

2014 Court Rules

*Court Services Division
Administrative Office of the Courts*

This document summarizes for trial courts the court rules and rule amendments adopted by the Arizona Supreme Court during its August 2014 rules agenda. The summary includes potential impacts of several of these rule changes.

- The rule petition numbers (e.g., R-14-0000) in this summary include a hyperlink to the Court's order promulgating the rule change. The full text of the rule change appears with the order, and readers may wish to click on the hyperlink to review the text for further details concerning each change.
- The effective date of rule changes in this 2014 summary is **January 1, 2015**, but there are exceptions noted in the summary.
- This summary includes most of the rule changes affecting trial courts, but it does not include all of the 2014 rule changes. The summary specifically does not include rule changes regarding the practice of law or admission to practice, or rule petitions previously adopted on a temporary basis. Please see the Court's [August 26, 2014 minutes](#) on the Court's [recent rules amendments webpage](#) for further information concerning rules on these and other topics.

The Court Services Division of the Administrative Office of the Courts prepared this summary. If you have any questions concerning this document, please contact Mark Meltzer, at (602) 452-3242, or by e-mail at MMeltzer@courts.az.gov.

2014 Rules Summary

Rules of Civil Procedure

Rule	Affects	Summary and Impact
Rule 67 R-13-0044	Superior Judges Clerks Admin	<p><u>Summary:</u> These amendments delete Rule 67 sections (d), (e), and (f). These provisions currently allow the court, upon defendant’s motion, to require a plaintiff who does not own property in Arizona to post security for costs.</p> <p><u>Note:</u> The JCRCP does not include an analog to Rules 67(d), (e), and (f).</p> <p><u>Impact:</u> Information only.</p>
Rule 53(a) and (b) R-13-0052	Superior Judges Clerks Administrators	<p><u>Summary:</u> The current rule does not include guidance for appointment of a master over the objection of a party. The amendments fill that gap by allowing an opportunity for a party’s objection and a hearing on the objection.</p> <p><u>Impact:</u> Amendments to Rule 53(a)(3) provide that if a party objects to appointment of a master, the court -- after providing notice to the parties and an opportunity to be heard -- may choose from various options (among them, declining to make the appointment, or relying on specified factors in making the appointment).</p> <p>Rule 53(a)(4) also provides that the court must give the parties notice and an opportunity to be heard before appointing a specific master.</p>
Rule 55(b)(1) R-13-0053	Superior Judges Clerks Administrators	<p><u>Summary:</u> The amendment includes a comment that states: “This amendment clarifies when a defendant has a right to notice and a hearing if the plaintiff’s claim is for a sum certain or for a sum that can be made certain by computation.”</p> <p><u>Note:</u> Compare JCRCP Rules 140(e) and 140(j).</p> <p><u>Impact:</u> As stated in the above-comment, “Under the amendment, a defendant who has been defaulted on such a claim under Rule 55(b)(1), but who makes a post-default appearance, is not entitled to notice and a hearing before judgment may be entered.”</p>

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<p>Rule 64.1 R-14-0001</p>	<p>Superior Justice Municipal</p> <p>Judges Clerks Administrators</p>	<p><u>Summary:</u> These amendments to Rule 64.1 (a) delete a provision that prohibits service of a civil arrest warrant between 10 p.m. and 6:30 a.m., and therefore allow service of a civil arrest warrant 24-hours a day; and (b) delete a requirement that the arrested person be brought before the issuing judge, and instead requires the arrested person to be brought before “the nearest available judge.”</p> <p><u>Note:</u> JCRCP Rule 145(c) adopts certain provisions of Rule 64.1 and includes those provisions in the JCRCP appendix.</p> <p><u>Impact:</u> Judges should anticipate initial appearances for persons arrested on civil arrest warrants issued by other courts.</p>
<p>Rule 5(c)(2) Rule 6(e) R-14-0003</p>	<p>Superior Justice Municipal</p> <p>Judges Clerks Administrators</p>	<p><u>Summary:</u> The amendments authorize electronic service of court filings on attorneys of record through electronic filing service providers approved by the Administrative Office of the Courts. (A party serving a document under the amendment to Rule 5(c)(2) is not required to confirm that the recipient has consented in writing to receive documents electronically.)</p> <p>The amendment to Rule 6(e) gives a party served through an electronic service provider under amended Rule 5(c)(2) the five extra days to respond currently provided by Rule 6(e) for a party who is served by mail.</p> <p><u>Note:</u> Compare JCRCP Rule 120(b)(5).</p> <p><u>Impact:</u> Clerks must include the five extra days allowed by these amendments in calendaring a party’s time to respond.</p>
<p>Rule 64.1 <u>Also:</u> ARFLP 94 R-14-0013</p>	<p>Superior Municipal</p> <p>Judges Clerks Administrators</p>	<p><u>Summary:</u> Rule 64.1 has the following change: “The civil arrest warrant shall be ordered by the judge and issued by the <u>court clerk</u>.” A similar change is made to ARFLP Rule 94(C).</p> <p><u>Note:</u> JCRCP Rule 145(b) provides that a civil arrest warrant is issued by “the court.”</p> <p><u>Impact:</u> Information only.</p>

