

Memorandum

To: Iowa Supreme Court Rules Committee
From: Ed Cook, Legislative Service Bureau
Date: 9/2/97
Subject: Iowa Court Rules renumbering project - update

I. General Overview.

Significant progress has been made this summer in preparing a more complete version of the renumbered and reformatted court rules for your consideration. The version being worked on is based on the court rules as updated through July 1997. The format of the new version and suggested table of contents is almost identical to that presented to you in notebook form last year. Still, changes have been made to the initial version of the renumbered court rules to try to improve the final product. It is my intention to try and complete a final version of the suggested changes soon. This final version would include, if possible, the Civil Procedure rules with the amendments currently under consideration by the court.

In working on the project, though, several issues arose beyond merely a question of how to renumber or reformat the rules. This memo seeks to identify some of these issues for your consideration at the same time when you are deciding whether to adopt the more routine renumbering and reformatting changes recommended.

II. Table of contents

In working on the reformatted rules, it became clear that something needed to be done to try to provide some consistent method to give users of the rules a way to pinpoint a specific rule within a chapter. Currently, some rules have a table of contents, an index, a table of contents and an index, or neither a table of contents nor an index. In addition, some of the current indexes refer to rules that now are placed in several different rule chapters. As such, creating an index for each new rule chapter would be practically impossible since the Administrative Code office has neither the time nor the indexing expertise to undertake such a massive project. Our recommendation, then, would be to create a table of contents for each rule chapter with reference to each separate rule within that chapter and to eliminate the indexes.

III. Prefatory references to the rules.

Another issue concerns developing some consistent pattern concerning the use of a prefatory phrase to the actual rule number referred to within the text of the rules and in the

footnotes to the rules. (Such as Rule 2.14, Rule of Criminal Procedure 2.14, R.C.P 2.14)

The following are possible options in creating a consistent approach in making references to other rules. (Major practice rules refers to the Rules of civil procedure, criminal procedure, evidence, and appellate procedure)

No distinction between major practice and other rules.

Option 1. Text and footnotes: Refer to all rules only by their unique number without a prefatory phrase. (This is the general scheme used in the Iowa Administrative Code.)

Option 2. Text: Refer to all rules as Rule 21.3

Footnotes: Refer to all rules as Ct.R. 21.3

Distinction between major practice and other rules.

Option 3. Text:

Major practice Rules

Civil Procedure Rule 1.201

Criminal Procedure Rule 2.14

Evidence Rule 3.401

Appellate Procedure Rule 4.451

Other Rules:

Rule 29.4 OR 29.4 OR Ct.R. 29.4

Footnotes:

Major practice Rules

Civ.P.R. 1.201

Crim.P.R. 2.14

Evid.R. 3.401

App.P.R. 4.451

Other Rules:

Ct.R. 29.4 OR 29.4 OR Rule 29.4

Option 4. Text:

Major practice Rules

Rule of Civil Procedure 1.201

Rule of Criminal Procedure 2.14

Rule of Evidence 3.401

Rule of Appellate Procedure 4.451

Other Rules:

Rule 29.4 OR 29.4 OR Ct.R. 29.4

Footnotes:

Major practice Rules

R.C.P. 1.201

R.Cr.P. 2.14

Evid.R. 3.401

R.App.P. 4.451

Other Rules:

Ct.R. 29.4 OR 29.4 OR Rule 29.4

Option 5:

Use abbreviations for both text and footnotes.

Clearly, these are not the only options (for instance, the evidence rules could contain some reference to "Iowa") but the options represent the primary methods of resolving the issue.

