

MEMORANDUM ON EFFECTIVE DATE OF DECREES

To: Carolyn Kegler, Secretary, Advisory Committee on Rules
From: Attorneys Joshua Gordon & Honey Hastings
Date: September 15, 2015

I. Explanation of Changes Following Rules Committee Meeting

Following the Rules Committee meeting on September 11, 2015, we made several suggested changes to the proposed rule 2.29.

In § B.4, we added alimony and support to those orders taking immediate effect.

We re-worded § B.5. to make clear the court has discretion to order immediate effectiveness of orders concerning children or safety.

We deleted former § D regarding temporary orders.

In the now-lettered § D, we added “other than those described in section B” to make clear what occurs if a party files a post-decision motion, and in the final clause also made clear that the court has discretion to adjust the effective date.

In the now-lettered § E, we made a substantive change adding “all orders described in section B.” This ensures that the list in § B remains in effect during an appeal. We also added “property division” to those orders which do not take effect until the end of the case.

II. Proposed Amendments to Family Court Rule 2.29

Replace the existing section B with the following and re-letter the existing sections C and D as sections F and G:

B. In contested cases or upon the default of either party, the following orders are effective upon announcement of the decision by the court either orally or by the clerk's notice of decision, whichever occurs first, unless the court specifies another effective date:

1. Temporary orders;
2. Parenting plans;
3. Uniform support orders;
4. Orders for alimony or other on-going support; and
5. Provisions concerning the welfare of a child or the safety of a party, at the discretion of the court.

C. In contested cases or upon the default of either party, all orders other than those described in section B are effective on the 31st day from the date of the clerk's notice of decision unless the order specifies another effective date, a party files a timely post-decision motion (see Supreme Court Rule 7(1) (c)), or a party files an appeal.

D. If any party files a timely post-decision motion, but no appeal is filed, all orders other than those described in section B are effective on the 31st day from the date of the clerk's notice of decision on the motion or another date at the discretion of the court.

E. If any party files an appeal, all orders described in section B shall continue in effect until the supreme court mandate or the conclusion of such further proceedings as the supreme court may order. During this period, no orders as to marital or parental status or as to property division shall take effect.

III. Further Proposed Amendments to Family Court Rule 2.29

In addition, regarding Family Court Rule 2.29.A and the now-lettered Rule 2.29.D (in the amended version it will be re-lettered 2.29.G) replace the word “final” with “effective” every time it appears. Thus, the revised sections will read:

2.29 Effective Dates:

A. Uncontested Matters. Decrees in uncontested cases where the parties have filed a permanent agreement shall become ~~final~~ [effective] on the date signed by the judge pursuant to RSA 490-D:9, unless otherwise specified by the Court.

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€. F. Inactive Cases. All domestic relations cases which have been placed on hold by request of the parties shall be dismissed after six (6) months unless there is a request by a party to reactivate the case, or a request for a further extension for good cause. [No changes to this rule, but is re-lettered.]

Ð. G. Once a decree becomes ~~final~~ [effective], any further request for relief must be by petition, accompanied by a filing fee and a personal data sheet, with notice given to the other party, as set forth in Family Division Rule 2.4. Prior to a decree becoming ~~final~~ [effective], no filing fee is required, and notice may be provided by regular US mail.