

# **Simplified Juries in Family Court**

## **Proposed Rule Revisions for ARFLP**

### **SIMPLIFIED JURIES IN FAMILY COURT - ITINERANT AND UPON REQUEST**

#### **TEXT OF PROPOSED RULES**

##### **Section 1.** Title.

“Simplified Juries in Family Court – Itinerant and Upon Request”

##### **Section 2.** Findings.

- A. The right to a Jury is “Inviolable” per AZ Constitution Article 6 Section 17.
- B. Children and families must be protected. Divorce and the circumstances surrounding divorce are often fraught with conflict. Conflict is harmful to children and families in many ways including financially.
- C. The challenge in family court is the volume of cases. The jury system must be adapted to function in this environment rather than abandoned. The result of this abandonment of the jury system has been the loss of control of the family court system by the people of Arizona and the subsequent harm and abuse of children and families which must predictably follow because unlimited discretion can so easily be abused to produce cash for the inevitable unscrupulous practitioners of the family court process.
- D. Jury oversight should reduce the overall work load of the courts by improving the quality of judicial orders, enhance respect for due process rights of litigants and reduce the need to go back and fix mistakes while better serving the public.

##### **Section 3:** ARFLP should / must be amended by adding Rules to read:

Simplified Juries in Family Court – Itinerant and Upon Request

General Provisions

Definitions:

Itinerant: Moving from place to place, servicing needs as they arise.

Juries:

Unless specified otherwise in this Rule, provisions of Title 21 shall apply. This act shall not remove anyone’s right to a Jury that already exists.

Composition of the Family Court Jury Panel:

Juries in Family Court shall consist of six Jurors, 3 men and 3 women randomly selected from the available pool and randomly assigned to case hearings as the need arises. The court shall empanel as many juries as are required and a panel may serve various proceedings as needed for a period of at least three weeks but not more than five weeks. Prospective Jurors must have email and internet access of their own or provided by the court.

#### Jury Availability to Litigants:

Should a litigant believe their rights to be “significantly” abridged by a judicial act of the family court, at any time after the decree of dissolution or similar judgement such as ARS 25-809 has been rendered, they may request in writing a review by a Jury panel stating the nature of the injustice and desired remedy. The court shall schedule a hearing to be held within 35 calendar days for the matter to be presented for review by the jury who shall render a decision within five business days. A litigant’s access to a Jury shall be limited to no more often than once every 120 calendar days. A Jury panel may service no more than two proceedings per day, seven per week.

#### Jury Function:

Pre Hearing - 24 to 48 hours before the Jury hearing, each juror

A) shall be furnished a legible one page summary of the relative positions of the litigants on the issue to be reviewed by the Jury and a summary of actions taken by previous juries.

B) shall be provided access to the entire case file

C) may ask and then be entitled to answers to any questions from anyone at any time up until the Juries opinion has been rendered.

D) Rules of disclosure and due process shall be observed at all times.

E) Electronic communications including email and access to websites shall be utilized.

#### Jury Authority and Actions:

A) A jury may act via majority vote (tie vote to be broken by the judge) to take any of the following actions. A jury may affirm an existing order or orders. Should a jury find that an injustice exists; a jury may strike down an order or orders or any portion thereof which the jury finds objectionable. The jury shall then document the nature of their objection to provide guidance to the court. An order to strike rendered by a jury shall supersede an existing order or orders of the Family Court Judge.

B) Should a jury find that a litigant has abused their privilege of Jury oversight, the Jury may order a sanction in a manner deemed fair and equitable by the jury. All jury related costs shall be assigned to the litigants or the Family Court as deemed fair and equitable by the Jury.

#### Incarceration:

A Family Court judge may order a person be incarcerated but such an order may not take effect until it has been affirmed by a Jury by a margin of at least four to two. A jury hearing on the matter shall be conducted if requested by a litigant, or the person to be incarcerated, or a Juror.

#### Documentation and Recordings of Family Court Proceedings:

All decisions by the Jury including reasons for their decision shall be recorded in writing and may include dissenting opinions if any. This documentation shall become part of the court record. Electronic recordings of all Family Court proceedings shall be created and preserved.

#### Appeals:

This Jury process shall in no way affect the timing or function of the existing appeals process. (It is expected to reduce the workload in the appeals court as well.)

Testing period for process verification:

The court shall utilize an eight month period where the court shall conduct trial implementation on a limited scope to gain experience necessary for effective rule making.

This revision to the Arizona Rules of Family Law and Procedure shall take effect January 1, 2017.