

ARIZONA RULES AND ADMINISTRATIVE ORDERS RELATING TO VICTIMS' RIGHTS



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Provided By:



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ARIZONA RULES OF CRIMINAL PROCEDURE

Rule 1.3 Computation of Time

- a. **General Time Computation.** In computing any period of time of more than 24 hours, prescribed by these rules, by order of court, or by an applicable statute, the day of the act or event from which the designated period of time begins to run is not to be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which case the period shall run until the end of the next day which is neither a Saturday, Sunday nor a legal holiday. When the period of time prescribed or allowed is **less than** seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation. Whenever a party has the right or is required to take some action within a prescribed period after service of a notice or other paper and the notice or paper is served by a method authorized by Rule 5(c)(2)(C) or (D), Arizona Rules of Civil Procedure, five calendar days shall be added to the prescribed period. Mailing pursuant to Arizona Rule of Civil Procedure 5(c) (2) (C) includes every type of service except same day hand delivery.
- b. **Date of Arraignment.** In computing any period of time based upon the date of arraignment, if an arraignment is not held as provided in Rule 14.1(d), the date that the defendant receives notice of the next court date as provided in Rules 5.8 and 12.10 shall be deemed the date of arraignment.

Current with amendments received through 7/1/217

Rule 1.6. Interactive audiovisual systems

- a. **General Provisions.** When the appearance of a defendant or counsel is required in any court, subject to the provisions of this rule, the appearance may be made by the use of an interactive audiovisual system. Any interactive audiovisual system must meet or exceed minimum operational guidelines adopted by the Administrative Office of the Courts.
- b. **Requirements.** In utilizing an interactive audiovisual system, all of the following are required:
- (1) An interactive audiovisual system shall at a minimum operate so as to enable the court and all parties to view and converse with each other simultaneously.
 - (2) A full record of the proceedings shall be made as provided in applicable statutes and rules.
 - (3) Provisions shall be made to allow for confidential communications between the defendant and defendant's counsel before, during, and immediately after the proceeding.
 - (4) Provisions shall be made to allow a victim a means to view and participate in the proceedings.
 - (5) Provisions shall be made to ensure compliance with all victims' rights laws.
 - (6) Provisions shall be made to allow the public a means to view the proceedings as provided by law.
 - (7) Provisions shall be made for use of interpreter services when necessary. In cases requiring interpreters for non-English speaking or hearing-impaired defendants, absent compelling circumstances, the interpreter shall be present with the defendant, and provisions shall be made to enable simultaneous appearance of both the defendant and interpreter.
- c. **Defendant's Appearance by Videoconference Precluded Absent Extraordinary Circumstances and Parties' Consent.** This rule shall not apply to any trial, contested probation violation hearing, felony sentencing, or felony probation disposition hearing, except upon the court's finding extraordinary circumstances and with consent of the parties by written stipulation or upon the record.

- d. **Defendant's Appearance by Videoconference Required in Sole Discretion of the Court.** Appearance by an interactive audiovisual system may be required in the sole discretion of the court and without the consent of the parties at (1) an initial appearance; (2) any not-guilty plea arraignment or a guilty-plea arraignment in a misdemeanor case, (3) a hearing on a motion to continue which is limited to setting trial dates that do not entail any waiver of time pursuant to Rule 8; (4) a hearing on an uncontested motion, (5) a pretrial or status conference, (6) a change of plea in a misdemeanor case, or (7) an informal conference held pursuant to Rule 32.7.
- e. **Defendant's Appearance by Videoconference Allowed upon Stipulation.** Except for those proceedings described in subparagraphs (c) and (d) above, the parties, with the court's approval, may agree by written stipulation or upon the record to allow the defendant's appearance at any proceeding by an interactive audiovisual system. Before accepting the stipulation or agreement, the court shall find that the defendant knowingly, intelligently and voluntarily agrees to appear at the proceeding by an interactive audiovisual system. Stipulation by the parties to videoconferencing shall be provided in written form prior to the commencement of the proceeding.
- f. **Expansion of Scope of Proceeding:** Notwithstanding the foregoing, the court shall reschedule a videoconference to require the defendant's personal appearance if the scope of the hearing expands beyond that specified in subparagraphs (d) and (e) above.

Current with amendments received through 7/1/17

Rule 4.1. Procedure upon arrest

- a. **Timeliness of Appearance before Magistrate.** A person arrested shall be taken before a magistrate without unnecessary delay. If the person is not brought before a magistrate within 24 hours after arrest, he or she shall immediately be released.
- b. **On Arrest without a Warrant.** A person arrested without a warrant shall be taken before the nearest or most accessible magistrate in the county of arrest, whereupon a complaint, if one has not already been filed, shall promptly be prepared and filed. If a complaint is not filed within 48 hours from the time of the initial appearance before the magistrate, the defendant shall be released from jail, and the preliminary hearing date, if any, shall be vacated.
- c. **On Arrest with a Warrant.**
 - (1) A person arrested in the county in which the warrant was issued shall be taken before the magistrate who issued the warrant, or, if the magistrate is absent or unable to act, the nearest or most accessible magistrate in the same county.
 - (2) A person arrested in a county other than the one in which the warrant was issued shall be taken before the nearest or most accessible magistrate in the county of arrest. If such person is eligible for release as a matter of right, he or she shall be released in accordance with Rule 7.2. If the person is not released immediately, the magistrate shall direct that he or she be taken to the county where the warrant originated to appear before the issuing magistrate, or, if the magistrate is absent or unable to act, before the nearest or most accessible magistrate.
- d. **Assurance of Availability of Magistrate and the Setting of a Time for Initial Appearance.** Each presiding judge shall take such steps as are necessary to assure that a magistrate is available every day of the week to hold initial appearances required by Section (a). In addition, the presiding judge shall also assure that at least one fixed time is set each day for conducting initial appearances and that local law enforcement agencies have been notified of the fixed time(s).
- e. **Sample for DNA testing; proof of compliance.** If the arresting authority is required to secure a sample of buccal cells or other bodily substances for DNA testing pursuant to A.R.S. section 13-610(K), proof of compliance shall be provided to the court prior to the Initial Appearance.

Current with amendments received through 7/1/217

Rule 4.2. Initial appearance

- a. In General.** At the suspect's initial appearance, the magistrate shall:
- (1) Ascertain the suspect's true name and address and, if necessary, amend the formal charges to reflect it, and instruct the suspect to notify the court promptly of any change of address;
 - (2) Inform the defendant of the charges;
 - (3) Inform the defendant of the right to counsel and the right to remain silent;
 - (4) Determine whether probable cause exists for the purpose of release from custody. If no probable cause is found, the defendant shall immediately be released from custody;
 - (5) Appoint counsel if the suspect is eligible for and requests appointed counsel under Rule 6;
 - (6) Consider comments offered by the victim concerning the conditions of release. The magistrate shall permit the victim to comment orally or in writing, on the issue of the suspect's release;
 - (7) Determine the conditions of release in accordance with Rule 7.2 including whether the defendant is non-bailable pursuant to A.R.S. Const. Art. 2 § 22 and A.R.S. 13-3961;
 - (8) For summoned defendants charged with a felony offense, a violation of Title 13, Chapter 14, or Title 28, Chapter 4⁴, or a domestic violence offense as defined in § 13-3601, if the defendant does not present a completed mandatory fingerprint compliance form to the court, or if the court has not received the process control number, the court shall order that within twenty calendar days, the defendant be ten-print fingerprinted at a designated time and place by the appropriate law enforcement agency; and
 - (9) For an in-custody defendant who was arrested for an offense listed in A.R.S. Section 13-610(O)(3), if the court has not received proof of compliance with A.R.S. Section 13-610(K), the court shall order the arresting agency to secure a sample of buccal cells or other bodily substances for DNA testing.
- b. Misdemeanors: Felonies Charged by Indictment.** When a suspect charged with a misdemeanor or indicted for a felony is brought before a magistrate for defendant's initial appearance, defendant may, in addition to the procedures set forth in Section (a), be arraigned in the manner prescribed by Rule 14, if counsel is present or waived. If the appearance is before a magistrate without jurisdiction to try the offense, the magistrate shall transfer the case to the proper court for arraignment. If the court finds that delay of the arraignment is indispensable to the interests of justice, the court shall provide sufficient time for notice pursuant to Rule 39 (b) (2) when setting a date and time for the continued arraignment.
- c. Felonies Charged by Complaint.** When a suspect is charged in a complaint, the magistrate shall, in addition to the procedures required by Section (a);
- (1) Inform the suspect of the right to a preliminary hearing and the procedures by which that right may be waived; and
 - (2) Unless waived, set the time for a preliminary hearing in accordance with Rule 5.1.