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Rules of Criminal Procedure

Rule	Affects	Summary and Impact
Rule 12.10 R-13-0031	Superior Judges Clerks Administrators	<p><u>Summary:</u> Criminal Rule 14.1(d) allows the presiding judge of a county to issue an order that the superior court will not hold arraignments in felony cases. Yavapai is the only county to do so. In this circumstance, Criminal Rule 12.10(a) would require defendant’s appearance before a magistrate; but Rule 12.10(a) does not provide a time within which the appearance must occur. Therefore, this amendment to Rule 12.10(a) requires the defendant’s appearance before a magistrate within ten days of the return of an indictment.</p> <p><u>Impact:</u> Information only, except that Yavapai County must now conduct arraignments for indicted defendants within the time specified in this rule amendment.</p>
Rule 31.17(c)(1) R-13-0050	Superior Judges Clerks Administrators	<p><u>Summary:</u> Under current capital case practice, the Arizona Supreme Court issues an execution warrant concurrently with its denial of a petition for review of the trial court’s denial of a first petition for post-conviction relief. The Court upon issuing that warrant distributes it to a variety of stakeholders in the judicial and executive departments of state government and in the federal court system. A defendant typically seeks federal habeas relief within days after the Court issues a warrant, and when the federal district court assumes jurisdiction, it promptly stays the execution warrant and must notify these multiple stakeholders. This amendment defers the Court’s issuance of the execution warrant for 15 days after the denial of a petition for review on the PCR. This interim permits the defendant to request federal habeas relief, which as a practical matter makes the Arizona Supreme Court’s immediate issuance of the warrant unnecessary.</p> <p><u>Impact:</u> Information only.</p>
Rule 31.24 R-14-0004	Superior Justice Municipal Judges Clerks Administrators	Please see the discussion of this petition under the Supreme Court Rules, <u>infra</u> .

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<p>Rule 24.2 R-14-0005</p>	<p>Superior Justice Municipal Judges Clerks Administrators</p>	<p><u>Summary:</u> In November 2013, the Court issued order R-11-0033, which amended ER 3.8 and ER 3.10. While ER 3.8(h) requires a prosecutor to take appropriate steps to set aside the conviction of an innocent defendant, the Rules of Criminal Procedure did not provide a specific mechanism for the prosecutor to comply. (Rule 24.2 requires action to vacate a judgment of conviction within 60 days after the entry of judgment, whereas the recent Ethical Rule amendments contemplate action that could be taken years after a conviction.)</p> <p>These new amendments to Rule 24.2 permit the State to file a motion to vacate judgment “at any time” after the entry of judgment and sentence. The amended rule also provides two grounds for the motion: (a) that a defendant was convicted of an offense that the defendant did not commit; or (b) that the conviction was based on erroneous application of the law.</p> <p><u>Impact:</u> Although these motions may rarely be filed, the court occasionally may need to consider such motions years after the entry of judgment.</p>
<p>Rule 12.5 R-14-0006</p>	<p>Superior Judges Clerks Administrators</p>	<p><u>Summary:</u> Currently, when a witness who appears before a grand jury is in custody, the prosecutor files a motion with the court to allow a law enforcement officer or detention officer to accompany the in-custody witness during the grand jury session. This amendment to Rule 12.5 allows the attendance of an officer in these circumstances and avoids the need to file a motion.</p> <p><u>Impact:</u> Information only.</p>
<p>Rule 32.12 R-14-0007</p>	<p>Superior Judges Clerks Administrators Probation officers</p>	<p><u>Summary:</u> A.R.S. §13-4240 gives defendants convicted of a felony offense an opportunity to petition the court for DNA testing of evidence. The evidence must be in the possession or control of the court or the state, be related to the investigation or prosecution that resulted in the judgment of conviction, and may contain biological evidence. This new rule establishes procedures for the court and parties to follow upon the making of a request, and incorporates the Supreme Court’s holding in <i>State v. Gutierrez</i>, 229 Ariz. 573 278 P.3d 1276 (2012) regarding post-conviction hearings involving DNA testing.</p>

