

2018 Court Rules

*Court Services Division
Administrative Office of the Courts*

This document summarizes new court rules and rule amendments adopted by the Arizona Supreme Court during its August and December 2018 rules agendas. The summary includes potential impacts for several of these rule changes.

- Rule petition numbers in this summary (e.g., R-18-0000) include a hyperlink to the Court's Order promulgating the new or amended rule. Each Order contains the full text of the changes, and readers can click on the hyperlink to review the text.
- The effective date of rule changes in this 2018 summary is **January 1, 2019**, except as noted in the summary.
- This summary includes most rule changes affecting trial courts, but it does not include every rule change. It does not include rule changes regarding the practice of law or the admission to practice, or that concern judicial discipline, and it excludes some rule changes previously adopted on a temporary basis. See the Court's [August 27, 2018](#) and [December 12, 2018](#) minutes, and the Court's [recent rules amendments webpage](#) for further information concerning rules on these and other topics.

Please contact Mark Meltzer by telephone at (602) 452-3242 or by e-mail at MMeltzer@courts.az.gov if you have any questions.

Rules of Civil Procedure

Rule	Affects	Summary and Impact
<p>Rule 26(b)(4)</p> <p>R-18-0007</p>	<p>Superior Judges</p>	<p><u>Summary:</u> The amendments to Rule 26(b)(4) conform state practice with federal practice on the discoverability of draft expert reports and communications between parties’ attorneys and experts. The amendments do not permit discovery of experts’ drafts and communications not falling within the identified categories and that are unlikely to bear upon the soundness of experts’ final opinions, assumptions, and methodologies.</p> <p><u>Impact:</u> Judges might consult this amended rule when discovery disputes arise regarding experts’ reports and experts’ communications with counsel. Note that consistent with Rule 81(b) of the Arizona Rules of Civil Procedure, the amendments apply not only to cases filed after January 1, 2019, but also to cases pending on that date unless the parties agree otherwise or the court rules that their application “would be infeasible or work an injustice.”</p>
<p>Rules 62 and 69 + ARCAP 7</p> <p>R-18-0017</p>	<p>Superior Judges Clerks Administrators</p>	<p><u>Summary:</u> The amendments to Civil Rule 62 provide that “execution on a judgment and proceedings to enforce it are stayed for 15 days after its entry unless the court orders otherwise. During the 15-day period, unless and until a bond or other security is posted, a party may record a judgment.” There are special provisions for cases involving injunctions or receiverships. The amendments to Rule 69 allow post-judgment discovery, including discovery from the judgment debtor, under specified circumstances.</p> <p>The amendments to ARCAP 7 include a process for setting a bond and objecting to the bond. “Bond” is defined to include types of court-ordered security other than a supersedeas bond. When setting the amount of the bond in a case involving monetary damages, the amendments to ARCAP 7 provide that one of the three potential ceilings on the bond amount includes not only damages (the current rule) but also costs, attorney’s fees, and prejudgment interest that are included in the judgment. For a family court judgment, the court will be required to take “into account the judgment as a whole and whether requiring a bond would impose an undue hardship.”</p>

