

THE SUPREME COURT OF THE STATE OF ALASKA
ORDER NO. 630

Adopting Administrative
Rule 42 - Rulemaking;
Rescinding Administrative
Rule 39.5 - Standing
Advisory Committee on
Rules

IT IS ORDERED:

Administrative Rule 39.5 concerning the Standing Advisory Committee on Rules is rescinded.

Administrative Rule 42 concerning Rulemaking is added and adopted to read as follows:

Rule 42. Rulemaking.

- (a) Uniform Policy. The supreme court shall make and promulgate rules governing administration of all courts, and practice and procedure in civil and criminal cases in all courts. The rules shall be uniform throughout the Alaska Court System.
- (b) Request for Rulemaking. Any person may propose new rules or changes in present rules to the supreme court. Each proposal must:
- 1) Be in writing;
 - 2) Include the language proposed for change;
 - 3) Include the reason for the suggested rule or change;
 - 4) Be submitted to the court rules attorney at the Anchorage Office of the Administrative Director of Courts.

The court rules attorney shall review each proposal. If the proposal is unclear or in need of further documentation, the rules attorney shall contact the person submitting the proposal and seek clarification.

- (c) Preliminary Analysis. The rules attorney shall then prepare a preliminary legal analysis of each proposal. This shall include an examination of the present Alaska rule including adoption and amendment history, as well as a comparison with the federal rule where appropriate.
- (d) Meritless Proposal. In the unusual case where no further consideration seems merited, the rules attorney shall forward such opinion and the reason for it along with all pertinent supporting information to the chief justice. If the chief justice concurs, a letter shall be sent by the rules attorney to the person submitting the proposal stating the reason it was not accepted.
- (e) Notice. In all other cases notice that a rule is being considered for change, including the nature of the proposed change, shall be published in the Monthly Activity Report of the appellate courts.
- (f) Major or Minor Change. The rules attorney shall determine whether a proposal is a major or minor rule change. All proposals for new rules and all proposals affecting substantial rights of litigants are major. Minor rules changes are those which are technical in nature.
- (g) Minor Change. Minor rules change proposals shall be submitted to the supreme court along with the preliminary legal analysis and appropriate orders in both signature and legislative form. The chief justice shall calendar a review of the proposal at an appropriate law conference. Following review, the supreme court may adopt or reject the

proposal, or refer it to a standing or advisory committee to be treated as a major rules change.

- (h) Major Change. Major rules change proposals shall be referred by the rules attorney to the appropriate standing or advisory committee. The committee shall review the proposal, determine if a draft should be circulated to the bar or other interested persons for comment, and prepare a written recommendation supporting or opposing the change. If no circulation was made, the reason for this decision shall be stated in the recommendation. Where appropriate, the recommendation shall also include proposed orders in signature and legislative form, as well as advisory notes suitable for publication stating the rationale for the rule change. All committee written recommendations shall be forwarded to the supreme court. The chief justice shall calendar a review of the recommendation at an appropriate administrative conference. Following review, the supreme court may adopt or reject the proposal in whole or in part, or refer the proposal to the same or a different committee for further study or additional circulation.
- (i) Public Information. The original proposal, preliminary legal analysis, circulation material, proposed order and advisory notes shall be made available to the public upon request. Committee minutes, reporter's notes, and other preparatory drafts or memoranda shall not be made public.
- (j) Standing and Advisory Committees. Standing committees shall be established to review Civil Rules, Criminal Rules and Appellate Rules. The administrative senior staff shall act as the standing committee to review Administrative Rules. Advisory committees shall be appointed as needed to review all other rules. All committees shall receive major rules change proposals from the rules attorney or the supreme court. In addition, the standing committees shall carry on a continuous study of the operation and effect of the rules of procedure and administration. When specific proposals for change initiate in a committee, notice that the proposal is being considered must be published in the Monthly Activity Report under subsection (e) of this rule. Changes to those rules found by the committees to promote: 1) Simplicity in procedure; 2) Fairness in administration; 3) The just determination of litigation; and 4) The elimination of unjustifiable expense and delay, shall be periodically recommended to the supreme court for its consideration.
- (k) Appointment. The supreme court shall appoint such members of the judiciary, Alaska Bar Association, and other qualified persons to the committees as it deems advisable. Nominees shall be considered from any source, but solicitation for nominee recommendations shall also be made to the board of governors of the state bar association and the statewide court clerks conference. Where possible, terms of the committee members will be staggered to preserve committee continuity. The members of the committees shall serve without compensation. However, with prior approval the members may be reimbursed for per diem and travel expenses incident to their duties as members of the committees.
- (l) Emergency Rule Action. Whenever the supreme court determines that an emergency exists requiring the immediate promulgation of a procedural or administrative rule, the court may take any action required by the circumstances. The court shall follow all of the requirements of this rule consistent with meeting the nature of the emergency circumstances.
- (m) Effective Date. The effective date for each rule change order shall be stated in the order. Normally, the effective date shall be the same as the publisher's distribution date, in order to provide adequate notice to those affected by the rule change. Where this is not possible, the effective date shall be set as determined by the supreme court. When this occurs, the supreme court shall determine what

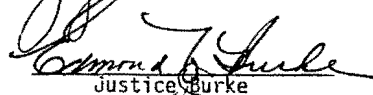
additional notice, if any, shall be provided to those affected by the rule change. Adoption or rejection of a rules change proposal shall be published in the Monthly Activity Report.

- (n) Rule Application. All rules and orders in effect on the date of the adoption of this rule remain in effect.

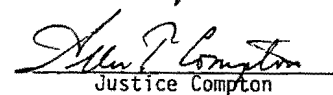
DATED: May 30, 1985

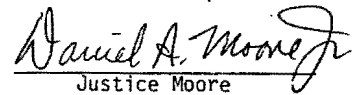
EFFECTIVE DATE: September 15, 1985


Chief Justice Rabinowitz


Justice Burke


Justice Matthews


Justice Compton


Justice Moore