

SUPREME COURT OF ARIZONA

In the Matter of	)	Arizona Supreme Court
	)	No. R-12-0004
PETITION TO AMEND RULES	)	
2.3, 13.2, 16.1, 26.4, 31.13, &	)	
35.1, RULES OF CRIMINAL	)	
PROCEDURE; RULE 111, RULES OF	)	
THE SUPREME COURT, AND	)	<b>FILED 12/10/2012</b>
RULES 15, 24, 34, 106, & 107,	)	
RULES OF PROCEDURE FOR THE	)	
JUVENILE COURT	)	
	)	
	)	
	)	
	)	

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**ORDER**

A petition having been filed proposing to amend Rules 2.3, 13.2, 16.1, 26.4, 31.13, and 35.1, Rules of Criminal Procedure, Rule 111, Rules of the Supreme Court, and Rules 15, 24, 34, 106, and 107, Rules of Procedure for the Juvenile Court, and comments having been received, upon consideration,

IT IS ORDERED that amendments to Rules 2.3(b) and 31.13(c), Rules of Criminal Procedure, Rule 106, Rules of Procedure for the Juvenile Court, and Rules 111 and 123(g), Rules of the Supreme Court, be adopted in accordance with the attachment hereto, effective September 1, 2013.

DATED this 10th day of December, 2012.

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REBECCA WHITE BERCH  
Chief Justice

TO:

Rule 28 Distribution

Ronald S Reinstein

Mark C Faull

Randy Lovely

Mark Casey

David Jeremy Bodney

Chris Moeser

**ATTACHMENT\***

**Rules of Criminal Procedure**

**Rule 2.3. Content of Complaint**

**a.** [No change]

**b.** Upon filing a charging document in a criminal case in which a ~~juvenile is alleged to be the victim of~~ defendant is charged with any offense listed in A.R.S Title 13, chapters 14, 32, 35 or 35.1 or in which the victim was a juvenile at the time of the offense, the prosecuting agency shall advise the clerk that the case is subject to the provisions of Supreme Court Rule 123(g)(1)(C)(ii)(h).

**Rule 31.13. Appellate briefs**

**(a) – (b)** [No change]

**c. Contents.**

**(1) – (4)** [No change]

(5) Substitute victim information. Appellate briefs shall use a victim identifier in place of the victim's name in any case in which the defendant was charged with an offense listed in A.R.S Title 13, chapters 14, 32, 35 or 35.1 or in any case in which the victim was a juvenile at the time of the offense. For purposes of this rule, "victim identifier" means a victim's initials, a pseudonym, or other substitute for the victim's true full name.

**(d) – (f)** [No change]

\* Additions are shown by underscoring, deletions by ~~strikeouts~~.

## **Rules of Procedure for the Juvenile Court**

### **Rule 106. Briefing, Consideration and Disposition in the Court of Appeals**

(A) - (G) [No change]

(H) Appellate briefs shall use a victim identifier in place of the victim's name in any case in which a delinquent act is alleged against a juvenile for an offense listed in A.R.S. Title 13, chapters 14, 32, 35, or 35.1 or in which the victim was a juvenile at the time of the offense. For purposes of this rule, "victim identifier" means a victim's initials, a pseudonym, or other substitute for the victim's true full name.

## **Rules of the Supreme Court of Arizona**

### **Rule 111. Publication of Opinions of the Supreme Court and Court of Appeals; Depublication**

**(a) - (h)** [No change]

**(i) Substitute Victim Information.** All opinions, memorandum decisions, and orders shall use a victim identifier, as deemed appropriate by the court, in place of the victim's name in any case concerning a defendant charged with an offense listed in A.R.S. Title 13, chapters 14, 32, 35 or 35.1 or in which the victim was a juvenile at the time of the offense. This rule does not apply to victims who are deceased at the time of issuance of the opinion, memorandum decision, or order.

**(j) The victim may waive the requirements of this rule by notifying the court in a writing that consents to the use or release of the victim's true full name in court records.**

### **Rule 123. Public Access to the Judicial Records of the State of Arizona**

**(a) – (f)** [No change]

#### **(g) Remote Electronic Access to Case Records.**

(1) A court may provide remote electronic access to case records as follows:

(A) – (B) [No change]

(C) *General Public, Registered Users.*

(i) Members of the public who hold an Arizona driver license or nonoperating identification license may be provided remote electronic access, upon registering and paying any established fee, to all of the following categories of case records unless sealed or otherwise made confidential by rule or law:

(a) Civil case records in any action brought to enforce, redress, or protect a private or civil right but not:

- Juvenile dependency and delinquency or other matters brought under ARS Title 8;
- Family law, paternity, or other matters arising out of ARS Title 25;
- Orders of protection, injunctions against harassment and all proceedings, judgments or decrees related to the establishment, modification or enforcement of such orders, including contempt; or
- Probate proceedings brought under ARS Titles 14 and 36.