2018 Rules Summary

		<p><u>Impact:</u> Unless the motion for a supersedeas bond is uncontested, the court must hold a hearing. There are new provisions in ARCAP 7 for setting a bond when a judgment is for recovery of real property or for execution of an instrument or the sale of perishable property, and for family court judgments and other non-monetary judgments. The amendments to ARCAP 7 include provisions regarding objections to the bond or other security. The court may order a party to deposit “other security” with the superior court clerk.</p>
<p>Rules 38, 39, 49, 77, and 84 R-18-0018</p>	<p>Superior Judges Clerks Administrators</p>	<p><u>Summary:</u> Under an amendment that went into effect on January 1, 2017, parties in medical malpractice cases need not file a demand for jury trial. Instead, it is presumed that the parties in those cases desire a jury trial, and that they are able to “affirmatively waive the right to a jury trial by filing a written stipulation, signed by all parties, at any time after the action is commenced, but no later than 30 days before the trial is scheduled to begin.”</p> <p>This most recent amendment to Rule 38 provides that in all civil cases—not just medical malpractice cases—parties must affirmatively waive their right to a jury trial rather than affirmatively assert that right through a written demand. The waiver must be a written stipulation, signed by all parties who will appear at trial. The parties may file the waiver at any time after the action is commenced, but no later than 30 days before the trial is scheduled to begin. The stipulation may not be combined with any other motion or pleading. In the stipulation/waiver, the parties may specify any issues they wish to have tried by a jury; otherwise, the parties will be deemed to have waived trial by a jury on all issues.</p> <p><u>Impact:</u> These amendments might result in more cases being set for trial by jury and require the court to summon more individuals for jury duty. Note that consistent with Rule 81(b) of the Arizona Rules of Civil Procedure, the amendments apply not only to cases filed after January 1, 2019, but also to cases pending on that date unless the parties agree otherwise or the court rules that their application “would be infeasible or work an injustice.”</p>

2018 Rules Summary

<p>Rule 8.1 R-18-0033</p>	<p>Superior Judges Clerks Administrators</p>	<p><u>Summary:</u> Rule 8.1, the rule concerning commercial courts, was previously an experimental rule. This Order permanently adopted Rule 8.1 and various amendments, effective January 1, 2019. A significant amendment provides that “a case that seeks only monetary relief in an amount less than \$300,000 is not eligible for the commercial court.” I.e., going forward, only tier 3 cases are eligible if only monetary relief is sought. Note that the exclusion does not apply to cases seeking less than \$300,000 if the plaintiff also is seeking injunctive or declaratory relief.</p> <p><u>Impact:</u> Although Maricopa County is the only county with a specialized program for commercial cases, a new Rule 8.1(g) provides, “The case management procedures in Rule 8.1(e) are available to any judge who finds those procedures beneficial, wholly or partially, in managing a commercial case that is not assigned to the commercial court, or that is pending in a county that has not established a commercial court.” Also note that the \$300,000 eligibility floor for cases seeking only monetary relief applies only to cases filed on or after January 1, 2019.</p>
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Rules of Criminal Procedure

Rule	Affects	Summary and Impact
<p>Rules 11.5 and 11.6 R-18-0012</p>	<p>Superior Justice Municipal Judges Clerks Administrators</p>	<p><u>Summary:</u> The new amendments to Rules 11.5 and 11.6 fall into one of three categories:</p> <p>(1) substantive changes that permit a limited jurisdiction court to order restoration treatment if the defendant is found <u>incompetent but restorable</u> [Rule 11.5(b)(2): “if authorized by the presiding judge of the superior court, order competency restoration treatment.”];</p> <p>(2) clarifying language that delineates the differences between what a limited jurisdiction court and the superior court may do if a defendant is found <u>incompetent and not restorable</u> [Rule 11.5(b)(3): a limited jurisdiction court may dismiss the case on the State’s motion, or transfer the case to superior court for further proceedings]; and</p> <p>(3) clarifications to <u>timeframes for the restoration of competency treatment orders</u> [in Rule 11.5(b)(3): “If the</p>