Current with amendments received through 7/1/217

Rule 7.5. Review of conditions; revocation of release

- a. **Issuance of Warrant or Summons on Prosecutor Petition.** Upon verified petition by the prosecutor stating facts or circumstances constituting a breach of the conditions of release, the court having jurisdiction over the defendant released may issue a warrant or summons under Rule 3.2, to secure the defendant's presence in court. A copy of the petition shall be served with the warrant or summons.
- b. **Issuance of Warrant or Summons on Written Report.** Upon receiving a written report from pretrial services stating facts or circumstances constituting a breach of the conditions of release, the court having jurisdiction over the defendant may issue a warrant or summons under Rule 3.2, to secure the defendant's presence in court. A copy of the report shall be provided to the prosecutor and served with the warrant or summons.
- c. **Victim's Right to Petition for Revocation of Bond or Modification of Conditions of Release.** After consultation with the prosecutor, and if the prosecutor decides not to file a petition pursuant to section (a) of this Rule, the victim may petition the court to revoke the bond or release on personal recognizance of the defendant, or otherwise modify the conditions of the defendant's release, based on the victim's notarized statement asserting that harassment, threats, physical violence or intimidation against the victim or the victim's immediate family by the defendant or on behalf of the defendant has occurred.
- d. **Hearing; Review of Conditions; Revocation.**
 - (1) *Modification of Conditions of Release.* If, after a hearing on the matters set forth in the petition, the court finds that the person released has willfully violated the conditions of release, the court may impose different or additional conditions upon his or her release. However, if the defendant has violated the conditions of an appearance bond executed as a condition of release, the court shall determine conditions reasonably necessary to secure that person's appearance in the future. If the violation is not excused, the court shall not impose less restrictive conditions of release. If the court determines that an increase in the amount of a secured appearance bond is necessary, that security shall be in addition to any previously existing security.
 - (2) *Revocation of Release.* The court may revoke release of a person charged with a felony if, after hearing, the court finds (A) that there is probable cause to believe that the person committed a felony during the period of release and that the proof is evident or the presumption great as to the present charge; or (B) that the person poses a substantial danger to any person or the community, that no other conditions of release will reasonably assure the safety of the other person or the community, and that the proof is evident or the presumption great as to the present charge.
- e. **Revocation of Release; DNA Testing.** The prosecutor may file a motion stating facts or circumstances constituting probable cause to believe that a defendant who has been ordered as a condition of release to provide a sample of buccal cells or other bodily substances for DNA testing pursuant to A.R.S. section 13-3967(F)(4) and provide proof of compliance has not complied with that order. At the defendant's next court appearance, the court shall proceed in accordance with the requirements of this rule and A.R.S. section 13-3967(F)(4).
- f. **Revocation of release; Ten-print fingerprinting.** If a defendant fails to timely present a completed mandatory fingerprint compliance form or if the court has not received the process control number, the court on its own motion may remand the defendant into custody for ten-print fingerprinting. If otherwise eligible for release, the defendant shall be released from custody after being ten-print fingerprinted.

Current with amendments received through 7/1/217

Rule 8.5. Continuances

- a. **Form of Motion.** A continuance of a trial may be granted on the motion of a party. Any motion must be in writing and state with specificity the reason(s) justifying the continuance.
- b. **Grounds for Motion.** A continuance of any trial date shall be granted only upon a showing that extraordinary circumstances exist and that delay is indispensable to the interests of justice. A continuance may be granted only for so long as is necessary to serve the interests of justice. In ruling on a motion for continuance, the court shall consider the rights of the defendant and any victim to a speedy disposition of the case. If a continuance is granted, the court shall state the specific reasons for the continuance on the record.
- c. **Other Continuances.** No further continuances shall be granted except as provided in Rules 8.1(e), 8.2(e) and 8.4 (d).

Credits

Amended May 7, 1975, effective Aug. 1, 1975; Nov. 12, 1991, effective Dec. 31, 1991; Sept. 24, 1992, effective Sept. 30, 1992, adopted in final form Feb. 25, 1993; Feb. 25, 1993, effective June 1, 1993; Oct. 6, 1997, effective Dec. 1, 1997; Oct. 16, 2003, effective Dec. 1, 2003;

16A A. R. S. Rules Crim. Proc., Rule 8.5, AZ ST RCRP Rule 8.5

Current with amendments received through 7/1/217

Rule 8.7. Acceleration of trial

Where special circumstances relating to the victim so warrant, the court may accelerate the trial to the earliest possible date that is consistent with the defendant's right to a fair trial. If necessary, the presiding judge shall assign another judge of the court to preside at trial in order to insure that the trial commences as scheduled.

Current with amendments received through 7/1/217

Rule 17.4. Plea negotiations and agreements

- a. **Plea Negotiations.** The parties may negotiate concerning, and reach an agreement on, any aspect of the case. At the request of either party, or sua sponte, the court may, in its sole discretion, participate in settlement discussions by directing counsel having the authority to settle to participate in a good faith discussion with the court regarding a non-trial or non-jury trial resolution which conforms to the interests of justice. Before such discussions take place, the prosecutor shall afford the victim an opportunity to confer with the prosecutor concerning a non-trial or non-jury trial resolution, if they have not already conferred, and shall inform the court and counsel of any statement of position by the victim. If the defendant is to be present at any such settlement discussions, the victim shall also be afforded the opportunity to be present and to state his or her position with respect to a non-trial or non-jury trial settlement. The trial judge shall only participate in settlement discussions with the consent of the parties. In all other cases, the discussions shall be before another judge or a settlement division. If settlement discussions do not result in an agreement, the case shall be returned to the trial judge.
- b. **Plea Agreement.** The terms of a plea agreement shall be reduced to writing and signed by the defendant, the defendant's counsel, if any, and the prosecutor. An agreement may be revoked by any party prior to its acceptance by the court.
- c. **Determining the Accuracy of the Agreement and the Voluntariness and Intelligence of the Plea.** The parties shall file the agreement with the court, which shall address the defendant personally and determine that he or she understands and agrees to its terms, that the written document contains all the terms of the agreement, and that the plea is entered in conformance with Rules 17.2 and 17.3.
- d. **Acceptance of Plea.** After making such determinations and considering the victim's view, if provided, the court shall either accept or reject the tendered negotiated plea. The court shall not be bound by any provision in the plea agreement regarding the sentence or the term and conditions of probation to be imposed, if, after accepting the agreement and reviewing a presentence report, it rejects the provision as inappropriate.