(b) Civil traffic case records in any action brought as such under ARS Titles 28 or 41 or a matter expressly designated as a civil traffic violation by a traffic ordinance of a city or town, and any boating violation punishable by a civil sanction under ARS Title 5, chapter 3, articles 1 through 11, or a non-traffic ordinance expressly designated a civil violation or a boating ordinance by a city or town.

(c) Criminal case records in any action instituted by the government to punish offenses classified as a misdemeanor or felony brought pursuant to ARS Titles 4, 13, 28, or local ordinance and case records in any action instituted to punish petty offenses classified by ARS § 13-601.

(d) Case records in any action instituted by a county to enforce an ordinance that provides for criminal and civil penalties pursuant to ARS §§ 11-251 and 11-808.

(ii) The following documents shall not be accessible by remote electronic access to users registered under paragraph (g)(1)(C) due to the inability to protect sensitive data that is likely to be contained within these documents:

- (a) booking-related documents;
- (b) warrants, including search warrants, confidential wiretaps, pen registers, handwriting exemplars, trap and trace, and bench warrants;
- (c) charging documents, including criminal and civil traffic charging documents;
- (d) pre-sentence reports;

(e) defendant's financial statement;

(f) disposition report;

(g) transcripts; and

(h) all documents in criminal cases in which a ~~juvenile is alleged to be the victim of any offense listed in ARS Title 13, chapters 14 or 35.1.~~ defendant is charged with any offense listed in A.R.S. Title 13, chapters 14, 32, 35 or 35.1 or in which the victim was a juvenile at the time of the offense. The prosecuting agency, upon filing a charging document described in this paragraph, shall advise the clerk that the case is subject to this provision.

Upon motion by a party, by any person, or upon the court's own motion, and for good cause shown, the court in which such action is pending may issue an order to allow remote electronic access to members of the public, as provided in paragraph (g)(1)(C), to any case in which a defendant is charged with an offense listed in A.R.S. Title 13, chapters 14, 32, 35 or 35.1 or in which the victim was a juvenile at the time of the offense as provided in a juvenile is alleged to be the victim under paragraph (g)(1)(C)(ii)(h). The order may include any appropriate provision required to protect the juvenile or other victim from embarrassment or oppression. The burden of showing good cause for an order shall remain with the person seeking remote electronic access to the case record. Irrespective of an order limiting electronic access under this paragraph, the clerk shall provide non-registered users remote electronic access as set forth in paragraph (D)(ii) herein when the court generally provides such non-registered user access in other cases.

(D) *General Public, Non-Registered Users.* Unless otherwise provided by rule or law, members of the public may be provided remote electronic access, without registering, to:

(i) the following data elements in closed cases, including juvenile delinquency, mental health, probate, and criminal cases in which a defendant is charged with an offense listed in A.R.S. Title 13, chapters 14, 32, 35 or 35.1 or in which the victim was a juvenile at the time of the offense as provided ~~in which a juvenile is alleged to be the victim, as identified~~ in paragraph (g)(1)(C)(ii)(h) above:

- party names,

- case number,
- judicial assignment, and
- attorney names

(ii) except as provided in paragraph (g)(1)(C)(ii)(h) above, individual case information extracted from a case management system in all civil, criminal, and civil traffic cases identified in paragraphs (g)(1)(C)(i)(a) through (d), and family law cases, including a list of documents filed, events, dates, calendars, party names, month and year of birth, residential city, state and zip code, case number, judicial assignment, attorneys, charges filed or claims made, interim rulings, and case outcomes, including sentence, fines, payment history, minute entries, and notices.

(iii) court of appeals and supreme court opinions and decisions in all case types, except that any appendix in criminal cases in which a defendant is charged with any offense listed in A.R.S. Title 13, chapters 14, 32, 35 or 35.1 or in which the victim was a juvenile at the time of the offense as provided ~~a juvenile is alleged to be the victim, as identified~~ in paragraph (g)(1)(C)(ii)(h) above, shall not be provided by remote electronic access.

(2) – (5) [No change]

**(h) – (j)** [No change]