2018 Rules Summary

		<p>superior court determines that the defendant is incompetent and that there is no substantial probability that the defendant will become competent within 21 months or within the defendant’s maximum possible sentence as defined by A.R.S. § 13-4515, whichever is less,...;” or in a limited jurisdiction court, “that there is no substantial probability that the defendant will become competent within the timeframes as defined in A.R.S. § 13-4515.”</p> <p><u>Impact:</u> In addition to the changes noted above, judges should be aware that at subsequent Rule 11 hearings, there is a new time limitation, as follows: “If the court determines that there is a substantial probability that the defendant will regain competence in the foreseeable future, then the court may renew and may modify the treatment order for no more than an additional 180 days <u>or the time period provided for the defendant’s maximum possible sentence by A.R.S. § 13-4515, whichever is less.</u>”</p>
<p>Rule 1.6(b)(1)(E) R-18-0022</p>	<p>Appellate Superior Justice Municipal</p> <p>Judges Clerks Administrators</p>	<p><u>Summary:</u> Certain rules provide word limits for court filings, which are readily ascertainable for electronically filed documents. But it is difficult to do a word count for handwritten documents. This amendment therefore specifies that the number of pages in handwritten briefs and other filings must not exceed the number of words specified in a rule, divided by 280. Also, a handwritten submission to an appellate court must include an original and one copy.</p> <p><u>Impact:</u> Rule 1.6 is a rule of general application, and it applies to filings in criminal cases at all levels of the court.</p> <p>Note that this rule amendment was adopted on an emergency basis by order dated February 14, 2018. The rule has now been permanently adopted.</p>
<p>Rules 24.3 and 26.12 + Rule 24.1, Rules for Civil Traffic and Civil Boating Violations R-18-0026</p>	<p>Superior Justice Municipal</p> <p>Judges Clerks Administrators</p>	<p><u>Summary:</u> These amendments were proposed by the Court’s Fair Justice for All Task Force. The amendment to Rule 24.3 (“modification of sentence”) adds a new section (b) that permits the court, subject to Rule 39 on victims’ rights, to mitigate a monetary obligation imposed at sentencing. Rule 26.12 deals with the defendant’s compliance with monetary and non-monetary terms of a sentence. The amendments to that rule permit the court to mitigate all or part of a monetary obligation if the defendant’s default on the obligation is not willful and the defendant is unable to pay it. In determining</p>

2018 Rules Summary

		<p>whether to find the defendant in contempt, the amendment excludes from the defendant’s income TANF, SSI, SSDI, and veteran’s disability compensation. The amendment to the traffic rule permits the court to mitigate a monetary obligation as provided by specified Title 28 statutes.</p> <p><u>Impact:</u> These rule changes effectuate policies underlying recent legislation and clarify that courts are permitted to mitigate certain monetary obligations contained in criminal sentences and civil traffic judgments - even after the sentence is pronounced. These changes should enable the courts to deal more effectively with individuals in the justice system who are experiencing serious financial challenges.</p>
<p>Rules 26.11, 29, 30, and 41</p> <p>R-18-0028</p>	<p>Superior Justice Municipal</p> <p>Judges Clerks Administrators</p>	<p><u>Summary:</u> Rules 26.11, 29, and 41 were amended, and Rule 30 was adopted, on an emergency basis effective July 1, 2018, On December 13, 2018, these changes were made permanent effective immediately.</p> <p>The Court’s Fair Justice for All Task Force initially proposed statutory amendments, which subsequently became HB 2312, adopted by Laws 2018, Chapter 83. These amendments primarily impacted A.R.S. § 13-907, which concerns setting aside a judgment of conviction.</p> <p>The amendments to Rule 26.11 requires that the court at the time of sentencing notify the defendant of the right to apply for a set aside of the conviction.</p> <p>The amendments to Rule 29 modified the process for applying for, and entering an order for, a set aside. New Rule 30 separates from former Rule 29 the process for the restoration of civil rights. These rule amendments stemmed from the statutory amendments.</p> <p>In Rule 41 (“forms”):</p> <ul style="list-style-type: none"> - Current Form 21 (an application to restore civil rights and set aside the conviction) is abrogated - Current Form 21(a) (an application for a sex trafficking victim to set aside a conviction for prostitution) is renumbered as Form 21 - A new Form 31(a) is an application to set aside a conviction, which includes the restoration of gun rights