- e. **Rejection of Plea.** If an agreement or any provision thereof is rejected by the court, it shall give the defendant an opportunity to withdraw his or her plea, advising the defendant that if he or she permits the plea to stand, the disposition of the case may be less favorable to him or her than that contemplated by the agreement.
- f. **Admissibility or Inadmissibility of a Plea, Plea Discussions, and Related Statements.** The admissibility or inadmissibility of a plea, a plea discussion, and any related statement is governed by Arizona Rule of Evidence 410.
- g. **Automatic Change of Judge.** If a plea is withdrawn after submission of the presentence report, the judge, upon request of the defendant, shall disqualify himself or herself, but no additional disqualification of judges under this rule shall be permitted.

Current with amendments received through 7/1/217

Rule 19.1. Conduct of trial

- a. **Order of Proceedings.** The trial shall proceed in the following order unless otherwise directed by the court:
 - (1) The indictment, information or complaint shall be read and the plea of the defendant stated.
 - (2) The prosecutor may make an opening statement.
 - (3) The defendant may then make an opening statement or may defer such opening statement until the close of the prosecution's evidence.
 - (4) The prosecutor shall offer the evidence in support of the charge.
 - (5) The defendant may then make an opening statement if it was deferred, and offer evidence in his or her defense.
 - (6) Evidence in rebuttal shall then be offered unless the court upon a showing of good cause allows a case-in-chief to be reopened.
 - (7) The parties may present arguments, the prosecutor having the opening and closing.
 - (8) The judge shall then charge the jury.

With the permission of court, the parties may agree to any other method of proceeding.

- b. **Proceedings When Defendant is charged with Prior Convictions or Non-Capital Sentencing Allegations Required to be found by a Jury.** In all prosecutions in which a prior conviction or a non-capital sentencing allegation required to be found by a jury is alleged, unless such conviction or allegation is an element of the crime charged, the procedure shall be as follows:
 - (1) The trial shall proceed initially as though the sentencing allegations were not alleged. When the indictment, information or complaint is read all reference to prior offenses or sentencing allegations shall be omitted. During the trial of the case no instructions shall be given, reference made, nor evidence received concerning the non-capital sentencing allegations required to be found by the jury or the prior offenses, except as permitted by the rules of evidence.
 - (2) If the verdict is guilty, the issue of the non-capital sentencing allegation required to be found by the jury shall then be tried, unless the defendant has admitted to the allegation. The trial court shall determine the allegation of prior conviction.
- c. **Aggravation Proceeding in a Capital Case.** If a defendant is convicted of first-degree murder and the state has filed a notice of intent to seek the death penalty, the aggravation proceedings shall proceed as follows:
 - (1) The alleged aggravators shall be read to the jury.

- (2) The prosecutor may make an opening statement.
- (3) The defendant may then make an opening statement or may defer such opening statement until the close of the prosecution's evidence.
- (4) The prosecutor shall offer the evidence in support of the aggravating circumstances alleged.
- (5) The defendant may then make an opening statement if it was deferred, and offer evidence in defense of the alleged circumstances.
- (6) Evidence in rebuttal shall then be offered unless the court upon a showing of good cause allows a case-in-chief to be reopened.
- (7) The parties may present arguments, the prosecutor having the opening and closing.
- (8) The judge shall then charge the jury.

With the permission of court, the parties may agree to any other method of proceeding.

d. Penalty Hearing in a Capital Case. If a jury finds one or more aggravating circumstances, the penalty proceedings shall proceed as follows:

- (1) The defense may make an opening statement.
- (2) The state may then make an opening statement or may defer such opening statement until the close of the defense's evidence.
- (3) The victim's survivors may make a statement relating to the characteristics of the victim and the impact of the crime on the victim's family, but may not offer any opinion regarding the appropriate sentence to be imposed.
- (4) The defense shall offer evidence in support of mitigation.
- (5) The state may then make an opening statement if it was deferred, and offer any evidence relevant to mitigation.
- (6) The defense may offer evidence in rebuttal, unless the court, upon a showing of good cause, allows a case-in-chief to be reopened.
- (7) The defendant may present statements of allocution to the jury.
- (8) The parties may present argument, the defense having the opening and closing.
- (9) The judge shall then charge the jury.

With the permission of court, the parties may agree to any other method of proceeding.

Current with amendments received through 7/1/217

Rule 19.6. Presence of minor victim or incapacitated victim representative

If a representative of a minor victim or incapacitated victim wishes to be recognized during trial, he or she shall communicate with the prosecutor, who shall so inform the court out of the presence of the jury. Any consultation by such representative with the court during the course of the trial shall be conducted in the presence of the parties, or counsel, and in the absence of the jury.

Current with amendments received through 7/1/217

Rule 26.3. Date of sentencing; extension

a. Date of Sentencing.

- (1) *Superior Court.* Upon a determination of guilt, the court shall set a date for sentencing. Sentence shall be pronounced not less than 15 or more than 30 days after the determination of guilt unless the court, after advising the defendant of his or her right to a pre-sentence report, grants his or her request that sentence be pronounced earlier.
- (2) *Courts of Limited Jurisdiction.* In limited jurisdiction courts, sentence may be pronounced immediately upon determination of guilt unless the court on its own motion, or upon request of a party or victim, orders that sentence should be pronounced at a later date, not more than 30 days after determination of guilt.

b. Extension of Time. If a pre-sentencing hearing is requested under Rule 26.7, or if good cause is shown, the trial court may reset the date of sentencing within 60 days after the determination of guilt.

Current with amendments received through 7/1/217

Rule 26.12. Compliance with sentence

a. Method of Payment--Installments. The court may permit payment of any fine, restitution, or other monetary obligation to be made within a specified period of time or in specified installments. Restitution shall be payable as promptly as possible in light of the defendant's ability to pay.

b. Method of Payment--To whom. The payment of a fine, restitution, or other monetary obligation shall be made to the court, unless the court expressly directs otherwise. Monies received from the defendant shall be applied first to satisfy the restitution order and the payment of any restitution in arrears. The court or the person authorized by the court to accept payment shall, as promptly as practicable, forward restitution payments to the victim.

c. Action upon Failure to Pay a Fine, Restitution, Other Monetary Obligation, or to Comply with Court Orders.

- (1) *For Defendants Not on Supervised Probation.* If a defendant fails to pay a fine, restitution, or other monetary obligation, or is known by the court to have failed to comply with a term or condition of sentence within the prescribed time, the court shall, within 5 days, notify the prosecutor.
- (2) *For Defendants on Supervised Probation.* If a defendant on supervised probation fails to pay a fine, restitution, or other monetary obligation, or is known by the court to have failed to comply with any other term or condition of probation within the prescribed time, the court shall give notice of such failure to the defendant's probation officer within the time limits set under sections (c)(1) and (3).
- (3) *Time limits--Restitution and Non-Monetary Obligations.* If the payment or performance of an obligation does not involve the court, delinquency times shall run from the date on which the court or the probation officer becomes aware of failure to pay or comply.
- (4) *Court Action upon Failure of Defendant to Pay Fine, Restitution, or Other Monetary Obligation or to Comply with Court Orders.* Upon the defendant's failure to pay a fine, restitution, or other monetary obligation, or failure to comply with court orders, the court may require the defendant to show cause why said defendant should not be held in contempt of court and may issue a summons or warrant for the defendant's arrest.

Current with amendments received through 7/1/217

Rule 27.2. Intercounty transfers

a. Courtesy Probation Supervision.

