

Memo

To: Iowa Supreme Court, Rules Committee
From: Ed Cook, Legislative Service Bureau
Date: July 10, 1995
Re: Reformatting the Iowa Court Rules

I. Overview

This memo is intended to provide a brief overview of a proposal from the Legislative Service Bureau (LSB) to reformat the Iowa Court Rules. Pursuant to Iowa Code sections 2B.5 and 602.4202, the Legislative Service Bureau is given the authority to publish the Iowa Court Rules and to make suggestions to the Supreme Court on the proper style and format of some of the court rules. The intent of the proposal is to try to reorganize and renumber the rules in a more consistent, reader-friendly, and computer-friendly, format while not changing the substance of the rules.

II. Current Organization and Format of the Rules - Why change?

The initial question in any discussion about changing the format of the rules is why should they be changed and for what reasons. Some of the concerns about the format of the rules came about when LSB agreed to place the court rules on CD-ROM along with other selected portions of the Iowa Administrative Code. Because of the current format of the court rules, converting them to computer disc took significantly longer and caused many more problems than did converting the administrative rules and the Iowa Code to a disc.

The most frequent concern raised deals with the inconsistent numbering system used throughout the rules. Some of the rules refer to Rules 1, 2, etc., some use Court Rule 101, 102, 103.1, etc., some use section 1, 2. In addition the subparts of the rules are identified differently depending on the category with the first subpart of a rule sometimes formatted as an a., A., or 1. Another concern with the numbering is that it does not allow for an easy numerical reference for all the rules since there is no numerical identifier indicating whether any particular Rule 1 is a probate procedure rule or a grievance commission rule, for example. This inconsistency with the numbering makes it very difficult to take the rules and reformat them electronically in any uniform manner.

Other concerns raised deal with the inconsistent spacing and indentation patterns of the rules and the lack of a subject matter oriented organization of the rules.

III. Proposal to Reformat the Rules

The proposal to reformat the rules is based, primarily, on the system used for the Iowa Administrative Code. The current rules would be reorganized under 5 broad categories with each current grouping of rules or guidelines given a chapter number under the broad categories. The following is an abbreviated look at a possible table of contents for the reformatted rules. Please don't hesitate to consider whether the various chapters are appropriately placed or whether there needs to be more, fewer, or different category headings.

APPELLATE COURT OPERATION (10)

Chapter 1. Rules of Appellate Procedure
Chapter 2. Supreme Court Rules

01

PRACTICE OF LAW (20)

Chapter 1. Rules of Civil Procedure
Chapter 2. Rules of Criminal Procedure

02

- Chapter 3. Rules of Evidence
- Chapter 4. Rules of Probate Procedure (Supreme Court Probate Rules)
- Chapter 5. Juvenile Procedure
- Chapter 6. Time Standards for Case Processing — *just admin*
- Chapter 7. Small claims
- Chapter 8. Guidelines for Child Support
- Chapter 9. Lawyer Mediators in Family Disputes
- Chapter 10. Involuntary Hospitalization of Mentally Ill
- Chapter 11. Involuntary Commitment or Treatment of Substance Abusers
- Chapter 12. Interpreters for Deaf and Hard of Hearing Persons

JUDICIAL QUALIFICATIONS AND CONDUCT (30) 03

- Chapter 1. Code of Judicial Conduct
- Chapter 2. Judicial Qualification Rules

BAR RULES (40) 04

- Chapter 1. Admission to the Bar
- Chapter 2. Iowa Code of Professional Responsibility for Lawyers
- Chapter 3. Rules of procedure of the Iowa Supreme Court Board of Professional Ethics and Conduct
- Chapter 4. Grievance Commission - complaint procedure
- Chapter 5. Grievance Commission Rules
- Chapter 6. Unauthorized Practice Commission
- Chapter 7. Rules of Procedure of the Commission on the Unauthorized Practice of Law
- Chapter 8. Client Security
- Chapter 9. Regulations of the client security and attorney disciplinary commission.
- Chapter 10. Continuing Legal Education
- Chapter 11. Regulations of the Commission on Continuing Legal Education.

