



TO:

Rule 28 Distribution

David K Byers

Dianne Post

James M Schoppmann

James William Rappaport

Elizabeth B Ortiz

Kenneth N Vick

Colleen Clase

Commission on Victims in the Courts

Hon Dan R Slayton, Presiding Judge

## ATTACHMENT<sup>1</sup>

### RULES OF CRIMINAL PROCEDURE

#### **Rule 6.1 Right to Counsel; Right to a ~~Court-Appointed~~ Appointment of an Attorney; Waiver of the Right to Counsel; Authority of a Legal Paraprofessional**

(a) [No change]

(b) **Right to a ~~Court-Appointed~~ Appointment of an Attorney.**

(1)-(2) [No change]

(3) ~~Definition of “Indigent.” For the purposes of this rule, “indigent” means a person who is not financially able to retain counsel.~~

(c) **Waiver of Right to Counsel.** A defendant may waive the right to counsel if the waiver is in writing and if the court finds that the defendant's waiver is knowing, intelligent, and voluntary. After a defendant waives the right to counsel, the court may appoint advisory counsel for the defendant at any stage of the proceedings. In all further matters, the court must give advisory counsel the same notice that is given to the defendant.

(d)-(e) [No change]

**(f) Right to Be Represented by a Legal Paraprofessional.** A defendant may be represented by a legal paraprofessional in criminal cases and proceedings as provided in ACJA § 7-210. This does not affect the right to appointment of an attorney under (b)(1)(B). A legal paraprofessional must be permitted to consult privately with the defendant as soon as feasible after a defendant has been taken into custody, at reasonable times after being taken into custody, and sufficiently in advance of a proceeding to allow a legal paraprofessional to adequately prepare for the proceeding. A legal paraprofessional must comply with all duties in Rule 6.3(a), (c), and (d).

**(g) Definition of Indigency.** For the purposes of this rule, “indigent” means a person who is not financially able to retain counsel.

#### **Rule 7.2. Right to Release**

(a) **Before Conviction; Bailable Offenses.**

(1) [No change]

(2) *Right to Release.* Except as these rules otherwise provide, any defendant charged with an offense bailable as a matter of right must be released pending and during

---

<sup>1</sup> Additions to the text of the rule are shown by underscoring and deletions of text are shown by ~~strike-through~~.

trial on the defendant's own recognizance with only the mandatory conditions of release required under Rule 7.3(a). ~~This rule does not apply if the court determines that such a release will not reasonably~~ unless the court determines that additional conditions are reasonably necessary to assure the defendant's appearance or protect the victim, any other person, or the community from risk of harm by the defendant. If the court makes such a determination, it must impose the least onerous conditions of release set forth in Rule 7.3(c).

(3) *Determining Method of Release or ~~Bail~~ Bond Amount.* In determining the method of release or ~~the a bond amount of bail~~, the court must ~~consider~~ take into account all of the factors set forth in A.R.S. § 13-3967(B).

**(b)-(d) [No change]**

#### **Rule 7.4 Procedure**

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

**(c) Later Review of Conditions.**

(1) *Generally.* On motion or on its own, a court may reexamine bail eligibility or the conditions of release if the case is transferred to a different court, ~~or~~ if a motion alleges the existence of material facts not previously presented to the court, or, if not previously raised under this provision, the defendant is unable to post bond due to the defendant's financial condition.

**(2)-(3) [No change]**

**(d)-(g) [No change]**