- (1) A superior court or the adult probation department with jurisdiction may authorize a defendant placed on probation to reside in another county upon verification that the receiving county accepts and can provide courtesy probation supervision of a defendant in accordance with the terms and conditions originally imposed upon the defendant.
- (2) If the receiving county is unable to ensure that the terms and conditions of probation can be supervised as ordered, the court in the sending county may, after a hearing, amend the terms and conditions of probation to permit transfer.
- (3) The court in the sending county shall retain jurisdiction over the defendant and any probation violation proceeding, and shall be responsible for the collection of any financial obligations.

b. Transfer of Probation Jurisdiction.

- (1) The superior court may authorize the transfer of jurisdiction over a case from the county of original jurisdiction to another county with the agreement of the parties, including the original prosecuting agency, the probationer, the sending and receiving probation departments, and the receiving court. On request, the victim of the offense, as defined by A.R.S. § 13-4401(19), shall have the opportunity to be heard. The court in the sending county shall give the victim notice of the proposed transfer and a hearing, if requested.
- (2) The clerk of the court in the county of original jurisdiction shall certify the financial record regarding all financial obligations in the case and forward the original court file and entire record, together with a transmittal letter, to the clerk of the court in the receiving county within twenty (20) days of the order of transfer. The financial record, the court file, and the record may, in the discretion of the clerk, be transmitted in either electronic or paper format. The entire record shall include all exhibits, unless they were subject to disposal under Rule 28. Upon receipt, the transmittal letter shall be signed by the clerk of the court in the receiving county and returned to the clerk of the court in the county of original jurisdiction.
- (3) The county probation department transferring the case shall send copies of the file and any other pertinent information to the Chief Probation Officer in the receiving county for processing. The transfer shall be complete when the Chief Probation Officer in the receiving county receives the file and the probationer checks in with the new probation officer. Until the transfer is complete, the sending county shall retain jurisdiction over the probationer.
- (4) The Chief Probation Officer may request that the court conduct a review hearing to affirm and/or modify the terms and conditions of supervision to include the payment of fees and restitution. Upon granting a transfer of probation supervision, the court of the receiving county shall assume jurisdiction of the case and have all powers of the sentencing court, including, but not limited to, the restoration of civil rights.
- (5) The court in the receiving county shall be responsible for the collection of any financial obligations of the probationer. Any monies collected for fees, costs or expenses due to the sending county shall be dispersed to the sending county.
- (6) Upon remand of a case for a new trial, the court in the receiving county shall transfer jurisdiction of the case back to the county of original jurisdiction. In all instances except where a new trial has been ordered the receiving county may do one of the following:
 - (i) retain jurisdiction;
 - (ii) transfer the case in its entirety back to the county of original jurisdiction;

(iii) transfer the case back to the county of original jurisdiction and retain jurisdiction only over probation supervision and revocation;

(7) Upon transfer of a case for a new trial, the clerk of the court in the receiving county shall return the original court file and entire record, together with a transmittal letter, to the clerk of the court in the county of original jurisdiction within twenty (20) days of the remand order. The court file and record may, in the discretion of the clerk, be transmitted in either electronic or paper format. The entire record shall include all exhibits, unless they were subject to disposal under Rule 28. Upon receipt, the transmittal letter shall be signed by the clerk of the court in the county of original jurisdiction and returned to the clerk of the court in the receiving county.

(8) Upon transfer of a case for a new trial, the county probation department returning the case to the court of original jurisdiction shall send copies of the file and any other pertinent information to the Chief Probation Officer in the receiving county for processing.

Current with amendments received through 7/1/217

Rule 27.11. Victim's rights in probation proceedings

The court shall afford the victim, as defined by Rule 39, Rules of Criminal Procedure, the opportunity to be present and to be heard at any proceeding involving: 1) the termination of probation or intensive probation; 2) probation revocation dispositions; 3) modifications of probation or intensive probation terms that will substantially impact the probationer's contact with or safety of the victim or that affects restitution or incarceration status; or 4) transfers of probation jurisdiction.

Current with amendments received through 7/1/217

Rule 31.2. Notice of appeal; automatic appeal; joint appeals

a. Filing the Notice of Appeal. Unless a defendant has been sentenced to death, an appeal or cross-appeal shall be taken by filing a written notice of appeal with the clerk of the trial court, within the time allowed by Rule 31.3.

b. Automatic Appeal When Defendant is sentenced to Death. When a defendant has been sentenced to death, the clerk, pursuant to Rule 26.15, shall file a notice of appeal on his behalf at the time of entry of judgment and sentence. Such notice shall be sufficient as a notice of appeal by the defendant with respect to all judgments entered and sentences imposed in the case. Within 10 days after the filing of the notice of appeal in any capital case, the clerk of the superior court shall notify all authorized transcribers assigned to transcribe any portion of the proceedings that they are required to transmit their portions of the certified transcript to the clerk of the Supreme Court.

c. Joint Appeals. If 2 or more persons are entitled to appeal from a judgment or order of the Superior Court, and their interests are such as to make joinder practicable, they may file a joint notice of appeal, or may join in the appeal after filing separate timely notices of appeal, and proceed as in the case of a single appellant.

d. Content of the Notice of Appeal. Except as provided in Rule 31.2(b), the notice of appeal shall identify the order, judgment and sentence appealed from and shall be signed by the appellant or his attorney, if any, or by the prosecutor if the appeal or cross-appeal is taken by the state. If the appeal or cross-appeal is taken by the state, in whole or in part, based upon violation of a substantial right of the victim, the attorney for the state shall so state in the notice of appeal or opening brief or memorandum and shall certify that the victim has requested the appeal or cross-appeal, in whole or in part, on that basis.

e. Additional Information. The appellant should attach to the notice of appeal:

(1) The name and address of the defendant;

- (2) The name and address of the attorney for the defendant, if any;
- (3) The name and address (if known) of any co-defendant at trial; and,
- (4) Whether the defendant was represented by appointed counsel at the determination of guilt or at sentencing.

f. Service of the Notice of Appeal.

- (1) *When Defendant Appeals.* When a defendant appeals, within 8 days of the filing of the notice of appeal, the clerk of the trial court shall send a copy of the notice of appeal to the prosecutor of the county in which the defendant was tried, to the attorney general, to each co-defendant at trial who is not a joint-appellant and defendant's counsel of record, if any, to the appropriate certified court reporter or reporters, or to the court's designated transcript coordinator, if the record was made by electronic or other means, and to the clerk of the proper Appellate Court.
- (2) *When the State Appeals.* When the state appeals or cross-appeals, within 8 days of the filing of the notice of appeal, the clerk of the trial court shall send a copy of the notice of appeal to each defendant and defendant's counsel of record, if any, to the appropriate certified court reporter or reporters, or to the court's designated transcript coordinator, if the record was made by electronic or other means, and to the clerk of the proper Appellate Court.
- (3) *Notice of Right to Counsel.* The clerk shall include with any notice of appeal sent to a defendant, and shall send to a defendant filing notice of appeal *pro se*, a notice advising the defendant of his or her rights to counsel under Rule 6.
- (4) *Notice to the Appellate Court of Pending Post-Trial Motions.* The clerk shall include with the copy of the notice of appeal sent to the Appellate Court, a copy of any motion filed by any party under Rule 24 which has not yet been decided by the trial court.
- (5) *Manner of Service.* The notice of appeal shall be sent to the defendant at his or her address of record or at his or her place of incarceration and to his or her counsel of record.

- g. Entry by the Clerk.** The clerk shall make an entry in the docket when a notice of appeal is filed and shall note whether the defendant had appointed counsel at the determination of guilt or at sentencing. The clerk shall also enter in the docket the names and addresses of the parties to whom copies of the notice of appeal are mailed together with the date of mailing.

