that matter alleges that the applicant obtained their legal education in the United Kingdom, an L.L.M. degree from an ABA-accredited law school in Virginia, and was admitted to practice law in the states of Texas, Washington, and Maryland.

The waiver provision in proposed Rule 38(e)(6) provides this Court with flexibility to assess an applicant's circumstance on an individual basis. Where it deems appropriate, the Court may grant, for example, a waiver in exercise of the

Court's exclusive authority over the practice of law in Arizona. This would allow the Court to meet its constitutionally mandated duties within the state's judicial system, while accommodating federal law as appropriate.

The Court may see proposed Rule 38(e)(9) as superfluous, as it is a statement of the Court's authority. It may help in reminding applicants for licensure that the Court is the authority granting the right to practice law in Arizona, not the federal government. If the Court sees this provision as unnecessary, it may easily be deleted without undermining the rest of the proposed amendment.

B. Rule 39(d) May Be Deleted

Currently, a military spouse seeking certification to practice law in Arizona may apply under and meet the requirements of Rule 39(d). That provision contains restrictions that exceed those in proposed Rule 38(e). For example, an attorney certified to practice law under Rule 39(d) is admitted only temporarily; must associate local Arizona counsel in good standing with the State Bar in order to appear in any court, board, or administrative agency in Arizona; and must be supervised by local counsel if the attorney has not engaged in active practice for at least five years cumulatively. *See* Ariz. R. Sup. Ct. 39(d)(3). The proposed amendments to Rule 38 contain no such restrictions.

The deletion of Rule 39(d) would leave a clear path for servicemember spouses to apply for certification to practice law in Arizona. Petitioner would work

to create a transition plan for any current certificate holders.

II. Request for Expedited Consideration and Emergency Adoption

The proposed amendments are important in providing clarification to any individual seeking to gain admission to practice law per SCRA. If this Petition is considered in the normal rule cycle, the amendments would not be considered until August 2027, or 13 months from now. Supreme Court Rule 28(g)(2) provides that any amendments adopted at the August 2027 Rules Agenda would not become effective until January 1, 2028, or almost 1½ years from now, unless the Court orders otherwise.

Therefore, as permitted by Supreme Court Rule 28(h), Petitioner respectfully requests that this Court expedite its consideration of this Petition for inclusion on the August 2026 Rules Agenda. If this Court is inclined to consider this Petition at its August 2026 Rules Agenda, Petitioner requests that this Court consider adoption of the proposed amendments as set forth in Attachment A on an emergency basis at that Agenda, open the Petition for comment, and consider adopting the proposed amendments on a permanent basis at this Court's December 2026 Rules Agenda.

III. Conclusion

Petitioner respectfully requests that the Court amend Rules 38 and 39 of the Rules of the Supreme Court of Arizona as shown in Attachment A. Petitioner also . . .

respectfully requests that the Court consider this Petition on an expedited basis and adopt the amendments on an emergency basis at that time.

RESPECTFULLY SUBMITTED this 13th day of July, 2026.

By /s/ David K. Byers
David K. Byers, Administrative Director
Administrative Office of the Courts
1501 W. Washington, Suite 411
Phoenix, Arizona 85007
(602) 452-3301
Projects2@courts.az.gov

ATTACHMENT A

Rules of the Supreme Court of Arizona (new language is underlined, deleted text is ~~stricken~~)

Rule 38. Certifications and Limited Admissions to Practice Law

(a) – (d) [No change]

(e) Certification of Military Servicemember and Military Servicemember Spouse.

(1) Definitions.

(A) A “servicemember” means a member of the United States uniformed services, as defined by 10 U.S.C. § 101(a)(5), who has relocated to Arizona in compliance with military orders requiring a change of residence for military service.

(B) A “covered license” means a professional license to practice law that:

- (i) Is in good standing with the licensing authority that issued the license;
- (ii) Has not been revoked or had discipline imposed by any state;
- (iii) Does not have an investigation relating to unprofessional conduct pending in any state; and
- (iv) Has not been voluntarily surrendered while under investigation for unprofessional conduct in any state.