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		<p><u>Impact:</u> This new rule details the post-conviction procedures for requesting that evidence be tested for DNA. Among those procedures are the following.</p> <p>A petition for testing must be filed under the original criminal case number. (The request is denominated in the rule as a “petition.”) The court may appoint counsel for an indigent petitioner at any time during proceedings under this rule.</p> <p>After considering the petition and the State’s response, the court “shall” order DNA testing if three specified factors apply; and it “may” order testing if three specified factors apply. (Two of those three “may” factors are the same as “shall” factors.) If the court orders testing pursuant to this section, the court must select a laboratory that meets the standards of the DNA advisory board to conduct the testing and shall order the method and responsibility for payment as necessary.</p> <p>The court may order either party to produce results of prior DNA testing, and if the court orders testing, it must order the State to preserve relevant evidence. The court may enter other specified orders, including the type of DNA analysis to be performed. The rule further describes the need for subsequent evidentiary hearings and other orders the court may enter upon receiving the test results.</p>
<p>Rule 2.3 R-14-0014</p>	<p>Superior Justice Municipal</p> <p>Judges Clerks Administrators</p>	<p><u>Summary:</u> Rule 2.3(a) was drafted in 1975 (long before electronic filing came into existence), and requires a law enforcement officer to appear before a magistrate to take an oath. The amendments add the following language to the rule: “The constitutional requirement that a complaint be made under oath is satisfied by an electronic oath, or affidavit containing an electronic signature, made by a law enforcement officer or agency representative under penalty of perjury.”</p> <p><u>Impact:</u> Courts should assure that electronically-filed complaints include the electronic oath or an affidavit containing the electronic signature.</p>

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<p>Rule 26.9 and Rule 31.3</p> <p>R-14-0021</p>	<p>Superior Justice Municipal</p> <p>Judges Clerks Administrators Probation officers</p>	<p><u>Summary:</u> This rule petition followed the Court’s 2014 opinion in State v Whitman. The amendment to Rule 31.3 (“time for taking appeal”) clarifies that “entry” of judgment occurs at the time the judge pronounces sentence in open court (and not when the clerk files a minute entry that memorializes the judgment and sentence.)</p> <p>The amendment to Rule 26.9 is to the comment, not to the body of the rule; the amendment deletes obsolete language in the comment to clarify that a trial judge should not sentence a defendant in absentia “absent extraordinary circumstances.”</p> <p><u>Impact:</u> Information only.</p>
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Rules of Evidence

Rule	Affects	Summary and Impact
<p>Rules 801(d)(1)(B) and 803 (6)-(8)</p> <p>R-14-0002</p>	<p>Superior Justice Municipal</p> <p>Judges</p>	<p><u>Summary:</u> Rule 801(d) (“statements that are not hearsay”) is amended to broaden the substantive use of certain prior consistent statements of a witness subject to cross-examination.</p> <p>The trustworthiness clauses of Rule 803(6)-(8) -- the hearsay exceptions for business records, absence of business records, and public records -- include admissibility requirements and provide that a record meeting those requirements is admissible despite the fact it is hearsay “unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness.” However, the current rules do not specifically state which party has the burden of showing trustworthiness or untrustworthiness. These amendments clarify that the <i>opponent</i> has the burden of showing that the proffered record is untrustworthy.</p> <p><u>Impact:</u> Information only.</p>