Current with amendments received through 7/1/217

Rule 32.11. Extensions of time; notification of victims

In any capital case, if the victim has filed a notice of appearance as specified in A.R.S. § 13-4234.01, a party seeking an extension of time to file a brief must provide notice of the request to the victim. Notice shall be provided through the prosecutor's office handling the post-conviction relief proceeding, unless the victim specifies a different method in the notice of appearance. The victim may specify in the notice of appearance whether notification should be served directly on the victim or on another person, including the prosecutor, and whether service may be made electronically, by telephone, or by regular mail. If the victim has requested direct notification, the party seeking an extension of time shall serve notice on the victim within 24 hours of filing the extension request. If the prosecutor has the duty to notify the victim on behalf of the defendant, the prosecutor shall serve notice within 24 hours of receipt of the extension request. Service shall be made in the manner specified in the notice of appearance, or if no method is specified, by regular mail. In ruling on any request for an extension of a time limit set in this rule, the court shall consider the rights of the defendant and any victim to prompt and final conclusion of the case.

Current with amendments received through 7/1/217

Rule 39. Victims' Rights

a. Definitions.

1. *Victim.* As used in this rule, a “victim” is defined in accordance with the definition provided in the Arizona Revised Statutes. With regard to the rights to be notified and to be heard pursuant to this rule, a person ceases to be a victim upon the acquittal of the defendant or upon the dismissal of the charges against the defendant as a final disposition. If a victim is in custody for an offense, the victim's right to be heard pursuant to this rule is satisfied through affording the victim the opportunity to submit a written statement, where legally permissible and in the discretion of the court. A victim not in custody may exercise his or her right to be heard pursuant to this rule by appearing personally, or where legally permissible and in the discretion of the court, by submitting a written statement, an audiotape or videotape. The victims' rights of any corporation, partnership, association, or other similar legal entity shall be limited as provided by statute.
2. *Criminal Proceeding.* As used in this rule, a “criminal proceeding” is defined as a trial, hearing, (including hearing before trial), oral argument, or other matter scheduled and held before a trial court at which the defendant has the right to be present, or any post-conviction proceeding.

b. Victims' Rights. These rules shall be construed to preserve and protect a victim's rights to justice and due process. Notwithstanding the provisions of any other rule in these Rules of Criminal Procedure, a victim shall have and be entitled to assert each of the following rights:

1. The right to be treated with fairness, respect and dignity, and to be free from intimidation, harassment, or abuse, throughout the criminal justice process.
2. The right to be provided with written notice regarding those rights available to the victim under this rule and under any other provision of law.
3. Upon request, the right to be given reasonable notice of the date, time and place of any criminal proceeding.
4. The right to be present at all criminal proceedings.
5. The right to be notified of any escape of the defendant.
6. Upon request, the right to be informed of any release or proposed release of the defendant, whether that release be before expiration of the sentence or by expiration of the sentence, and whether it be permanent or temporary in nature.
7. Upon request, the right to confer with the prosecution, prior to trial when applicable, in connection with any decision involving the pre-conviction release of the defendant, a plea bargain, a decision not to proceed with a criminal prosecution, dismissal of charges, plea or sentence negotiation, a pretrial diversion program, or other disposition prior to trial; the rights to be heard at any such proceeding and at sentencing.
8. The right to be accompanied at any interview, deposition, or judicial proceeding by a parent or other relative, except persons whose testimony is required in the case. If the court finds, under this subsection 8 or subsection 9 below, that a party's claim that a person is a prospective witness is not made in good faith, it may impose any sanction it finds just, including holding counsel in contempt.
9. The right to name an appropriate support person, including a victim's caseworker, to accompany the victim at any interview, deposition, or court proceeding, except where such support person's testimony is required in the case.

10. The right to require the prosecutor to withhold, during discovery and other proceedings, the victim's date of birth, social security number, official state- or government-issued driver license or identification number, home address, telephone number, e-mail address, the address and telephone number of the victim's place of employment, and the name of the victim's employer; providing, however, that the court may order disclose as necessary to protect the defendant's constitutional rights. If disclosure is made to defense counsel, counsel shall not disclose such information to any person other than counsel's staff and designated investigator, and shall not convey the information to the defendant without prior authorization from the court.
11. The right to refuse an interview, deposition, or other discovery request by the defendant, the defendant's attorney, or other person acting on behalf of the defendant. After charges are filed, defense initiated requests to interview the victim shall be communicated to the victim through the prosecutor. The victim's response to such requests shall also be communicated through the prosecutor. If there is any comment or evidence at trial regarding the victim's refusal to be interviewed, the court shall instruct the jury that the victim has the right to refuse an interview under the Arizona Constitution.
12. At any interview or deposition to be conducted by defense counsel, the right to condition the interview or deposition on any of the following:
 - (i) Specification of a reasonable date, time, duration, and location of the interview or deposition, including a requirement that the interview or deposition be held at the victim's home, at the prosecutor's office, or in an appropriate location in the courthouse.
 - (ii) The right to terminate the interview or deposition if it is not conducted in a dignified and professional matter.
13. The right to a copy of any pre-sentence report provided the defendant except those parts excised by the court or made confidential by the law.
14. The right to be informed of the disposition of the case.
15. The right to a speedy trial or disposition and prompt and final conclusion of the case after conviction and sentence.
16. The right to be informed of a victim's right to restitution upon conviction of the defendant, of the items of loss included thereunder, and of the procedures for invoking the right.

c. Assistance and Representation.

1. The victim shall also have the right to the assistance of the prosecutor in the assertion of the rights enumerated in this rule or otherwise provided for by law. The prosecutor shall have the responsibility to inform the victim, as defined by these rules, of the rights provided by these rules and by law, and to provide the victim with notices and information which the victim is entitled by these rules and by law to receive from the prosecutor.
2. The prosecutor shall have standing in any judicial proceeding, upon the victim's request, to assert any of the rights to which the victim is entitled by this rule or by any other provision of law.
3. In any event of any conflict of interest between the state or any other prosecutorial entity and the wishes of the victim, the prosecutor shall have the responsibility to direct the victim to the appropriate legal referral, legal assistance, or legal aid agency.
4. In asserting any of the rights enumerated in this rule or provided for in any other provision of the law, the victim shall also have the right to engage and be represented by personal counsel of his or her choice.

- d. Victims Duty to Implement Rights.** Any victim desiring to claim the notification rights and privileges provided by this rule must provide his or her full name, address and telephone number to the entity prosecuting the case and to any other entity from which notice is requested by the victim. If the victim is a corporation, partnership, association or other legal entity and has requested notice of the hearings to which it is entitled by law, that legal entity shall promptly designate a representative by giving notice thereof, including such representative's address and telephone number, to the prosecutor and to any other entity from which notice is requested by the victim. Upon receipt of such notice, the prosecutor shall notify the defendant and the court thereof. Thereafter, only such a designated representative shall be entitled to assert a claim to victims' rights on behalf of that legal entity. Any change in designation must be provided in writing to the prosecutor and to any other entity from which notice is requested by the victim.
- e. Waiver.** The rights and privileges enumerated in this rule may be waived by any victim. Failure to keep the address and telephone number current or to designate such representative of a legal entity shall be considered as a waiver of notification rights under this rule.
- f. Court Enforcement of Victim Notice Requirements**
1. At the commencement of any proceeding which takes place more than seven days after the filing of charges by the prosecutor and at which the victim has a right to be heard, the court shall inquire of the prosecutor or otherwise ascertain whether the victim has requested notice and been notified of the proceeding.
 2. If the victim has been notified as requested, the court shall further inquire of the prosecutor whether the victim is present. If the victim is present and the prosecutor advises the court that the victim wishes to be addressed by the court, the court shall inquire whether the victim has been advised by the prosecutor of the rights conferred by this rule. If the victim has not been so advised, the court shall recess the hearing and the prosecutor shall immediately comply with subsection (c)(1) of this rule. The court shall also provide the victim with a written list of the victims' rights enumerated in subsection (b) of this rule.
 3. If the victim has not been notified as requested, the court should not proceed unless public policy, the specific provisions of a statute, or the interests of due process otherwise require. In the absence of such considerations the court shall have discretion to reconsider any ruling made at a proceeding of which the victim did not receive notice as requested.
- g. Appointment of Victim's Representative.** Upon request, the court shall appoint a representative for a minor victim or a representative for an incapacitated victim, as provided by ARS § 13-4403. Notice of appointment of such representative shall be given by the court to the parties.

