

* The proposed amendment to Trial Rule 76 would make the language more readable and move the change of venue provision for family law cases into a separate paragraph.

Rule 76. Change of venue in civil actions

(A) Change of venue from the county.

~~(1) In civil actions where the venue may be changed from the county, such change of venue from the county may be had only upon the filing of a verified motion specifically stating the grounds therefor by the party requesting the change. The motion a change of venue shall~~must be granted ~~only~~ upon a ~~showing~~filing of a verified motion stating that the county where suit is pending is a party or that the party seeking the change will be unlikely to receive a fair trial ~~on account of~~due to local prejudice or bias regarding a party or the claim or defense presented by a party. ~~A party shall be entitled to only one change of venue from the county. Denial of a~~the motion ~~for change of venue from the county based on the inability to receive a fair trial shall be~~is reviewable only for an abuse of discretion. ~~The Rules of Criminal Procedure shall govern proceedings to enforce a statute defining an infraction.~~

~~(2) Within ten days from granting the motion, the parties may agree on the county to which the case is venued, and the court must transfer such action to such county. In the absence of such an agreement, the court must, within five days, issue an order listing all adjoining counties from which the parties must alternately strike counties with each party making their strike within ten days. The movant strikes first, and the action is sent to the county not stricken under such procedure. If a party is brought into the action under Rule 14, and that party later files a motion for change of venue which is granted, that party and the plaintiff must be the parties entitled to strike. If a party fails to timely strike, the clerk strikes for that party.~~

(B) Change of venue from the judge. ~~In civil actions, where a change may be taken from the judge, such change shall be granted upon the filing of an unverified application or motion without specifically stating the ground therefor by a party or his attorney. Provided, however, a party shall be entitled to only one [1] change from the judge. After a final decree is entered in a dissolution of marriage case or paternity case, a party may take only one change of judge in connection with petitions to modify that decree, regardless of the number of times new petitions are filed. The Rules of Criminal Procedure shall govern proceedings to enforce a statute defining an infraction. A change of venue from the judge must be granted upon the filing of an unverified application or motion without specifically stating the grounds. The new judge must be selected in accordance with Rule 79.~~

(C) Timing of motion. ~~In any action except criminal no change of judge or change of venue from the county shall be granted except within the time herein provided. Any such application for change of judge (or change of venue) shall~~ All motions under this rule must be filed not later than ten [10] days after the issues are first closed on the merits. Except:

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- (1) in ~~those~~ cases where no responsive pleading or answer may be required to be filed by the defending party to close issues, in probate and receivership proceedings, and in remonstrances and similar matters (or no responsive pleading is required under a statute), each party shall have ~~has~~ thirty ~~[30]~~ days from the date the case is placed and entered ~~filed as shown~~ on the chronological case summary ~~of the court as having been filed~~;
- (2) ~~in those cases of claims in probate and receivership proceedings and remonstrances and similar matters, the parties thereto shall have thirty [30] days from the date the case is placed and entered on the chronological case summary of the court as having been filed;~~
- (23) ~~if the trial court or a court on appeal orders a new trial, or if a court case is remanded on appeal otherwise remands a case such that a further hearing and receipt of evidence are required to reconsider all or some of the issues heard during the earlier trial, the parties thereto shall have ten [10] days from the date the order of the trial court is entered or the date the order of the court on appeal is certified;~~
- (34) ~~in the event a change is following the granted from the judge or county within the prescribed period, as stated above of a motion under this rule, a request motion for a change of judge or county may be made by a party still entitled thereto to change of venue within ten [10] days after the special judge has qualified or the moving party has knowledge the cause has reached the receiving county or there has been a failure to perfect the change. Provided, however, this subdivision (4) shall operate only to enlarge the time allowed for such request under such circumstances, and it shall not operate to reduce the period prescribed in subdivisions (C), (C)(1), (C)(2), (C)(3) case has been transferred and assigned a new case number in the receiving court;~~
- (5) ~~where a party has appeared at or received advance notice of a hearing prior to the expiration of the date within which a party may ask for a change of judge or county, and also where at said hearing a trial date is set which setting is promptly entered on the Chronological Case Summary, a party shall be deemed to have waived a request for change of judge or county unless within three days of the oral setting the party files a written objection to the trial setting and a written motion for change of judge or county;~~
- (46) ~~if the moving party first obtains knowledge of the grounds for change of venue from the county or judge after the time limitations above limited, he the party may file a motion said application, which must be verified personally by the party himself, specifically alleging when the cause was grounds were first discovered, how the grounds were discovered, the facts showing the grounds for a change, and why such the cause grounds could not have been discovered before earlier by the exercise of due diligence. Any opposing party shall have has the right to file counter-affidavits on such issue a verified response within ten [10] days, and the ruling of the court on the timeliness of the request may only be reviewed only for abuse of discretion.~~
- (D) **Right to venue from county or judge.** ~~Whenever a change of venue from the county is granted, the parties may, within three (3) days from the granting of the motion or affidavit for the change of venue, agree in open court upon the county to which venue shall be changed, and the court shall transfer such action to such county. In the absence of such~~

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~~agreement, the court shall, within two (2) days thereafter, submit to the parties a written list of all counties adjoining the county from which the venue is changed, and the parties within seven (7) days from the date the clerk mails the list to the parties or within such time, not to exceed fourteen (14) days from that date, as the court shall fix, shall each alternately strike off the names of such counties. The party first filing such motion shall strike first, and the action shall be sent to the county remaining not stricken under such procedure. If a party is brought into the action as provided in Trial Rule 14, and that party thereafter files a motion for change of venue which is granted, that party and the plaintiff shall be the parties entitled to strike. A moving party that fails to strike within said time shall not be entitled to a change of venue, and the court shall resume jurisdiction of the cause. If a nonmoving party fails to strike within the time limit, the clerk shall strike for such party. A party is entitled to one change of venue from the county or the judge in all civil cases, including cases where a petition to modify any final decree is filed.~~

(E) Infractions. The Rules of Criminal Procedure govern proceedings involving an infraction.