Rules of the Supreme Court (“SCR”)

Rule	Affects	Summary and Impact
<p>Rule 42 Various ERs R-13-0060</p>	<p>Superior Justice Municipal Judges</p>	<p><u>Summary:</u> The State Bar filed this petition to amend the Ethical Rules relating to technology and globalization of the practice of law. These changes include an amendment to Comment to ER 1.1 [“Competence”], shown in underline as follows:</p> <p>“To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, <u>including the benefits and risks associated with relevant technology</u>, engage in continuing study and education and comply with all continuing legal education requirements to which the lawyer is subject.”</p> <p><u>Impact:</u> Information only.</p>
<p>Rule 111 Also: ARCAP 28 and Criminal Rule 31.24 R-14-0004</p>	<p>Superior Justice Municipal Judges</p>	<p><u>Summary:</u> The amendments to SCR 111 (and to corresponding civil and criminal appellate rules) provide that although memorandum decisions of Arizona state courts are not precedential, they may now be cited for persuasive value, but only if: a decision was issued after January 1, 2015; no opinion adequately addresses the issue before the court; and the citation is not to a depublished opinion or a depublished portion of an opinion.</p> <p>These amendments further provide that (a) a citation must indicate if a decision is a memorandum decision; (b) a party citing a memorandum decision must provide either a copy of the decision or a hyperlink to the decision where it may be obtained without charge; and (c) a party has no duty to cite a memorandum decision.</p> <p><u>Impact:</u> These amendments allowing citation to memorandum decisions align Arizona with federal courts and other state courts that have ended their bans on citation to unpublished decisions.</p> <p>As stated, unpublished decisions may be persuasive but are not binding.</p>

Arizona Rules of Civil Appellate Procedure (“ARCAP”)

Rule	Affects	Summary and Impact
All ARCAP Rules R-14-0017	Superior Judges Clerks Administrators	<p><u>Summary:</u> The Order adopted comprehensive amendments to the civil appellate rules, including stylistic and substantive revisions.</p> <p><u>Impact:</u> Every one of the civil appellate rules has been changed in some way, and the best way to become familiar with these changes is to review the new rules in their entirety.</p> <p>Several items that should be of particular interest to the Superior Court include the following:</p> <ol style="list-style-type: none"> 1. A prefatory comment to the 2015 amendments provides a brief explanation of the purpose of the amendments. It advises that “prior case law continues to be authoritative, unless it would be inappropriate because of a new requirement or provision in these amended rules.” The preface also notes that the amended rules incorporate substantive matter that was previously contained in comments to the rules. 2. Rule 1(c) includes an analogue of Rule 1 of the superior court rules, which is to use and interpret these amended rules to achieve the just, speedy, and inexpensive resolution of appeals. 3. Rule 2 adds new definitions, among them, a definition of a “judgment” and a description of when “entry” of a judgment occurs. (“‘Entry’ of a judgment occurs when it is filed by the superior court clerk.”) 4. Former Rule 9.1, which concerns suspension of an appeal and re-vesting jurisdiction in the superior court, is now included as Rule 3(b). The order re-vesting jurisdiction may allow the superior court to consider and determine specified matters. 5. Rules 4.1 and 4.2 are new. These rules describe requirements for paper and electronic filing. The nomenclature throughout the amended rules is that

