

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA**

IN THE MATTER OF AMENDING LOCAL
RULE 4.1

ADMINISTRATIVE ORDER
No. 2021-006

On May 8, 2020, the Supreme Court issued an Administrative Order regarding court operations during the public health emergency. In order to ensure adequate judicial resources, the Administrative Order suspended any procedural rule which allowed litigants a change of judge as a matter of right. This order was reaffirmed in subsequent Administrative Orders regarding court operations during the public health emergency, most recently in Supreme Court Administrative Order 2020-197 issued on December 3, 2020.

In these same series of Administrative Orders, including Administrative Order 2020-197, the Supreme Court has authorized the presiding superior court judge of each county to adopt or suspend any local rule as needed to address the public health emergency.

In criminal cases, Rule 16.4(d) of the Rules of Criminal Procedure allows for the dismissal of a prosecution without prejudice to commencing another prosecution. A consequence of a dismissal and then subsequent refile of a criminal case is that it allows the rules regarding change of judge to be circumvented. Once a case is dismissed, a new filing is assigned a new case number and then randomly assigned to a new judge. In order to prevent this from happening, judicial officers of the Superior Court have proposed an amendment to Rule 4.1 of the Local Rules of Practice in Maricopa County Superior Court. The amendment would require any new or amended direct complaint, information, or indictment in a prosecution that is pending at the time of the filing to be filed under an existing case number. If the prosecution of a case has previously been dismissed, a new or amended direct complaint, information, or indictment shall, if possible, be assigned to the same judicial officer as the previous prosecution.

Having been approved by a vote of the majority of judges of the Superior Court,
IT IS THEREFORE ORDERED amending Rule 4.1 of the Local Rules of Practice in
Maricopa County Superior Court, in accordance with Attachment "A" to this Order.

Dated this 7th day of January, 2021

/s/ Joseph C. Welty
Hon. Joseph C. Welty
Presiding Judge

Original: Clerk of the Superior Court

Copies: All Superior Court Criminal Department Judges and Commissioners
Hon. Allister Adel, Maricopa County Attorney
Christina Phillis, Office of Public Defense Services
David Byers, Administrative Office of the Courts
Hon. Jeff Fine, Clerk of Superior Court
Raymond Billotte, Judicial Branch Administrator
Richard Woods, Deputy Court Administrator
Shawn Haught, Criminal Department Administrator

ATTACHMENT "A"

Local Rules of Practice in Maricopa County Superior Court

Rule 4.1 Court Organization

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(a) – (f) [no changes]

(g) New Charges in Pre-Existing Cases. If the State files a new or amended direct complaint, information or indictment in a prosecution that is pending at the time of the filing, the filing shall be made under the existing case number, and the judicial officer assignment shall remain unchanged. If the State files a new or amended direct complaint, information or indictment that commences another prosecution following a dismissal pursuant to Rule 16.4(d), the case shall, if possible, receive the same judicial officer assignment. The State shall advise the court and clerk upon the filing of the new or amended direct complaint, information, or at the return of the indictment, of the pending or dismissed prosecution.