Current with amendments received through 7/1/217

ARIZONA RULES OF EVIDENCE FOR COURTS

Rule 615. Excluding Witnesses

At a party's request, the court must order witnesses excluded so that they cannot hear other witnesses' testimony. Or the court may do so on its own. But this rule does not authorize excluding:

- (a) a party who is a natural person;
- (b) an officer or employee of a party that is not a natural person, after being designated as the party's representative by its attorney;
- (c) a person whose presence a party shows to be essential to presenting the party's claim or defense;
- (d) a person authorized by statute to be present; or
- (e) a victim of crime, as defined by applicable law, who wishes to be present during proceedings against the defendant;

Current with amendments received through 7/1/217

ARIZONA RULES OF PROCEDURE FOR THE JUVENILE COURT

Rule 21. Rights of Victims

- A. Applicable Offenses.** The rights afforded victims, as set forth in these rules or as otherwise provided by law, shall apply to acts that are committed by a juvenile which, if committed by an adult would be either:
 - 1. A misdemeanor offense,
 - 2. A felony offense,
 - 3. A petty offense, or
 - 4. A violation of a local criminal ordinance.
- B. Rights.** The victim has the right to be present at all proceedings where the juvenile has the right to be present. The court shall ensure that the rights of victims, including those rights not specifically set forth in these rules, be enforced in a manner consistent with the protection and rehabilitation of the victim.

Current with amendments received through 7/1/217

ARIZONA SUPREME COURT ADMINISTRATIVE ORDER 2009-129

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)	
)	
AMENDING ARIZONA CODE OF)	Administrative Order
JUDICIAL ADMINISTRATION)	No. 2015 - <u>56</u>
§ 5-204: ADMINISTRATION OF)	(Affecting Administrative Order
VICTIMS' RIGHTS)	No. 2012-69)
_____)	

Pursuant to the Arizona Code of Judicial Administration § 1-201 (E), the Chief Justice may adopt emergency administrative code proposals and technical changes in existing code sections by administrative order without prior distribution for comment and action by the Arizona Judicial Council.

Therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that Arizona Code of Judicial Administration § 5-204 is amended as indicated on the attached document. All other provisions of § 5-204 remain unchanged and in effect.

Dated this 10th day June, 2015.

SCOTT BALES
Chief Justice

ARIZONA CODE OF JUDICIAL ADMINISTRATION

Part 5: Court Operations

Chapter 2: Programs and Standards

Section 5-204: Administration of Victims' Rights

A. Definitions. In this section the following definitions apply:

“Court” means the superior court or any court of limited jurisdiction.

“Criminal Offense” means “conduct that gives a peace officer or prosecutor probable cause to believe that a felony, a misdemeanor, a petty offense or a violation of local criminal ordinance has occurred,” as provided by A.R.S. § 13-4401(6).

“Delinquent act” means an act committed by a juvenile that if committed by an adult would be either (1) a misdemeanor offense; (2) a felony offense; (3) a petty offense; or (4) a violation of a local criminal ordinance, in accordance with A.R.S. §§ 8-381 and -382.

“Victim”, except as otherwise specified, means a person against whom a criminal offense or delinquent act has been committed, or if the person is killed or incapacitated, the person's spouse, parent, child, grandparent or sibling, any other person related to the person by consanguinity or affinity to the second degree or other lawful representative, except if the person’s spouse, parent, child, grandparent, sibling, other person related to the person by consanguinity or affinity to the second degree or other lawful representative is in custody for an offense or is the accused as provided in Az. Const. Art. 2, § 2.1, A.R.S. §§ 8-382 and 13-4401.

B. Purpose and Applicability. This section defines the role and responsibility of courts in preserving and protecting victims’ rights to justice and due process as provided by Az. Const. Art. 2, § 2.1, Art. 6 § 3 and A.R.S. §§ 13-603, -804, -4401 et seq. and 8-381 et seq.

C. Notice of Proceedings.

1. The court shall provide at least five business days’ notice before the scheduled proceeding to the prosecutor, by written document, telephonic transmission followed up with a written confirmation, facsimile transmission, or any other electronically transmitted message or document which includes the transmittal date, case number, defendant's name, type of hearing, and the date, time and place of next hearing. The court may provide additional information. If notice is initially given by telephonic transmission, the court shall record the name of the person contacted on a confirming written notice.
2. In the superior court, continuances shall only be granted when extraordinary circumstances exist weighing these circumstances against the victim’s right to a speedy trial. The court shall state on the record the reason for any continuance.
3. In the Supreme Court and court of appeals cases, victims who have requested post-conviction or post-adjudication notifications shall be sent a copy of the memorandum decision or opinion from the issuing court concurrently with the parties. If the victim is represented by counsel, the notice shall be provided to the victim’s counsel.

D. Notice of Victim Rights. The statement of victim rights shall be prominently posted in each superior, justice of the peace, and municipal court in this state and, in superior court, shall be read out loud by the judge at the daily commencement of the regular criminal or delinquent docket.

E. Victim Statements. Any victim requests and victim statements received by court offices shall be forwarded to the appropriate court or prosecuting agency.

F. Transcripts for Crime Victims. On the request of the victim, the court or clerk shall provide at no charge, the minute entry or portion of the record of any proceeding in the case that is reasonably necessary for the purpose of pursuing a claimed victim’s right.