		<p>parties “file” and “serve” documents; clerks “distribute” documents.</p> <ol style="list-style-type: none"> 6. Rule 7 provides that filing a motion for a supersedeas bond temporarily stays enforcement of the judgment, until the superior court has set the bond amount and provided appropriate time for posting the bond. (However, a party may record a judgment until a bond is posted.) Judges should review the provisions of Rule 7 prior to entering orders concerning supersedeas bonds. 7. Rules 8 and 9 now include specific provisions for how and when to take a cross-appeal. 8. Another motion – a motion for relief under Rule 60 of the civil rules, or Rule 85 of the family rules, filed no later than 15 days after entry of the judgment – is added to the list in ARCAP Rule 9(e) of post-judgment motions that alter the time for filing a notice of appeal or cross-appeal. 9. <u>PLEASE NOTE: Rule 10, the former rule on cost bonds on appeal, has been eliminated.</u> After the effective date of these rules, electronic and manual systems should not require payment of a cost bond on appeal. Rule 10 is now the rule for appeals in expedited election matters. 10. Current Rule 11 is one of the lengthiest. The amended rules split the content of that rule into two separate rules: Rule 11 (“The Record on Appeal”) and Rule 11.1 (“Transmitting the Record to the Appellate Court.”) Amended Rule 11 contains new provisions about designation of the record on appeal. New Rule 11.1 contains specific duties of the superior court clerk concerning transmission of the record to the appellate court. <p>A new form for a Notice of Appeal/Notice of Cross-Appeal/Amended Notice of Appeal is included as Form 1 of the amended rules.</p> <p>Appendix 2 to the R-14-0017 Order includes conforming changes to the Rules of the Supreme Court, the Rules of</p>
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		<p>Procedure for Special Actions, the Arizona Rules of Civil Procedure, the Arizona Rules of Procedure for the Juvenile Court, and the Arizona Rules of Family Law Procedure.</p> <p>The rule amendments apply to all appeals in which the notice of appeal is filed <u>on or after</u> January 1, 2015. Please note language in the R-14-0017 Order that these amendments apply <u>in all other appeals pending</u> on January 1, 2015, “...<u>except to the extent that</u> in the opinion of the applicable court the application of an amended rule in a particular pending action or proceeding would not be feasible or would work an injustice, in which case the former rule applies.”</p>
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Rules of Procedure for the Juvenile Court

Rule	Affects	Summary and Impact
<p>Rule 21 R-14-0024</p> <p><i>Expedited effective date: September 1, 2014</i></p>	<p>Superior Justice Municipal</p> <p>Judges Clerks Administrators</p>	<p><u>Summary:</u> HB 2309 (Laws 2013, Chapter 55) expanded the types of juvenile acts to which the Victim’s Rights for Juvenile Offenses statutes apply. The amendments to Rule 21 concerning victim’s rights no longer require that a misdemeanor offense involve physical injury, a threat of physical injury, or a sexual offense. The amendments also add the categories of petty offenses and violations of local criminal ordinances to the classes of offenses that activate victim’s rights in juvenile proceedings.</p> <p><u>Impact:</u> The victim has the right to be present at all proceedings where the juvenile has the right to be present. The court must ensure that the rights of victims, including those rights not specifically set forth in the juvenile rules, are enforced in a manner consistent with the protection and rehabilitation of the victim.</p>

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Rules of Probate Procedure

Rule	Affects	Summary and Impact
Rule 22 R-14-0026 <i>Expedited effective date: December 31, 2014</i>	Superior Judges Clerks Administrators	<p><u>Summary:</u> HB 2322 (Laws 2014, Chapter 261) furthers goals of the National Instant Criminal Background Check System (“NICS”), which was established in the 1990’s by the Brady Handgun Violence Prevention Act. Newly enacted A.R.S. § 14-5303(F) requires the court to make a “specific finding” when appointing a guardian “as to whether the appointment of a guardian is due solely to the ward’s physical incapacity.”</p> <p><u>Impact:</u> Unless the court enters such a finding, the new legislation requires the superior court to transmit case information and the date of the guardian’s appointment to the Supreme Court. Therefore, this amendment to Rule 22 requires that every order appointing a guardian must specify whether the appointment is due solely to the ward’s physical incapacity.</p>

Rules of Family Law Procedure (“ARFLP”)