2018 Rules Summary

		<ul style="list-style-type: none"> - A new Form 31(b) is an order regarding the application to set aside the conviction and restore gun rights - A new Form 32(a) is an application to restore civil rights and gun rights - A new Form 32(b) is the order regarding the application to restore civil rights and gun rights <p><u>Impact:</u></p> <p>The sentencing script should now include an advisal of the right to apply for a set aside.</p> <p>Clerks should assure that defendants who apply to set aside a conviction or the restoration of civil rights use the correct form.</p> <p>Rule 29.6 and 30.6 include factors for the court’s consideration of these applications. A hearing on an application, if scheduled, must occur within 120 after the application was filed. A victim has the right to be present and to be heard. On an application to restore civil rights, the applicant must prove by clear and convincing evidence that he or she likely will not act in a manner dangerous to the public’s safety, and that granting the requested relief is not contrary to the public interest. If the court denies an application, it must state its reasons in writing. The clerk must transmit orders to the applicant, the prosecutor, and the Department of Public Safety.</p>
<p>Rules 4.2 and 7.2 R-18-0031</p>	<p>Superior Justice Municipal</p> <p>Judges Clerks Administrators</p>	<p><u>Summary:</u> These rules were amended on an emergency basis effective July 1, 2018, and on December 13, 2018, were adopted on a permanent basis effective immediately.</p> <p>Rule 4.2 concerns the initial appearance. Rule 7.2 concerns the right to release. The amendments to both of these rules deleted references to “a sexual assault.”</p> <p>Article 2, § 22 of the Arizona Constitution provides that defendants charged with sexual assault are not bailable when the proof is evident, or the presumption is great. A pair of court opinions (State v Wein and State v Miller) invalidated the constitutional provision, and these rule amendments implement those opinions.</p>

2018 Rules Summary

		<p><u>Impact:</u> In making determinations at the initial appearance or at other times prior to conviction, the court must apply the same criteria to sexual assault charges as it does to other felony charges, except capital crimes.</p>
<p>Rule 15.3(a) R-18-0035</p> <p><i>This petition was opened for public comments until May 1, 2019.</i></p>	<p>Superior Justice Municipal</p> <p>Judges</p>	<p><u>Summary:</u> This Court entered this Order on an expedited basis on October 24, 2018, at the request of prosecutors who alleged that the recent restyling of this rule changing “those excluded by Rule 39(b)” to “victims” had the unintended consequence of precluding a prosecutor’s deposition of a victim. The Order reverts the language to what existed before restyling, which has the practical effect of permitting the State to depose a victim.</p> <p><u>Impact:</u> Information only.</p>

Rules of the Supreme Court (“SCR”)

Rule	Affects	Summary and Impact
<p>Rule 123 R-17-0043</p>	<p>Appellate Superior Justice Municipal</p> <p>Judges Clerks Administrators</p>	<p><u>Summary:</u> This rule amendment provides that if the court provides remote electronic access to case records for attorneys, it also must provide access to self-represented litigants, although the court may limit that access to records in the self-represented litigant’s own case. Note that the rule reflects the provisions of a recently amended statute. 2017 Ariz. Legis. Serv. Ch. 51 § 1 (West) (amending A.R.S. § 12-284.02(A)).</p> <p><u>Impact:</u> If not already in place, courts should develop a process for providing access to self-represented litigants in these circumstances, including, if necessary and appropriate, a registration process for those litigants.</p>
<p>Rule 28 R-18-0002</p>	<p>Appellate Superior Justice Municipal</p> <p>Judges Clerks Administrators</p>	<p><u>Summary:</u> The amended rule informs the court community and the public about how to file a rule petition, a comment to a petition, and a reply. Changes to this rule include:</p> <ul style="list-style-type: none"> - Restyled text to conform to the restyling regime used in other updated court rules. - Prioritizing electronic filing as the primary means of filing, and emphasis on using the Court Rules Forum.