- G. Inspection of Pre-sentence/Disposition Report.** Each court in conjunction with the prosecutor shall develop a written plan and procedures to allow the victim to inspect the pre-sentence/disposition report. When requested by the victim, the pre-sentence/disposition report should be made available to the victim within the same time frame it is available to the sentencing judge as prescribed in Rule 26.4, Rules of Criminal Procedure and Rule 30.A.1., Rules of Procedure for the Juvenile Court.
- H. Criminal History Record Information.** Pursuant to Rule 123, Rules of the Supreme Court, all criminal history record information in court files shall be included as an addendum to the pre-sentence report and shall not be made available for review by the victim. The clerk shall maintain a filing system that will ensure that confidential criminal history information does not become part of the public record and that criminal history and other confidential information is made available only to authorized criminal justice agencies.
- I. Minimizing Victim Contacts.**
1. The court shall work closely with law enforcement officials, prosecutors, and defense attorneys to assist with separation of defendant and defendant's family from the victim and victim's family or representative.
 2. When new court facilities are constructed or renovated, provisions shall be made for separation of the victim and victim's family or representative from the defendant and the defendant's family or representative.
- J. Victim Right to Privacy.** The court shall develop a written plan and procedures to ensure that victim information is not improperly disclosed.
- K. Restitution Payment Processing.**
1. Collection of restitution should be done pursuant to ACJA §§ 3-401 and 4-301.
 2. The clerk of court or other court entity responsible for receipting and disbursing restitution shall forward all restitution payments made by cash, cashiers' check, credit card or money order to victims within ten business days, unless the amount of any single disbursement is less than thirty dollars. The court, clerk of court, or other court agency responsible for receipting and disbursing restitution shall disburse all personal check payments within 21 calendar days of receipt. Where a single disbursement is less than thirty dollars the court may develop a clearly defined business system routine to hold funds received for individual victims until the aggregate total in an account reaches a minimum of thirty dollars.
 3. Notwithstanding subsection (2) above, courts receiving restitution payments shall remit all amounts collected over one dollar to victims not less than once each calendar year. In cases where victims cannot be located, courts, clerks or other agencies responsible for restitution payments shall follow state unclaimed property provisions.
 4. For purposes of this subsection (K), "victim" also includes any person, including the surviving dependent of a person, who has suffered physical injury or pecuniary loss resulting from the crime or delinquent act of the accused or a corporation, partnership, association or other legal entity.
- L. Nonpayment of Restitution.** Upon notice from the clerk, regarding a defendant's default in payment of restitution, the court, on motion of the prosecutor, on petition of any person entitled to restitution pursuant to a court order or on its own motion, shall require the defendant to show cause why the defendant's default should not be treated as contempt and may issue a summons or warrant for arrest of the defendant's appearance.

Adopted by Administrative Order 2004-94, effective November 10, 2004. Amended by Administrative Order 2008-23, effective February 28, 2008. The former subsection K(4) was removed from this code section due to its suspension by Administrative Order 2008-55, effective June 12, 2008. Amended by Administrative Order 2009-129, effective December 23, 2009. Amended by Administrative Order 2012-69, effective August 15, 2012. Amended by Administrative Order 2015-23, effective March 4, 2015.

ARIZONA SUPREME COURT ADMINISTRATIVE ORDER 2012-66

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)	
)	
AMENDING ARIZONA CODE OF)	Administrative Order
JUDICIAL ADMINISTRATION)	No. 2012 - 66
§ 6-103: VICTIMS' RIGHTS)	(Affecting Administrative
REQUIREMENTS FOR PROBATION)	Order No. 2008-32)
PERSONNEL)	
_____)	

Pursuant to the Arizona Code of Judicial Administration § 1-201(E), the Chief Justice may adopt emergency administrative code proposals and technical changes in existing code sections by administrative order without prior distribution for comment and action by the Arizona Judicial Council.

Now, therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that Arizona Code of Judicial Administration § 6-103 is amended as indicated on the attached document. All other provisions of § 6-103 as adopted, remain unchanged and in effect.

Dated this 15th day of August, 2012.

REBECCA WHITE BERCH
Chief Justice

ARIZONA CODE OF JUDICIAL ADMINISTRATION

Part 6: Probation

Chapter 1: General Administration

Section 6-103: Victims' Rights Requirements for Probation Personnel

A. Definitions. In this section unless otherwise specified, the following definitions apply:

“Court” means the superior court or any court of limited jurisdiction.

“Criminal Offense” means “conduct that gives a peace officer or prosecutor probable cause to believe that a felony, a misdemeanor, a petty offense or a violation of local criminal ordinance has occurred,” as provided by A.R.S. § 13-4401(6).

“Delinquent act” means an act committed by a juvenile that if committed by an adult would be either (1) a misdemeanor offense involving physical injury, the threat of physical injury or a sexual offense; or (2) a felony offense, in accordance with A.R.S. §§ 8-381 and -382.

“Victim” means a person against whom the criminal offense or delinquent act has been committed, including a minor, or if the person is killed or incapacitated, the person’s spouse, parent, child, grandparent or sibling, any other person related to the person by consanguinity or affinity to the second degree or any other lawful representative of the person, except if the person or the person’s spouse, parent, child, grandparent, sibling, other person related to the person by consanguinity or affinity to the second degree or other lawful representative is in custody for an offense or is the accused.

B. Applicability. Pursuant to Az. Const. Art. 2, § 2.1 and Art. 6, § 3 and A.R.S. §§ 13-603, 13-804, 13-4401 et seq., and A.R.S. §§ 8-381 through 8-420, the following requirements shall govern the administration of victims’ rights by adult and juvenile probation departments.

C. Purpose. To define the role and responsibility of probation personnel in preserving and protecting victims’ rights to justice and due process.

D. General Duties of Probation. Adult and juvenile probation departments shall:

1. Maintain the confidentiality and security of all victim information, including but not limited to, addresses, telephone numbers, place of employment, social security number or other locating information; and
2. Provide training concerning victim sensitivity, victim trauma and victims’ rights in orientation for all probation department personnel.

E. Duties of Adult Probation. Adult probation departments shall:

1. Pursuant to A.R.S. § 13-4415, develop a process to furnish victims who request notice with timely notification of the following:
 - A. On request of a victim who has provided an address or other contact information, the court shall notify the victim of any of the following:
 1. A probation revocation disposition proceeding or any proceeding in which the court is asked to terminate the probation or intensive probation of a person who is convicted of committing a criminal offense against the victim.
 2. Any hearing on a proposed modification of the terms of probation or intensive probation.
 3. The arrest of a person who is on supervised probation and who is arrested pursuant to a warrant issued for a probation violation.

- B. On request of a victim who has provided a current address or other current contact information, the probation department shall notify the victim of the following:
 1. Any proposed modification to any term of probation if the modification affects restitution or incarceration status or the defendant's contact with or the safety of the victim.
 2. The victim's right to be heard at a hearing that is set to consider any modification to be made to any term of probation.
 3. Any violation of any term of probation that results in the filing with the court of a petition to revoke probation.
 4. That a petition to revoke probation alleging that the defendant absconded from probation has been filed with the court.
 5. Any conduct by the defendant that raises a substantial concern for the victim's safety.
2. Develop a standardized presentence report format, in conjunction with the superior court, which addresses the emotional, economic and physical losses of victims;
3. Monitor the payment of restitution by working with the clerk of the court to establish a process by which supervising probation officers are provided with accurate and timely information concerning the collection of court-ordered restitution;
4. Require probation staff to:
 - a. Utilize all available means to contact victims telephonically, electronically, personally, or in writing to ascertain, pursuant to A.R.S. § 13-4424(B), "The probation officer shall consider the economic, physical and psychological impact that the criminal offense has had on the victim and the victim's immediate family pursuant to § 12-253.";
 - b. Take into consideration the impact of the criminal offense on the victim, the victim's thoughts concerning sentencing alternatives, and the circumstances surrounding victim and community protection when making a sentencing recommendation to the court;
 - c. Pursuant to A.R.S. § 13-4426:
 - A. The victim may present evidence, information and opinions that concern the criminal offense, the defendant, the sentence or the need for restitution at any aggravation, mitigation, presentencing or sentencing proceeding.
 - B. At any disposition proceeding the victim has the right to be present and to address the court.
 - d. Pursuant to A.R.S. § 13-4427:
 - A. The victim has the right to be present and be heard at any probation revocation disposition proceeding or any proceeding in which the court is requested to terminate the probation or intensive probation of a person who is convicted of committing a criminal offense against the victim.
 - B. The victim has the right to be heard at any proceeding in which the court is requested to modify the terms of probation or intensive probation of a person if the modification will substantially affect the person's contact with or safety of the victim or if the modification involves restitution or incarceration status.