(C) A “state” means a state, commonwealth, territory, or possession of the United States, or the District of Columbia.

(2) Scope of Authority. A certificant under this Rule is permitted to practice law in Arizona and is subject to all duties, obligations, and responsibilities applicable to a licensed attorney of the State Bar of Arizona. A certificant shall also be subject to the Arizona Rules of Professional Conduct and attorney discipline and disability proceedings in the same manner and to the same extent as a member of the State Bar of Arizona.

(3) Requirements. For an attorney to practice law under this Rule, the attorney must:

(A) Be a covered licensee;

(B) Be a servicemember or a servicemember spouse;

(C) Submit an application to the Certification and Licensing Division of the Administrative Office of the Courts that includes:

(i) Proof of military orders for military service that required relocation of residence to Arizona;

(ii) A copy of the marriage certificate if the applicant is a servicemember spouse;

(iii) A notarized affidavit that affirms, under penalty of perjury, that:

(a) The applicant is the person described and identified in the application;

(b) All statements made in the application are true, correct, and complete;

(c) The applicant holds a juris doctor degree from an ABA-accredited law school;

(d) The applicant achieved a passing score as established in this jurisdiction for the Multistate Professional Responsibility Examination (MPRE);

(e) The applicant has successfully completed the course on Arizona law described in Rule 34(j);

(f) The applicant has read and understands:

1. The requirements to receive certification of a covered license in Arizona;

2. The scope of the legal practice authorized by the certification;

3. That they are subject to the disciplinary authority of the Court and the State Bar of Arizona as a holder of the certification;

4. That they must notify the State Bar of any changes in status within 30 days of the change;
5. That the applicant certifies that they meet and will comply with these requirements; and
6. An application fee as established by the Supreme Court.

(4) Background Check. Applicants seeking admission under this Rule must undergo a background check and verification of their eligibility.

(5) Eligibility for Certification. If a servicemember or a servicemember spouse upon application complies with all requirements listed in subsection (3) of this Rule, the Court shall certify that a servicemember or servicemember spouse has a covered license considered valid for the practice of law in Arizona.

(6) Petition for Waiver. An applicant may petition the Court for a waiver of any of the requirements for certification under this Rule.

(7) Termination of Certification. Certification under this Rule terminates if the certificant:

(A) Is no longer a covered licensee;

(B) Is no longer a servicemember;

(C) Is transferred outside of Arizona or is otherwise no longer under military orders to reside in Arizona; for a servicemember spouse, their certification terminates 90 days after the servicemember is transferred outside of Arizona or is otherwise no longer under military orders to reside in Arizona, except that if the servicemember has been assigned to an unaccompanied or remote assignment with no dependents authorized, certification is terminated 90 days after the servicemember is transferred to a location outside of Arizona with dependents authorized;

(D) No longer holds status as a servicemember spouse:

(i) Certification terminates 90 days after entry of a divorce decree;

(ii) Certification terminates 12 months after the date of the servicemember's death; and

(iii) Is suspended as a result of discipline, is disbarred, or is placed on disability inactive status in any jurisdiction, court, or agency before which the servicemember or servicemember spouse is admitted.

(8) *Temporary Certification.* A temporary certification will be issued within 30 days of receipt of a complete application if an application for certification of a servicemember or servicemember spouse cannot be acted upon by the Court within that time. The temporary certification confers the same rights, privileges, and obligations as a permanent certification and automatically terminates upon the Court's decision on the application.

(9) *Inherent Power of Supreme Court.* Nothing in this Rule may be construed as affecting the power of the Supreme Court to exercise its inherent jurisdiction over the practice of law in Arizona.