2018 Rules Summary

		<ul style="list-style-type: none"> - Still allowing paper filing with the Clerk’s office to make participation in the rules process possible for those who do not have internet access. <p><u>Impact:</u> Note the change in the timeline of the annual rules cycle. The date for filing a rule petition remains January 10. The deadline for submitting comments was moved from May 20 to <u>May 1</u>, and the deadline for filing replies to the comments from June 30 to <u>June 1</u>. This schedule should allow the Court sufficient time during the summer months to analyze the petitions and comments while affording the public more than three months to comment on petitions submitted by January 10.</p> <p>Court consideration of petitions under current Rule 28(F) is fixed in September, but the Court has scheduled its annual rules agenda in late August for the last several years. Amended Rule 28(g) accordingly provides for the annual rules agenda to occur in “August or September of each year” to allow for scheduling flexibility. That rule also recognizes that the Court may continue its consideration of a rule petition to a later date.</p>
<p>Rule 123 + Juvenile Rules 19, 47, 75, and 86</p> <p>R-18-0005</p>	<p>Appellate Superior Justice Municipal</p> <p>Judges Clerks Administrators</p>	<p><u>Summary:</u> These amendments give juvenile court parties, participants, the clerk of court, and superior court judges more detail on access to juvenile court matters than is currently available in court rule.</p> <p>Some of the amendments are in Supreme Court Rule 123(d) (“access to case records”). The title of subpart (d)(1) has been changed from “juvenile delinquency proceedings records” to “juvenile records.” This provision now provides, in part:</p> <p>“(A) All records of delinquency and incorrigibility, emancipation, and guardianship under ARS Title 14 proceedings are open to the public to the extent provided for in the Rules of Procedure for the Juvenile Court, the Arizona Rules of Probate Procedure, or by law.</p> <p>“(B) All records of proceedings under Rule 47.3, Rules of Procedure for the Juvenile Court, dependency, guardianship under ARS § 8-871 through 8-874, termination of parental rights, adoption, and other related proceedings are confidential and must be withheld from</p>

2018 Rules Summary

		<p>public inspection unless authorized by law, rule, or court order.”</p> <p>In a Rule 123(g) (“remote electronic access to court records”) subpart concerning the general public, the following deletion was made: “Juvenile dependency and delinquency or other matters brought under ARS Title 8.”</p> <p>Juvenile Rule 19 refers to records “identified” [rather than “marked”] as confidential “by law, rule, or court order.” Rule 47 includes extensive amendments concerning who may inspect juvenile court records without a court order and when a court order is required to access records, based on the role of the individual requesting access. Rules 75 and 86 contain amendments concerning adoption records.</p> <p><u>Impact:</u> Clerks, judges, and court administrators should assure that processes are in place that allow access to records as provided by these rule amendments, and that individuals provide appropriate orders to the clerk, when necessary, before they are given access to those records.</p>
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Arizona Rules of Evidence

Rule	Affects	Summary and Impact
<p>Rule 807</p> <p>R-18-0003</p>	<p>Superior Justice Municipal</p> <p>Judges</p>	<p><u>Summary:</u> Rule 807 is the residual exception to the rule against hearsay. This amendment conforms Arizona’s rule to a change in the federal rule.</p> <p>Four primary concerns prompted the federal rule change. First, the requirement that the court find trustworthiness “equivalent” to the circumstantial guarantees in the Rule 803 and 804 exceptions was difficult to apply, because there is no unitary standard of trustworthiness in the Rule 803 and 804 exceptions. Second, there was no requirement in the former rule that courts consider corroborating evidence. Third, the requirements in Rule 807 that the residual hearsay must be proof of a “material fact” and that admission of residual hearsay be in “the interests of justice” and consistent with the “purpose of the rules” did not serve any helpful purpose. Fourth, the notice requirement in the former rule was problematic and was improved by, among other things, requiring that the notice be in writing.</p>

