

SUPREME COURT OF ARIZONA

IN THE MATTER OF) Arizona Supreme Court
) No. R-16-0033
PETITION TO PROMULGATE RULE 28.1,)
RULES OF THE SUPREME COURT, AND)
TO ABROGATE RULE 83, ARIZONA)
RULES OF CIVIL PROCEDURE,)
RULE 36, ARIZONA RULES OF)
CRIMINAL PROCEDURE, RULE 5, RULES)
OF PROCEDURE FOR THE JUVENILE) **FILED: 09/02/2016**
COURT, AND RULE 21, RULES OF)
FAMILY LAW PROCEDURE)
)
)
_____)

ORDER

**ADOPTING NEW RULE 28.1,
RULES OF THE ARIZONA SUPREME COURT
AND ABROGATING RULE 83, ARIZONA RULES OF CIVIL PROCEDURE,
RULE 36, ARIZONA RULES OF CRIMINAL PROCEDURE,
RULE 5, RULES OF PROCEDURE FOR THE JUVENILE COURT, AND
RULE 21, RULES OF FAMILY LAW PROCEDURE**

A petition having been filed proposing to adopt a new Rule 28.1 of the Rules of the Supreme Court of Arizona and to abrogate Rule 83 of the Arizona Rules of Civil Procedure, Rule 36 of the Arizona Rules of Criminal Procedure, Rule 5 of the Rules of Procedure for the Juvenile Court, and Rule 21 of the Rules of Family Law Procedure, and no comments having been received, upon consideration,

IT IS ORDERED that Rule 28.1, Rules of the Supreme Court of Arizona, is adopted as set forth in Attachment A, effective January 1, 2017.

IT IS FURTHER ORDERED that Rule 83, Arizona Rules of Civil Procedure, Rule 36, Arizona Rules of Criminal Procedure, Rule 5, Rules of Procedure for the Juvenile Court, and Rule 21, Rules of Family Law Procedure are abrogated as set forth in Attachment B, effective January 1, 2017.

DATED this 2nd day of September, 2016.

_____/s/_____
SCOTT BALES
Chief Justice

Arizona Supreme Court No. 16-0033

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TO:

Ellen M Crowley

Rule 28 Distribution List

ATTACHMENT A¹

RULES OF THE SUPREME COURT

Rule 28.1. Procedure for Requesting Approval of Local Rules

(a) Applicability. This rule governs requests for approval of new or amended local rules for the superior court and courts of limited jurisdiction.

(b) Promulgation.

(1) Generally. The presiding judge of a county superior court, the presiding judge of a justice court, and the presiding judge of a municipal court may promulgate local rules for his or her respective court.

(2) Superior Court. For local rules promulgated by a superior court presiding judge, the rules must be approved by a majority of the superior court judges in the applicable county.

(3) Justice Court. For local rules promulgated by a presiding justice court judge, the rules must be approved by a majority of the justices of the peace who would be affected by the proposed rule or amendment.

(4) Municipal Court. For local rules promulgated by a presiding municipal court judge, the rules must be approved by a majority of the judges on the municipal court's bench.

(c) Approval. Local rules and amendments must be consistent with rules of statewide application and must be approved by the Supreme Court.

(d) Presubmission Comments. Before submitting a proposed new or amended local rule for Supreme Court approval, the presiding judge must post the proposal for at least 30 days on the website for the judge's court along with an invitation for the submission of comments. When the proposal is posted, the presiding judge must concurrently request the Supreme Court clerk to circulate the proposal to the distribution list in Supreme Court Rule 28(C) along with an invitation for the submission of comments on the website for the presiding judge's court.

(e) Method of Filing Request for Approval. A presiding judge may submit a request for approval of a new or amended local rule either by filing a paper copy of the request with the Supreme Court clerk or by filing the request electronically through the Court Rules Forum on the Supreme Court's website. If filed electronically, the request must be submitted according to the instructions found on the Frequently Asked Questions (FAQ) page of the Court Rules Forum.

¹ Additions in the text of the rule are shown by underscoring and deletions from text are shown by ~~strike-through~~.

(f) Form and Contents of Request for Approval. The request must state the grounds for adopting the new or amended local rule, and include a draft of the proposed rule or amendment (showing additions and deletions to an existing rule by underscoring and strikeouts). The request also must include any comments received during the period in which the proposal was posted on the lower court's website, as set forth in Rule 28.1(d), or a statement that the proposal was posted but no comments were received. The request may include supporting documentation and be in letter form.

(g) Comment on a Request for Approval. The Supreme Court may enter an order opening a request for public comment for a period of 60 days or as the Court otherwise directs. The Supreme Court clerk will send the order to the distribution list set forth in Supreme Court Rule 28(C) and to any other persons or organizations as may be designated by the Supreme Court. Comments may be filed with the Supreme Court in paper form or electronically. If filed electronically, the comment must be submitted according to the instructions found on the FAQ page of the Court Rules Forum on the Supreme Court's website. A copy of the comment also must be sent to the presiding judge who submitted the request.

(h) Court Consideration. After the comment period expires, the Supreme Court will consider and act on a proposed local rule or amendment. A new local rule or amendment's effective date will be the date on which the order approving the rule or amendment is filed, unless the Court orders otherwise.

(i) Publication. Local rules must be published.

ATTACHMENT B²

ARIZONA RULES OF CIVIL PROCEDURE

Rule 83. ~~Local rules by superior courts~~ [Reserved]

~~With the approval of a majority of the judges of the county, the presiding judge shall supplement these rules by local rules, not inconsistent with the provisions of these Rules, which shall be promulgated and published upon approval of the Chief Justice of the Supreme Court.~~

ARIZONA RULES OF CRIMINAL PROCEDURE

Rule 36. ~~Local rules~~ [Reserved]

~~Any court may make and amend rules governing its practice not inconsistent with these rules. No such rule shall become effective until approved in writing by the Supreme Court.~~

RULES OF PROCEDURE FOR THE JUVENILE COURTS

Rule 5. ~~Local Rules~~ [Reserved]

~~The juvenile court of each county may make and amend rules governing its practice not inconsistent with these rules, subject to approval by the Supreme Court. In all cases not provided for by rules, the juvenile court may regulate its practice in any manner not inconsistent with these rules or local rules.~~

RULES OF FAMILY LAW PROCEDURE

Rule 21. ~~Local Rules of Superior Court~~ [Reserved]

~~With the approval of a majority of the judges of the county, the presiding judge may supplement these rules by local rules, not inconsistent with the provisions of these rules, which shall be promulgated and published upon approval of the Chief Justice of the Supreme Court.~~

² Additions in the text of the rule are shown by underscoring and deletions from text are shown by ~~strike-through~~.