JUDICIAL ADMINISTRATION (50) 05

- Chapter 1. Judicial Administration
- Chapter 2. Guidelines - Costs of Court-Appointed Counsel
- Chapter 3. Lawyer Trust Account Commission
- Chapter 4. Shorthand Reporters
- Chapter 5. Iowa Court Information System
- Chapter 6. Transition rules re court reorganization

Within each chapter, the rules or guidelines would be numbered consistent with the format used for the Iowa Administrative Code. Thus, for example, Court Rule 2 of the Supreme Court Rules would be referred to as follows: 10 ICR 2.2. This would identify it as an Iowa Court Rule, ICR, within the category for Appellate Court Operation, 10, under chapter 2 of Appellate Court Operation, Supreme Court Rules, and as the second rule of that chapter. A subrule of the rule would be identified by a number inside parens, (1), and a further paragraph under the subrule would be referred to as a lower case letter, a., for example. Current Court Rule 9 "a" (1) of the Supreme Court Rules would then be renumbered, relettered, and referred to as follows: 10 ICR 2.9 (1) "a".

An alternative numbering scheme which you might want to consider would be a scheme more like chapter 602 of the Iowa Code. That numbering scheme is more intricate and includes articles and parts and more distinctive numbering for each unit. Regardless of the scheme used, the key is to establish a uniform approach to apply to the rules.

Ideally, all the Iowa court rules could be renumbered and relettered along a consistent new format. However, we realize that some of the rules, especially the ethics rules and potentially the rules of evidence, civil procedure, and criminal procedure, may not be amenable to such a change since there is some significance to the current numbering or lettering scheme of these rules. Still, we believe reorganizing and reformatting most of the rules would be a significant improvement over the current organization and format of the rules.

IV. Other Considerations

The following is a list of other possible changes to the rules:

1. Eliminate, reduce the number of, or update the transitional rules regarding court reorganization. Currently, the rules cite to several out-of-date Iowa code sections and it appears unclear why some of these rules need to be kept since court reorganization occurred over 10 years ago.
2. Consider eliminating court rule 119 as a separate and distinct rule. This court rule provides that the court has separately adopted the code of judicial conduct and the code of professional ethics for lawyers. The substance of this rule could be noted as a footnote to both the code of judicial conduct and lawyer's ethics code instead of as a separate rule. Since court rule 119 refers to different ethics codes, it is somewhat difficult to decide where to place the rule.
3. Consider moving court rule 120, concerning permitted practice by law students, and court rule 120.1, concerning domestic violence victim counselors. These court rules are currently located under the judicial conduct tab of the current rules and they both appear to relate more to what constitutes the unauthorized practice of law. With the proposed new format, these rules could be included within chapter 6 of the Bar Rules concerning the Unauthorized Practice Commission.
4. Consider eliminating court rule 121 and 123. (but still keep court rules 121.1, .2 etc. and 123.1, .2 etc. but renumbered using the new format) Both of these court rules are primarily headings to the rules that follow. By using chapter references under the proposed new format, a specific rule that provides just a title is unnecessary.
5. Eliminate the following lead-in sentence to the rules of the grievance commission. "The following shall be the rules of the grievance commission of the supreme court of Iowa:" This lead-in appears unnecessary given the fact that the title of this chapter already states this.
6. Identify and number the forms. It may be helpful to identify each form as a separate rule or subrule with a short identifying phrase for that form.
7. Consider adopting a uniform spacing and indentation format that would apply to all the rules, even to those rules where the numbering remains unchanged from the current format.

V. What can the Legislative Service Bureau do to help?

Clearly the proposal presented will require that the current court rules be completely redone. However, as part of our mission to publish the Iowa Court Rules, we are willing to provide you with any assistance you need to reformat and renumber the current rules as you desire, and to perform any necessary editing and proofreading services prior to final publication of the new Iowa Court Rules.