

**UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

Notice of Proposed Amendments to FIFTH CIRCUIT RULE 35.6

Pursuant to 28 U.S.C. § 2071, we give notice the court is considering amending 5TH Cir. R. 35.6 as shown below.

We will accept written comments for consideration on the proposed change through March 13, 2023.

Clerk of Court
U.S. Court of Appeals for the Fifth Circuit
ATTN: Rule Changes
600 South Maestri Place
New Orleans, LA 70130

or send comments electronically to Changes@ca5.uscourts.gov

**CURRENT LOCAL RULE WITH REDLINE PROPOSED
CHANGES**

5th Cir. R. 35.6:

Determination of Causes En Banc and Composition of En Banc Court. A cause will be heard or reheard en banc when it meets the criteria for en banc set out in FED. R. APP. P. 35(a).

The en banc court will be composed of all active judges of the court. **Any senior circuit judge of this circuit shall be eligible (1) to participate, at his or her election and upon designation and assignment pursuant to 28 U.S.C. § 294(c) and the rules of this court, as a member of an en banc court reviewing a decision of a panel of which such judge was a member, or (2) to continue to participate in the decision of a case**

or controversy that was heard or reheard by the court en banc at a time when such judge was in regular active service. ~~plus any senior judge of the court who participated in the panel decision who elects to participate in the en banc consideration. This~~ An election to participate is to be communicated timely to the chief judge and clerk.

Lyle W. Cayce
Clerk of Court