Rule 39. Temporary Authorizations to Practice Law

(a) – (c) [No change]

~~(d) Military Spouse Certification.~~

~~(1) *General Statement and Eligibility.* Due to the unique mobility requirements of military families who support the defense of our nation, the Court may certify an attorney who is a spouse of a member of the United States Uniformed Services (“service member”) stationed within Arizona to practice law under the terms of this rule. An attorney (“applicant”) who is not a member of the State Bar of Arizona who meets the requirements of (A) through (J) of this paragraph (d)(1) may, upon verified application, be admitted to the temporary practice of law in this jurisdiction. The applicant must:~~

~~(A) establish that the applicant is currently an active member in good standing concerning discipline, payment of mandatory dues and compliance with mandatory continuing legal education in at least one jurisdiction where admitted in the United States or territory and is a member in good standing in all jurisdictions where admitted; although, if the applicant is not in good standing or did not resign in good standing in all jurisdictions solely because of unpaid mandatory fees or~~

~~incomplete mandatory continuing legal education requirements, and the applicant has attempted to but cannot cure such deficiencies in the other jurisdiction(s), the Committee on Character and Fitness may evaluate the circumstances and make a recommendation to the Supreme Court for admission or denial of admission.~~

~~(B) hold a juris doctor degree from a law school provisionally or fully approved by the Council of the Section of Legal Education and Admissions of the American Bar Association at the time of graduation;~~

~~(C) establish that the applicant is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any other jurisdiction;~~

~~(D) submit character investigation information, in a manner established by the Court, including all required supporting documents, and establish that the applicant possesses the character and fitness to practice law in this jurisdiction;~~

~~(E) submit evidence that the applicant is a dependent spouse of a service member of the United States Uniformed Services; that the service member is on full-time, active duty pursuant to military orders in Arizona; and that the applicant is residing in Arizona due to the service member's full-time, active duty pursuant to military orders in this state;~~

~~(F) submit evidence of achieving the passing score established in this jurisdiction for the Multistate Professional Responsibility Examination;~~

~~(G) submit evidence that the applicant has successfully completed the course on Arizona law described in Rule 34(j);~~

~~(H) not have failed the Arizona bar examination or failed to achieve the Arizona scaled score on the uniform bar examination administered within any jurisdiction within five years of the date of filing an application under this rule;~~

~~(I) not have been previously denied admission to the practice of law in Arizona; and~~

~~(J) agree to advise all clients, prior to providing representation or services, that the attorney is temporarily admitted under the military spouse exception.~~

~~(2) Filing Requirements and Certification.~~

~~(A) Application. An applicant must file a verified application for military spouse certification with the Committee on Character and Fitness on a form supplied by the Committee. The application must include the documentation necessary to establish the requirements of (A) through (J) of this rule. At the time of submitting the verified application, the applicant must pay an application fee as set by the Court.~~

~~(B) Certification by Court. If the Committee determines that the applicant has met the requirements of this rule and possesses the character and fitness required of all applicants for admission, it shall recommend to the Court the applicant's certification to practice law. The attorney may not act as counsel for a client until certified under this rule by order of the Court. A copy of the order certifying the attorney for temporary admission will be sent by the Clerk to the Chief Bar Counsel.~~

~~(C) Duration and Renewal. A temporary admission will be valid for one year from the date of issuance, unless terminated earlier pursuant to paragraph (5). An attorney admitted under this rule may annually renew a temporary admission by filing a written request for renewal and paying a registration fee.~~

~~(3) Scope of Authority. Except as provided in this rule, an attorney temporarily admitted under this rule shall be entitled to all rights and privileges and subject to all duties obligations and responsibilities otherwise applicable to active members of the State Bar for the period of authorized practice.~~