		<p>The conforming changes to Arizona’s Rule 807 therefore include the following:</p> <ul style="list-style-type: none"> - Adding to the requirements of section (a): <u>“the court determines that it [the residual hearsay statement] is supported by sufficient guarantees of trustworthiness—after considering the totality of circumstances under which it was made and any evidence corroborating the statement;”</u> - Deleting in section (a) provisions that: it is offered as evidence of a material fact, and admitting it will best serve the purposes of these rules and the interests of justice. - Adding to the notice provisions in section (b) that the statement is admissible only if the proponent gives an adverse party reasonable notice of an intent to offer the statement <u>—including its substance and the declarant’s name—</u>so that the party has a fair opportunity to meet it. <u>The notice must be provided in writing before the trial or hearing—or in any form during the trial or hearing if the court, for good cause, excuses a lack of earlier notice.</u> <p><u>Impact:</u> Information only.</p>
<p>Rules 1001, 1002, 1004, 1006, 1007, 1008 + Criminal Rules 15.1, 15.2, 15.3 + Juvenile Rules 16, 44, 73 + RPEA 10</p> <p>R-18-0008</p>	<p>Superior Justice Municipal Judges</p>	<p><u>Summary:</u> A Supreme Court Task Force on digital evidence found that the Arizona Rules of Civil Procedure was the only rule set that expressly addressed disclosure of truly digital evidence. The Task Force therefore did not suggest changes to the Civil Procedure Rules, but it did recommend changes to other procedural rule sets, which the Court adopted.</p> <p><u>Evidence Rules:</u> In addition to the current definitions of “photograph” and “recording,” the Evidence Rules now include a definition of “video” in Rule 1001: “A ‘video’ is an electronic visual medium for the recording, copying, playback, broadcasting, or displaying of moving images, which may or may not contain an audio recording.” “Video” also was added to Rules 1002, 1004, 1006, 1007, and 1008.</p>

2018 Rules Summary

		<p><u>Criminal Rules:</u> The term “electronically stored information” was added to disclosure requirements in Rules 15.1, 15.2, and 15.3. (“Electronically stored information” is the term used in the Civil Rules.)</p> <p><u>Juvenile Rules:</u> The term “electronically stored information” has similarly been added to Juvenile Rules 16, 44, and 73 concerning disclosure and discovery.</p> <p><u>Eviction Rules:</u> Eviction Rule 10 also has a disclosure provision, but these amendments add to that provision the phrase, “including any electronically stored information.”</p> <p><u>Impact:</u> Information only.</p>
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Rules of Family Law Procedure (“FLR”)

Rule	Affects	Summary and Impact
<p>All</p> <p>R-17-0054</p>	<p>Superior</p> <p>Judges</p> <p>Clerks</p> <p>Administrators</p>	<p><u>Summary:</u> The Supreme Court’s Task Force on the Arizona Rules of Family Law Procedure filed this rule petition. The Court’s Order abrogated the existing Rules of Family Law Procedure (colloquially referred to as “ARFLP”) and replaced them with these new family law rules (referred to as “FLR”). The Order retains the current forms, except that Form 6 was abrogated and replaced with a new Form 6 titled “default information for spousal maintenance.”</p> <p>All the rules have been restyled. The 2019 version of the FLR adds informative titles and subheadings, which should make rules and sections easier to locate. To enhance clarity and reflect current usage, some provisions have been abrogated, relocated, consolidated, bifurcated, or presented in a different sequence. The restyled rules attempt to use clearer language, uniform formatting, and consistent terminology.</p> <p><u>Impact:</u> The FLR also includes substantive changes. The substantive changes are too numerous to list in this rules summary. However, a prefatory comment to the FLR, found before Rule 1, provides an overview of many of those changes. Click on the link to R-17-0054 in the column to the left to review the prefatory comment. A recent article in the January 2019 issue of the Arizona</p>

2018 Rules Summary

		Attorney also highlights these changes and provides a link to a comprehensive PowerPoint presentation on those changes. Click here for the January 2019 issue.
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Rules of Procedure for the Juvenile Court