Rule	Affects	Summary and Impact
Rule 12 R-13-0054	Superior Judges Clerks Administrators	<p><u>Summary:</u> Rule 12(A) now clarifies that a request for an <i>in camera</i> interview of a minor child who is the subject of a legal decision-making or parenting time dispute must be submitted by written motion. Any such interview must be recorded by a court reporter or electronically.</p> <p>A new section C includes within the definition of “court” any conciliation services department or other third-party professional ordered by the assigned judge to conduct a child interview.</p> <p><u>Impact:</u> The court may seal the interview from public access for good cause and if doing so will serve the child’s best interests. The parties may stipulate that they will not be provided with the record of the interview. Otherwise, the court must make this record available to the parties at least 14 days before the hearing in which the child’s comments will be considered, unless it adopts a different deadline for good cause.</p>

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		<p>A new section B cautions an interviewing judge in several respects. The court must ‘take special care to protect the child from embarrassment,’ avoid repetitive or age-inappropriate questions, and honestly disclose the limits on confidentiality. The court must also allow the child to express a point of view, but not require one, and reassure the child that any opinion he or she does offer will not actually decide the case.</p> <p>A comment in part provides: “Generally, the court should not conduct an <i>in camera</i> interview of a child under this rule unless it finds that the child is of sufficient age and intellectual capacity to reason and form an intelligent preference as to legal decision-making and parenting time. The court is strongly encouraged to utilize other resources, where available and appropriate, to ascertain that preference. In particular, a court should proceed with caution when interviewing a child in any case in which a party has alleged ‘domestic violence’...or ‘abuse’....”</p>
<p>Rules 35(D), 82(B), 83, and 84</p> <p>R-13-0055</p>	<p>Superior Judges Clerks Administrators</p>	<p><u>Summary:</u> This rule petition stated:</p> <p>“All of these rules as written are overlapping in their scope, a fact that has led to confusion and a certain degree of redundancy in their application. The resulting procedural confusion can have profound implications, particularly for the <i>pro se</i> litigant, since failure to invoke the proper procedural rule can lead to an inadvertent waiver of the right to appeal.”</p> <p><u>Impact:</u></p> <ol style="list-style-type: none"> 1. The Order entered by the Court deletes the entirety of current Rule 35(D), and adds a new sentence that refers parties who are interested in filing a motion for reconsideration or clarification to revised Rule 84. 2. The Order rewrites Rule 84 so that it now exclusively addresses motions for reconsideration and/or clarification. An amendment makes clear that motions under revised Rule 84 do not extend the time for filing an appeal from the court ruling at issue. Language of current Rule 84 regarding alterations or amendments to a court ruling is consolidated with revised Rule 83 (see the next paragraph.)

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		<p>3. The Order merges current Rule 84 into Rule 83, which now governs motions to alter or amend a judgment as well as motions for new trial. The intent is that motions filed under revised Rule 83 will extend the time for filing an appeal, which is consistent with current practices under Rules 83 and 84 in their present form.</p> <p>4. The Order also revises Rule 82(B) (amendments to findings of the court) so that it complies with the revisions made to Rules 83 and 84.</p>
<p>Rule 47</p> <p>R-13-0056</p>	<p>Superior</p> <p>Judges</p> <p>Clerks</p> <p>Administrators</p>	<p><u>Summary:</u> The amendments conform this rule to statutory amendments, including the requirement of holding an evidentiary hearing within 60 days after the filing of a pre-decree motion for temporary orders in a legal decision-making or parenting time action.</p> <p><u>Impact:</u> These amendments align the rule with SB 1073, (Chapter 31, Laws 2013). The rule (and the legislation) provide three exemptions to the 60-day time requirement:</p> <ol style="list-style-type: none"> 1. The filing party waives the requirement for a hearing to be conducted within 60 days after the party files the motion. 2. Temporary orders are established through a separate conference or hearing within 60 days after the party files the motion. 3. Extraordinary circumstances exist and the court is not able to schedule the hearing. If the court is not able to schedule the hearing within 60 days after the motion is filed, it must make a written finding on the record as to the cause of the delay. <p>When a party seeks a temporary order regarding other matters, including matters of child support and spousal maintenance, at the time of the pre-decree request for temporary orders regarding legal decision-making or parenting time, an evidentiary hearing on those other matters may be held in conjunction with the legal decision-making and parenting time evidentiary hearing.</p> <p>The court also may set any other conference or hearing it deems appropriate.</p>