- e. Document all victim notifications and attempts to notify the victim;
- f. Respond to all queries by victims, providing accurate information in accordance with supreme court rules governing public access to judicial records;
- g. Within the scope of their duties, minimize contact between victims and victims' family and the probationer and probationer's family;
- h. Emphasize and address the probationer's responsibility to satisfy any court-ordered restitution at each scheduled visit and immediately address any arrearage in court-ordered restitution with the probationer;
- i. Notify the court having jurisdiction upon finding that the probationer has become in arrears in an amount totaling two full court-ordered monthly payments of restitution. This notification shall consist of a petition to modify, petition to revoke, or memorandum to the court outlining the reasons for the delinquencies and expected duration thereof. A copy of the memorandum shall be provided to the victim, if the victim has requested notice of restitution modifications; and
- j. Request court extension of probation pursuant to A.R.S. §13-902(C):
 - When the court has required, as a condition of probation, that the defendant make restitution for any economic loss related to the defendant's offense and that condition has not been satisfied, the court at any time before the termination or expiration of probation may extend the period within the following limits:
 - 1. For a felony, not more than five years.
 - 2. For a misdemeanor, not more than two years.
- k. As provided by A.R.S. § 12-253(7), "Bring defaulting probationers into court when in the probation officer's judgment the conduct of the probationer justifies the court to revoke suspension of the sentence."
 - (1) If the probationer is on standard probation supervision and is not located within 90 days, the supervising probation officer shall file a petition to revoke probation, seek a criminal restitution order pursuant to A.R.S. § 13-805(A)(1)(2) for a probationer who is an absconder as defined in A.R.S. § 13-105(1), and request that the court issue a warrant. The supervising officer shall file the petition to revoke sooner, when required by local departmental policies, the circumstances surrounding the case or the need for community protection.
 - (2) If the probationer is on intensive probation supervision and is not located within 72 hours, the intensive probation officer shall file a petition to revoke probation no later than the next business day and request that the court issue a warrant. The supervising officer shall file the petition to revoke sooner, when required by local departmental policies, the circumstances surrounding the case, or the need for community protection.
 - (3) When a petition to revoke is filed prior to the expiration of 90 days, the probation officer shall seek a criminal restitution order upon the expiration of 90 days, pursuant to A.R.S. § 13-805(A)(1)(2), for a probationer who is an absconder as defined in A.R.S. § 13-105(1).

F. Duties of Juvenile Probation. Juvenile probation departments shall require probation staff to:

- 1. Utilize all available means to contact victims and, where appropriate, the victim's family telephonically, electronically, personally, or in writing to ascertain the emotional, economic and physical impact the delinquent offense has had on the victim;
- 2. Advise the victim that, pursuant to A.R.S. § 8-400, the victim "...has the right to be present throughout all court hearings in which the accused or delinquent has the right to be present";

3. Pursuant to A.R.S. § 8-404(B): “In preparing the predisposition or transfer report, the probation officer shall consider the economic, physical and psychological impact that the delinquent act has had on the victim and the victim’s immediate family”;
4. Respond to all queries by victims, providing accurate information in accordance with supreme court rules governing public access to judicial records;
5. Within the scope of their duties, minimize contact between victims and victims’ family and the probationer and probationer’s family; and
6. Emphasize and address the probationer’s responsibility to satisfy any court-ordered restitution at each scheduled visit and immediately address any arrearage in court-ordered restitution with the probationer.

G. Duties of Juvenile Court. Each juvenile court shall:

1. Give victims notice if an accused is accepted into a diversion program, pursuant to A.R.S. § 8-388:

If an accused is accepted into a diversion program pursuant to § 8-321, the court administering the program shall give the victim notice of the conditions that the accused must comply with in order for the complaint or citation to be adjusted or dismissed. The notice shall state whether restitution was required and that, on request of the victim, the victim has the right to be notified of the accused’s completion of or termination from the program.

2. Provide the victim with information from the predisposition report pursuant to A.R.S. § 8-404(C):

On request, the court shall provide the victim with the following information from the predisposition report:

1. The referral history.
2. The probation officer’s assessment of the case.
3. The disposition and treatment recommendations.
4. The probation officer’s recommendations for treatment and disposition.
5. The detention history.

3. Notify the victim in the following circumstances as required by A.R.S. § 8-396(A-C):

A. On request of a victim who has provided an address or other contact information, the court shall notify the victim of any of the following:

1. A probation revocation disposition proceeding or any proceeding in which the court is asked to terminate the probation or intensive probation of the delinquent who committed the delinquent act against the victim.
2. Any hearing on a proposed modification of the terms of probation or intensive probation.
3. The arrest of a delinquent pursuant to a warrant issued for a probation violation.

B. On request of a victim who has provided a current address or other current contact information, the probation department shall notify the victim of the following:

1. Any proposed modification to any term of probation if the modification affects restitution or incarceration status or the delinquent's contact with or the safety of the victim.
 2. The victim's right to be heard at a hearing that is set to consider any modification to be made to any term of probation.
 3. Any violation of any term of probation that results in the filing with the court of a petition to revoke probation.
 4. That a petition to revoke probation alleging that the juvenile absconded from probation has been filed with the court.
 5. Any conduct by the juvenile that raises a substantial concern for the victim's safety.
- C. If a victim has requested post-adjudication notice and probation is revoked and the juvenile is committed to the department of juvenile corrections, the court shall notify the department of juvenile corrections of the victim's request.

Adopted by Administrative Order 2004-94, effective November 10, 2004. Amended by Administrative Order 2008-32, effective April 3, 2008. Amended by Administrative Order 2012-66, effective August 15, 2012.

Use of Victim Names in Court Records and Online

The Arizona Supreme Court approved changes to the criminal, juvenile, and Supreme Court rules, effective September 1, 2013. These rules include important protections for victims that change the way documents are prepared, filed and maintained.

Information Online

A new rule requirement states that no documents shall be accessible on-line to the general public in any case in which a victim was a juvenile at the time of the offense. This restriction is based on the status of the victim as a juvenile, regardless of the underlying court or case type. Additionally, no documents shall be accessible on-line to the general public in criminal cases in which the defendant is charged with any offense listed in A.R.S. Title 13, chapters 14, 32, 35 or 35.1.

Prosecutors and Clerks

When filing a case, prosecutors must notify court clerks that the case falls within the above parameters. Clerks will need to carefully enter victim and other information in their case management systems to ensure accurate coding in order to prevent case records from appearing online. Prosecutors and the courts in which they file are encouraged to work together to ensure accurate and consistent notification and coding.

Defense, Juvenile and Appellate Court Practitioners

Although the rules allow a victim's name to appear in superior court records, it is standard practice to use a substitute identifier for juveniles rather than their true name. All victims' true names must be replaced with a substitute identifier in appellate briefs and in the appellate courts' opinions, memorandum decisions and orders.

Victim identifier

The rules define a victim identifier as a victim's initials, a pseudonym or other substitute for the victim's true full name. Remembering that the intent of the rule is to protect victims, practitioners are urged to consider all aspects of a case when selecting a victim identifier. For example, in smaller communities, using a victim's initials would identify the victim as if their full name had been used. A rule implementation workgroup of the Commission on Victims in the Courts recommended chronological numbering of victims' identifiers in court documents. For example: Victim 1, Victim 2, etc.

The approved rule petition (R-12-0004) with the final version of the rules is available online at: <http://www.azcourts.gov/Portals/20/2012Rules/120512/R120004.pdf>

For questions or further assistance on this rule change, please contact Denise Lundin, Court Specialist with the Administrative Office of the Courts via email: DLundin@courts.az.gov.