~~(A) Association of Local Counsel. No attorney temporarily admitted under this rule may appear before any court, board, or administrative agency of this state unless the attorney has associated in that cause an attorney (local counsel) who is a member in good standing of the State Bar of Arizona. The name of local counsel shall appear on all notices, orders, pleadings, and other documents filed in the cause. Local counsel may be required to personally appear and participate in pretrial conferences, hearings, trials, or other proceedings conducted before the court, board, or administrative agency when the court, board, or administrative agency deems such appearance and participation appropriate. Local counsel associating with an attorney temporarily admitted under this rule in a particular cause shall accept joint responsibility with that attorney to the client, to opposing~~

~~parties and counsel, and to court, board, or administrative agency in that particular cause.~~

~~(B) Supervision of local counsel. If the attorney temporarily admitted under this rule has not engaged in the active practice of law for at least five years cumulatively, the attorney shall be supervised by local counsel as defined above, who will be responsible to the court, the bar, the Court, and the client for all services the temporarily admitted attorney provides pursuant to this rule.~~

~~(4) *Discipline and Disability Jurisdiction.* An attorney temporarily admitted under this rule shall be subject to the jurisdiction of the courts and agencies of the State of Arizona and to the State Bar of Arizona with respect to the laws and rules of this state governing the conduct and discipline of attorneys to the same extent as an active member of the state bar.~~

~~(5) *Termination of Certification.*~~

~~(A) Events triggering termination. A temporary admission shall terminate, and an attorney shall cease the practice of law in Arizona pursuant to that admission, unless otherwise authorized by these rules, 30 days after any of the following events:~~

~~(i) the service member's separation or retirement from the United States Uniformed Services;~~

~~(ii) the service member's permanent relocation to another jurisdiction, unless the service member's immediately subsequent assignment specifies that the Department of Defense does not authorize dependents to accompany the service member, in which case the temporary attorney may continue to practice law in Arizona as provided in this rule;~~

~~(iii) the attorney's permanent relocation outside the state of Arizona for reasons other than the service member's relocation;~~

~~(iv) the attorney's ceasing to be a dependent as defined by the Department of Defense or, with respect to the Coast Guard when it is not operating as a service in the Navy, the Department of Homeland Security;~~

~~(v) the attorney's failure to meet the annual licensing requirements for an active member of the State Bar of Arizona;~~

~~(vi) the attorney's request;~~

~~(vii) the attorney's admission to practice law in Arizona under any other admissions rule;~~

~~(viii) the attorney's failure to achieve the Arizona scaled score on the uniform bar examination administered within any jurisdiction;~~

~~(ix) the attorney's denial of admission to the practice of law in Arizona for violating ethical rules; or~~

~~(x) notice by the Court at any time, provided that the Clerk of the Court shall mail a copy of the notice of termination to the attorney and associated local counsel.~~

~~(B) Notice of termination to State Bar. An attorney whose temporary admission is terminated shall provide written notice to the State Bar of Arizona within thirty (30) days of the terminating event.~~

~~(C) Notice to courts and clients. At least sixty (60) days before termination of the temporary admission, or as soon as possible under the circumstances, the attorney shall:~~

~~(i) file in each matter pending before any court or tribunal a notice that the attorney will no longer be involved in the case; and~~

~~(ii) provide written notice to all clients receiving representation from the attorney that the attorney will no longer represent them.~~

~~(6) *Registration, Fees & CLE.* An attorney certified under this rule who seeks to renew the certification shall be required to pay a registration fee. No later than six months following the attorney's temporary admission, the attorney shall certify to the Court completion of at least fifteen hours of continuing legal education on Arizona practice, procedure, and ethics. The attorney shall also comply with Rule 45 and, on or before September 15 of each year, certify completion of at least fifteen (15) hours of such continuing legal education during each year for which a temporary admission is renewed.~~

~~(7) *Registration Number.* An attorney certified under this rule shall be assigned a registration number, which shall be used to identify the attorney's registration status in Arizona as required by applicable rules of procedure.~~

~~(8) *Subsequent Attorney Admission.* If an attorney certified under this rule is subsequently admitted to the practice of law in Arizona, that attorney's military spouse certification will be superseded by the Arizona license to practice law.~~