Rule	Affects	Summary and Impact
Rules 19, 47, 75, and 86 R-18-0005	Superior Judges Clerks Administrators	See the discussion of R-18-0005 under the Rules of the Supreme Court above.
Rules 1 and 31 R-18-0029	Superior Judges Clerks Administrators	<p><u>Summary:</u> The Court granted these amendments on an emergency basis on June 8, 2018. They have now been adopted in final form. These amendments modify rules to mirror changes made by Laws 2018, Chap. 301, HB 2356. HB 2356 provides that, on notice by the State, a juvenile court must retain jurisdiction over a person who is at least 17 years old, and who has been adjudicated delinquent, until the person turns 19, unless the court terminates its jurisdiction earlier, the person is discharged earlier by the Department of Juvenile Corrections, the juvenile is charged as an adult with an offense described in A.R.S. § 13-501, or for other specified reasons. The pertinent statute is A.R.S. § 8-202(H).</p> <p><u>Impact:</u> The State may file a notice of intent to retain jurisdiction for specified juvenile proceedings. The court's case management system will need to accommodate these notices, which will extend the court's jurisdiction in those cases until the juvenile's nineteenth birthday.</p>
Rule 47.3 R-18-0030	Superior Judges Clerks Administrators	<p><u>Summary:</u> Rule 47.3 concerns court authorized removal of a child. On June 8, 2018, the Court adopted amendments to Rule 47.3 on an emergency basis effective July 1, 2018. After a comment period, the amendments have been adopted in final form. These amendments implement changes to A.R.S. § 8-821 enacted by Laws 2018, Chapter 191, SB 1395. These rule amendments:</p> <ul style="list-style-type: none"> - In various sections, delete the phrase "ex parte;"

2018 Rules Summary

		<ul style="list-style-type: none"> - In section (B), change the applicant’s burden of proof from “reasonable grounds” to “probable cause;” - In section (C), allow the judicial officer reviewing the application to consider information, including oral information, other than the application, but the information must be in writing or be by a recorded oral statement that is made under oath <p><u>Impact:</u> The court order must state whether there is probable cause (rather than reasonable grounds) to believe that “authorization of temporary custody” is necessary (rather than to be believe “ex parte temporary custody” is necessary.) A similar change is made regarding an order for an Indian child. A provision that requires the applicant to provide a copy of the application and order to a parent or custodian may be excused if disclosure of the documents would cause harm or violate other provisions of state or federal law.</p>
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Rules of Probate Procedure

Rule	Affects	Summary and Impact
<p>Rule 28.1</p> <p>R-18-0039</p> <p><i>This petition has been opened for comments, which are due by May 1, 2019.</i></p>	<p>Superior</p> <p>Judges</p> <p>Clerks</p> <p>Administrators</p>	<p><u>Summary:</u> At its August 2018 Rules Agenda, the Court entered Rules Order No. R-18-0018 and modified Civil Rule 38(b). [See the summary of R-18-0018 under the Civil Rules.] The modified rule, which became effective on January 1, 2019, replaced the current title, “demand,” with the new title of “waiver,” and provided that parties are deemed to have waived a right to trial by jury “only if they affirmatively waive that right.” However, many individuals who are the subject of guardianship and conservatorship proceedings lack the capacity to knowingly and intelligently waive that right.</p> <p>Rather than waive a jury trial, as new Civil Procedure Rule 38(b) would require, Probate Rule 28.1 requires a party to a guardianship petition — and a party to a conservatorship petition, to the extent the right to a jury exists — to affirmatively demand a jury trial. In the absence of a demand, the alleged incapacitated person would have a trial to the court.</p>

2018 Rules Summary

		<p>The Court adopted this rule on an emergency basis, effective January 1, 2019. It is open for comments until May 1, 2019.</p> <p><u>Impact:</u> A party in a guardianship or conservatorship proceeding must make a timely demand – i.e., within 30 days after the initial hearing on a petition - to preserve any right the party might have to a jury trial.</p>
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Rules of Procedure for Eviction Actions (“RPEA”)