IV. Gender neutrality

One of the more significant changes made in the new version not specifically based on formatting or renumbering is the elimination of gender references in the rules. (Appropriate gender specific references were left, such as in the rules governing parental notification of abortion.) Although gender specific language exists in several rules chapters, the problem is most prevalent in the major practice rules. In most cases, I have tried to select the most appropriate gender neutral reference as a replacement. In one instance, however, the most appropriate replacement was not clear. In both the rules of civil procedure and criminal procedure, reference is made to the jury "foreman." Some jurisdictions have replaced this term with "head juror", while others have used "jury supervisor" or "foreperson." After consultation with several individuals in our office and the Administrative Code Office, our recommendation would be to use "head juror" but we felt that the decision should be left to you.

V. Miscellaneous

ICIS chapter:

It might make some sense to consider moving the rules governing the Iowa court information system from their own separate chapter and to include them within either the chapter on judicial administration or some other chapter. The only major substance in the ICIS chapter governs the use of a personal identification number as well as a list of operational counties as of September 1991. Unless some additional rules governing ICIS are being considered, the rule is now so short that it could easily be absorbed in another rule chapter. I have currently kept ICIS as a separate rule chapter but would strongly suggest your consideration in adding it to another already existing chapter.

History:

The recommendation would be to delete the old historical references in the current rules and to only add new historical references to the new edition of the rules based on the effective date of any amendment to any particular rule after the publication of the new edition.

Transition rules:

For purposes of this version, I have eliminated the transition rules.

Examples:

In order to give you a better idea of how the project is progressing, I have attached a copy of the renumbered rules of

evidence as well as selected portions of the chapters on client security and judicial administration. The renumbered rules of evidence contain several changes based on attempting to eliminate gender specific references which should be examined closely to ensure that I have selected the most appropriate replacement word. The other attached rules highlight the most significant reconfiguring of the current rules I have done. In both cases, I have attempted to reorder and reconfigure current court rule 121.3, governing the client security trust fund, and current court rule 203.1, governing preaudit claims of the judiciary, into a more understandable form. No other rules throughout the Iowa court rules were reordered as significantly as these two examples and clearly my modification is merely a suggestion and not the only way to do it.

TABLE OF CONTENTS - PROPOSED FORMAT (P)

(Citation format: Rule or ICR 42.1(1) for the first subrule under the first rule under Supreme Court Rules.)

PRACTICE OF LAW

- Chapter 1. Rules of Civil Procedure
- Chapter 2. Rules of Criminal Procedure
- Chapter 3. Rules of Evidence
- Chapter 4. Rules of Appellate Procedure
- Chapter 5. Rules of Probate Procedure (Supreme Court Probate Rules)
- Chapter 6. Juvenile Procedure
- 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

BAR RULES

- Chapter 21. Admission to the Bar
- Chapter 22. Iowa Code of Professional Responsibility for Lawyers
- Chapter 23. Standards for professional conduct (NEW)
- Chapter 24. Rules of procedure of the Iowa Supreme Court Board of Professional Ethics and Conduct
- Chapter 25. Grievance Commission - complaint procedure
- Chapter 26. Grievance Commission Rules
- Chapter 27. Unauthorized Practice Commission
- Chapter 28. Rules of Procedure of the Commission on the Unauthorized Practice of Law
- Chapter 29. Client Security
- Chapter 30. Regulations of the client security and attorney disciplinary commission.
- Chapter 31. Continuing Legal Education
- Chapter 32. Regulations of the Commission on Continuing Legal Education.

JUDICIAL ADMINISTRATION

- Chapter 41. Judicial Administration
- Chapter 42. Supreme Court Rules
- Chapter 43. Time Standards for Case Processing
- Chapter 44. Guidelines - Costs of Court-Appointed Counsel
- Chapter 45. Lawyer Trust Account Commission
- Chapter 46. Lawyer Trust Account Commission -- grant criteria and procedures
- Chapter 47. Shorthand Reporters
- Chapter 48. Iowa Court Information System
- Chapter 49. Transition rules re court reorganization

JUDICIAL QUALIFICATIONS AND CONDUCT

Chapter 61. Code of Judicial Conduct

Chapter 62. Judicial Qualification Rules

Chapter 63. Rules for Expanded Media Coverage