

THE STATE OF NEW HAMPSHIRE  
SUPREME COURT OF NEW HAMPSHIRE

ORDER

R-2018-0003, In re August 1, 2018 Report of the Advisory Committee on Rules

The New Hampshire Supreme Court Advisory Committee on Rules (committee) has reported a number of proposed rule amendments to the New Hampshire Supreme Court with a recommendation that they be adopted. On or before **October 1, 2018**, members of the bench, bar, legislature, executive branch or public may file with the clerk of the supreme court comments on any of the proposed rule amendments. An original and one copy of all comments shall be filed. Comments may also be emailed to the court at:

[rulescomment@courts.state.nh.us](mailto:rulescomment@courts.state.nh.us)

To see the language of the proposed rules changes and background regarding the proposals, please see the August 1, 2018 Advisory Committee on Rules Report, which is available at

<http://www.courts.state.nh.us/committees/adviscommrules/reports/index.htm>

[m](http://www.courts.state.nh.us/committees/adviscommrules/reports/index.htm). Copies of the August 1, 2018 Advisory Committee on Rules Report are also available upon request to the clerk of the supreme court at the N.H. Supreme Court Building, 1 Charles Doe Drive, Concord, New Hampshire 03301 (Tel. 603-271-2646).

The current rules of the New Hampshire state courts are available on the Internet at:

<http://www.courts.state.nh.us/rules/index.htm>

The Court is requesting comment on the recommendations made in the following sections of the Advisory Committee on Rules August 1 Report:

**II. Supreme Court Rule 41. Limited Liability Entities.**

2017-007. This proposed amendment would delete Supreme Court Rule 41.

The language of the proposed rule change is set forth in Appendix B of the August 1, 2018 Advisory Committee on Rules Report.

**IV. Superior Court Rule 12(g). Motions for Summary Judgment.**

2016-013. This proposed amendment would delete and replace Superior Court Rule 12(g). The proposed amendment would require both sides in the context of a motion for summary judgment to submit a single document identifying any undisputed facts and any disputed facts. The purpose of the proposed amendment is to make it easier for the judge to determine what facts are in dispute and what are not.

The language of the proposed rule change is set forth in Appendix F of the August 1, 2018 Advisory Committee on Rules Report.

**V. Superior Court Rule 36. Standing Trial Orders.**

2017-013. This proposed amendment would clearly establish when a party is required to notify the opposing party that he or she intends to subpoena the opposing party's lawyer as a witness.

The language of the proposed rule change is set forth in Appendix G of the August 1, 2018 Advisory Committee on Rules Report.

**VI. Superior Court (Civ.) Rules. Motions to Seal.**

2016-006. These proposed rules would amend trial court rules to delineate the procedure for the filing of case records which contain confidential information or are confidential in their entirety and to provide the procedure for seeking access to case records that have been determined to be confidential.

The language of the proposed rules is set forth in Appendix H of the August 1, 2018 Advisory Committee on Rules Report.

**VII. Superior Court (Civ.) Rules. Appeals – Municipal Actions.**

2017-007. This proposed rule would require a party who submits, in an appeal to the superior court from a state or local municipal body, an audio or video recording of the proceedings below, to provide the court with a transcript of the relevant portion of the proceedings.

The language of the proposed rule is set forth in Appendix I of the August 1, 2018 Advisory Committee on Rules Report.

**VIII. New Hampshire Rule of Evidence 404(b).**

2017-011. This proposed amendment would codify the three-part test adopted by the New Hampshire Supreme Court for admitting evidence under Rule 404(b) (“Other Crimes, Wrongs or Acts”), but would change the second prong of the test. The second prong currently requires “clear proof” that the person committed the other crime, wrong or act. This proposed amendment would change the second prong to further define what the “clear proof” prong means.

The language of the proposed rule change is set forth in Appendix J of the August 1, 2018 Advisory Committee on Rules Report.

The Committee has not recommended that the Court adopt the proposed rules and rule amendment set forth in Sections I (“Identification of Crime Victims”) and III (“*In Camera* Review of Documents”) of the August 1 Report. The Court is therefore not requesting comment on those proposals.

Date: August 15, 2018

ATTEST:



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Eileen Fox, Clerk  
Supreme Court of New Hampshire