Rule	Affects	Summary and Impact
<p>Rules 5 and 13</p> <p>R-18-0020</p>	<p>Superior Justice</p> <p>Judges Clerks Administrators</p>	<p><u>Summary:</u> Under the housing voucher program, which affects tens of thousands of Arizona tenants, a tenant is not obliged to the pay the public entity’s portion of the rent. The tenant therefore should not be sued for the subsidized portion of unpaid rent.</p> <p>The amendments to RPEA 5 concern the complaint: first, the complaint must “state that the action involves a subsidized rental property if the action involves a subsidized rental property;” and second, “if the rental is a subsidized housing unit, the landlord must state the total amount of the rent per month, the tenant’s portion of the monthly rent and the total amount of the tenant’s portion of the rent that the tenant owes.”</p> <p>The amendment to Rule 13 concerns the entry of judgment. It requires the court, “if the court determines that the rental property is subsidized, [to] determine whether there is unpaid rent that the tenant is obligated to pay as the tenant’s portion of the rent.”</p> <p><u>Impact:</u> These amendments should preclude a landlord from obtaining possession of a unit if a tenant has met his or her obligations to pay their portion of the rent. The tenant should not be adversely affected by the housing program’s failure to pay its apportionment of the subsidized rent.</p>

2018 Rules Summary

Miscellaneous Rules

Rule	Affects	Summary and Impact
JCRCP Rule 113(i) R-17-0033	Justice Judges Clerks Administrators	<u>Summary:</u> This amendment conforms JCRCP 113(i) to Civil Rule 4(i) and allows the court to dismiss a complaint as to any defendant who has not been served with the summons and complaint within ninety (90) days after the filing date of the complaint. The time period was previously 120 days. <u>Impact:</u> Justice court administrative processes should reflect the shortened time for dismissing a complaint that has not been served.
JRAD Rule 13 R-18-0011	Appellate Superior Judges Clerks Administrators	<u>Summary:</u> This amendment clarifies that an appeal from a decision of the Superior Court in an administrative appeal should be to the Arizona Court of Appeals in the first instance rather than to the Arizona Supreme Court. <u>Impact:</u> Information only.

Rule Petitions That Were Continued

Petition Number and Rule	Summary
Supreme Court Rule 31(d) R-18-0004	The petition asks the Court to simplify and reorganize the provisions of Rule 31(d) [exemptions concerning the authority to practice law], and to expand the circumstances when privately held corporations could represent themselves in court proceedings. See further Supreme Court Administrative Order No. 2018-111 , which established a Task Force on the Delivery of Legal Services. One of the goals of the Task Force is restyling and revising Rule 31(d).

Rule Petitions That Were Denied

Petition Number and Rule	Summary
Supreme Court Rule 30 R-18-0010	This petition requested an amendment to Supreme Court Rule 30 that would have given courts the discretion to deny requests for certified reporters in proceedings where a certified reporter was not mandatory under a statute or rule, and there was not a certified reporter available.
Civil Rules 11 and 26(b)(2)(D) R-17-0050	The petition contended that amendments to Rules 11 and 26 unanimously recommended by the Court’s Committee on Civil Justice Reform in rule petition number R-17-0010, and which received little opposition during the comment period, were improvidently omitted from the Court’s Order adopting the Committee’s proposed rules.
Criminal Rule 7 R-17-0037	A recent Rules Order (R-16-0041) amended the bond provisions of Rule 7. This petition sought to repeal or modify those previous amendments.
Criminal Rule 39 R-18-0001	The petition requested “a comprehensive approach to victims’ rights” and “full integration into the rules in a way that instructs trial courts and attorneys what the Victims’ Bill of Rights mandates in each situation.” The petition proposed to abrogate Criminal Rule 39 and to instead relocate enumerated rights within other rules.
Family Law Rule 65(A)(2)(b) R-18-0019	The petition would have applied sanctions available for other discovery and disclosure deficiencies to the failure to appear for a properly noticed deposition and a failure to respond to a Request for Production of Documents.
Family Law Rule 95 R-18-0023	The petition proposed the abrogation of portions of Rule 95 to align that rule with Rules 72 and 74 concerning masters and parenting coordinators.