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<p>Rule 67</p> <p>R-13-0057</p>	<p>Superior</p> <p>Judges Clerks Administrators</p>	<p><u>Summary:</u> The amendments correct erroneous references to subsections of the rule.</p> <p><u>Impact:</u> Information only.</p>
<p>Rule 74</p> <p>R-13-0058</p>	<p>Superior</p> <p>Judges Clerks Administrators</p>	<p><u>Summary:</u> These amendments add "choice of schools" to the list of issues on which a parenting coordinator may make recommendations to the court.</p> <p><u>Impact:</u> Information only.</p>
<p>Rule 97</p> <p>R-13-0059</p>	<p>Superior</p> <p>Judges Clerks Administrators</p>	<p><u>Summary:</u> These amendments to interrogatories in Form 7 deal with employment, legal decision-making, and spousal affidavits and inventories.</p> <p><u>Impact:</u> Information only.</p>

Various Rules of Procedure

Rule	Affects	Summary and Impact
<p>Various</p> <p>R-14-0025</p> <p><i>Expedited effective date: September 1, 2014</i></p>	<p>Superior Justice Municipal</p> <p>Judges Clerks Administrators</p>	<p><u>Summary:</u> In response to SB 1001 (Laws 2014, Chapter 1), this Order amended a variety of juvenile, family, local, and appellate rules. SB 1001 created the Department of Child Safety (“DCS”) and shifted the authority over child welfare from DES to DCS. Accordingly, this Order amends current court rules which name DES as the department responsible for child welfare. “Department of Economic Security”, “DES”, “Child Protective Services”, or “CPS” are changed to “Department of Child Safety,” and the former CPS nomenclature of “case worker” and “case manager” are changed to “child safety worker” or “child safety investigator” to conform to S.B. 1001.</p> <p><u>Impact:</u> Courts should modify forms and templates to conform to the new terminology.</p>

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Rule Petitions Continued

Petition Number and Rule	Summary
R-14-0010 Criminal 31.2, 31.4, 31.13, 32.4, & 32.9	<p>This petition/amended petition requests that a post-conviction proceeding in a capital case precede the direct appeal. (The petition in part is in response to <i>Martinez v. Ryan</i>, 132 S. Ct. 1309 (2012).) At its August rules agenda, the Court reopened the matter for further comment and asked for general information, data, or studies regarding the administration of capital cases in states with a unitary review procedure similar to the procedure proposed by the petitioner.</p> <p><i>Comments due: January 16, 2015</i></p>

Rule Petitions Denied by the Court

Petition Number and Rule	Summary
R-13-0047 RPEA 9.1	<p>The proposed rule would have permitted a change of judge as a matter of right in an eviction action in a Justice Court.</p>
R-13-0042 Civil 26(b)(4)(C)	<p>This rule petition was a response to <i>Sanchez v. Gama</i>, 1 CA-SA 13-0072 (Div. 1, Aug. 20, 2013). The proposed revision would have specified that a witness who provided medical care to a party is an expert, and as such, the witness would be entitled to a reasonable fee for his or her testimony.</p>
R-13-0061 Civil 23	<p>The proposed rule amendment would have required distribution to the Arizona Bar Foundation of at least 50% of "residual funds" in a class action. These funds would have been used to provide legal services and access to justice for low-income residents of Arizona.</p>
R-14-0008 Criminal 23.5	<p>To protect jurors from contact after the case has concluded, the Maricopa County Attorney had proposed the adoption of a new rule of criminal procedure that would prohibit any party from contacting jurors outside a courthouse after a case concluded, absent a showing of good cause and with the permission of the court.</p>
R-14-0012 Criminal 32.4	<p>This petition addressed <i>Stout v Mohave County</i>, 233 Ariz. 275, 311 P.3d 1088 (October 2013), which held that a defendant filing an "of-right" petition for post-conviction relief was entitled to "transcripts" pursuant to Criminal Rule 32.4(d), and that</p>

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	<p>"transcripts did not include "electronic recordings." This proposed amendment would have allowed the court to provide electronic recordings, rather than written transcripts, in post-conviction relief proceedings.</p>
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