

Hon. Valerie Wyant, President  
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IN THE SUPREME COURT STATE OF ARIZONA

In the Matter of	)	Supreme Court No. R-17-0054
	)	
PETITION TO AMEND THE ARIZONA	)	COMMENT TO PROPOSED
RULES OF FAMILY LAW PROCEDURE AND)	)	FAMILY COURT RULES 6, 7 &
ARCAP 9	)	17
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The Arizona Association of Superior Court Clerks (Clerks) submits the following comments and proposed amendments to Family Court Rules 6, 7, and 17 of the petition to restyle the Arizona Rules of Family Law Procedure. The Clerks were represented on the Task Force that proposed the rules restyling and have considered the initial petition for further improvements.

The Clerks believe that the reassignment of judges by stipulation as allowed in proposed Rule 6(g)(3)(A) will have a negative effect on the balance of judicial workloads, especially in rural counties with few judges and in courts that do not have a designated family department. Judicial assignments and coverage in rural counties is already difficult and this provision adds an avoidable layer of administration that the Clerks believe can be solved by striking the provision for stipulated notice of change of judge. Appendix A recommends that the Family Law rules split from the Civil Rules in this regard and leave the reassignment of family court cases to the presiding judge or the judge's designee.

The Clerks believe that there are better alternatives for a party to serve a document on a party with a protected address as described in proposed Rule 7(e)(1). At a minimum, the rule should recognize individuals who participate in the Secretary of State's address confidentiality program under A.R.S. Title 41, Chapter 1, Article 3.

The Clerks believe that the duty to protect an address as directed in proposed Rule 7(h) will have a negative effect on records management because it creates a never-ending obligation. The Clerks' duty under the current rule ends at the adjudication of the initial or post-judgment petition. In practice, individuals rarely file a notice with their new address with the Clerk, despite multiple moves after the court resolves the petition. The Clerks recommend restoring a timeframe for the protected address, as shown below in Appendix A.

The Clerks support proposed Rule 17 on sealing records. The Task Force rightly split from Civil Rule 5.4, which has proven difficult to implement for the Clerks, judicial officers, and practitioners. Proposed Rule 17 has a straightforward approach of motioning the court to allow filing a document under seal, waiting for the court's decision, and then taking the appropriate action based on the court's order. The proposed approach avoids the complex lodging process, envelopes, redactions, and other steps and variables in the civil rule. In practice, the Clerks are finding that practitioners make multiple attempts to present the right documents in the right way under various scenarios within the civil rule, and that successfully lodging documents with the Clerk does not ensure the court's order will reflect an outcome provided for in the rule.

For the reasons above, the Arizona Association of Superior Court Clerks recommends this Court approve the amendments in Appendix A below in addition to the remaining

amendments proposed in petition R-17-0054. Deletions are in ~~strike through~~ and additions are in underline.

DATED this \_\_18th\_\_ day of \_\_May\_\_, 2018.

\_\_\_\_/s/\_Valerie Wyant\_\_\_\_\_  
Hon. Valerie Wyant, President  
Arizona Association of Superior Court Clerks

A copy of this comment has been delivered this  
\_\_18th\_\_ day of \_\_May\_\_, 2018, to:

Hon. Rebecca White Berch (ret.), and Hon. Mark Armstrong (ret.)  
Task Force on the Arizona Rules of Family Law Procedure  
1501 W. Washington St.  
Phoenix, AZ 85007  
Via email to [mmeltzer@courts.az.gov](mailto:mmeltzer@courts.az.gov) and electronic filing of comment

## APPENDIX A

### RULES OF FAMILY LAW PROCEDURE

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

(a) through (f). – [No Change]

**(g) 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 except to make such temporary orders as are necessary to prevent immediate and irreparable injury, loss, or damage from occurring before the action 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.

**(3) *Reassignment.***

~~(A) *On Stipulation.* If a notice of change of judge is filed, the parties should inform the court in writing if they have agreed on an available judge who is willing to hear the action. 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 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.~~

**Rule 7. Protected Address.**

**(a)– (g) [No Change].**

**(h) Clerk’s Duty.** The clerk’s duty to protect the address ends when the person whose address is protected files a notice of published address that sets forth the person’s current mailing address for future service, or when the initial or post-judgment petition or motion has been fully adjudicated by the entry of a final appealable order, judgment or decree, and the time to appeal has expired such that personal service is again required for later petitions under Rule 43(C)(2).