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**ARIZONA SUPREME COURT**

In the matter of: )  
)  
) Supreme Court No. 22-\_\_\_\_\_  
PETITION TO AMEND RULE 26.11 OF )  
RULES OF CRIMINAL PROCEDURE ) (Expedited Consideration  
AND RULES 1, 3, 4, AND 42 OF THE ) and Emergency Adoption  
RULES OF PROTECTIVE ORDER ) Requested Pursuant to Rule  
PROCEDURE AND ADOPT RULE 43 OF ) 28)  
THE RULES OF PROTECTIVE ORDER )  
PROCEDURE )  
\_\_\_\_\_)

Pursuant to Rule 28 of the Rules of the Supreme Court, David K. Byers, Administrative Director, Administrative Office of the Courts, respectfully petitions this Court to amend Rule 26.11 of the Arizona Rules of Criminal Procedure and Rules 1, 3, 4, and 42 of the Arizona Rules of Protective Order Procedure and adopt a new Rule 43 of the Arizona Rules of Protective Order Procedure as set forth in Appendix A. The proposed amendments are prompted by the enactment of Senate Bill (SB) 1653 from the 2022 Second Regular Session of the 55<sup>th</sup> Legislature as more particularly described below.

The statutory changes made by SB 1653 became effective on September 24, 2022. Accordingly, Petitioner seeks expedited consideration of this petition and emergency adoption of the proposed rule amendments in Appendix A with a comment period to follow. A copy of the new statute is attached as Appendix B.

## **I. Grounds for Petition Approval**

On June 7, 2022, the Governor signed into law SB 1653 which, beginning September 24, 2022, allows victims of certain crimes to obtain a lifetime no-contact injunction against a defendant convicted of, whether preparatory or completed, a dangerous offense as defined in A.R.S. § 13-105 that is also a felony, a serious offense or violent or aggravated felony as defined in A.R.S. § 13-706, or a felony offense included in Title 13, Chapter 14 or 35.1.

SB 1653 also has a provision to allow victims to obtain a lifetime no-contact injunction against a defendant sentenced before September 24, 2022. Specifically, for defendants convicted of an offense listed in A.R.S. § 13-719(A) and sentenced before September 24, 2022, a victim may obtain a lifetime no-contact injunction against the defendant by filing a petition with the court.

The Administrative Office of the Courts (AOC) formed a workgroup comprised of victim advocates, clerks of court, prosecutors, court administrators, and AOC staff to determine the procedures necessary to implement SB 1653, as court procedures for this process are not currently established in the Arizona Rules

of Court. Procedures for petitions filed pursuant to A.R.S. § 13-719(D) were adopted through Administrative Order 2022-117 on September 21, 2022, based on processes recommended by this workgroup. The purpose of this petition is to incorporate these procedures into the Arizona Rules of Court and to establish procedures for requests made at the time of sentencing.

## **II. Placement of Proposed Rule Amendments**

The means by which a victim may obtain a lifetime no-contact injunction is dependent on when the defendant is sentenced. Specifically, for defendants sentenced on or after September 24, 2022, the request for and issuance of a lifetime no-contact injunction will take place at sentencing. For defendants sentenced before September 24, 2022, a request for a lifetime no-contact injunction will proceed through the filing of a petition by the victim. The court will then determine whether the defendant was convicted of a qualifying offense and issue an order accordingly.

To implement SB 1653, Petitioner proposes amending Criminal Rule 26.11 to establish procedures for handling lifetime no-contact injunctions requested at the time of sentencing. Petitioner proposes amending the Arizona Rules of Protective Order Procedure to establish procedures for handling petitions for lifetime no-contact injunctions filed against defendants sentenced before September 24, 2022.

### **A. The Arizona Criminal Rules of Procedure Should Govern Requests Made at the Time of Sentencing**

Because a lifetime no-contact injunction issued for defendants sentenced on or after September 24, 2022 will be part of the criminal sentencing proceedings, it is appropriate that a rule addressing these requests be made part of the Criminal Rules of Procedure. Therefore, Petitioner proposes amending Rule 26.11 for that purpose.

**B. The Arizona Rules of Protective Order Procedure Should Continue to Govern Petitions Filed After Sentencing**

A lifetime no-contact injunction is a protective order that is similar in nature to the protective orders governed by the Arizona Rules of Protective Order Procedure. Before the enactment of SB 1653, the Arizona Rules of Protective Order Procedure governed injunction against harassment petitions filed by victims for the same crimes listed in A.R.S. § 13-719(A). Specifically, a victim of the same offenses listed in A.R.S. § 13-719(A) could obtain an injunction against harassment against the defendant by filing a petition under A.R.S. § 12-1809(T)(3). SB 1653 repeals A.R.S. § 12-1809(T)(3) and creates A.R.S. § 13-719 to allow for a protective order that does not carry the one-year expiration date that an injunction against harassment carries, alleviating the need for the victim to petition the court each year to renew the order.

Prior to the enactment of SB 1653, the Arizona Rules of Protective Order Procedure governed petitions filed under A.R.S. § 12-1809(T)(3). For that reason and because the requests made by petition for defendants sentenced before

September 24, 2022 cannot be handled as part of the criminal sentencing proceedings since sentencing has passed, Petitioner proposes that the Arizona Rules of Protective Order Procedure govern petitions filed pursuant to A.R.S. § 13-719(D) against defendants sentenced prior to September 24, 2022.

Petitioner realizes that this will create provisions for lifetime no-contact injunctions in both the Criminal Rules and the Protective Order Rules, but Petitioner believes this is necessary based on the means by which orders for lifetime no-contact injunctions will be issued since the orders issued at sentencing will be handled as part of the criminal sentencing proceeding, and petitions filed under A.R.S. § 13-719(D) will proceed similarly to a protective order issued under the Arizona Rules of Protective Order Procedure.

### **III. Summary of Proposed Amendments**

#### **A. Criminal Rule 26.11**

Criminal Rule 26.11 establishes the notice and advisement requirements the court must make after it pronounces a sentence. Petitioner proposes adding the lifetime no-contact injunction procedures as a new subsection (c) since lifetime no-contact injunctions will be issued at the time of sentencing. The proposed new subsection (c) is summarized as follows:

- Subsection (c), generally, will establish the requirement that if the defendant is convicted of an offense listed in A.R.S. § 13-719(A), upon request by the

prosecutor or victim at the time of sentencing, the court must issue a written Order for Lifetime No-Contact Injunction to prohibit the defendant from contacting the victim. The court must require that a Confidential Victim Information Sheet be submitted to the court, which is imperative because it will provide the court with the necessary contact information for the victim and the victim representative since no petition will be filed. The court must also provide a copy of the Order for Lifetime No-Contact Injunction to the prosecutor to provide to the victim. The Order for Lifetime No-Contact Injunction and Confidential Victim Information Sheet will be statewide forms adopted under (c)(4), more particularly described below.

- Subsection (c)(1) pertains to service of the lifetime no-contact injunction and tracks statute by requiring that it be served on the defendant at the time of sentencing and requiring that the court document the same.
- Subsection (c)(2) requires that the court forward the Order for Lifetime No-Contact Injunction and Confidential Victim Information Sheet to the Department of Public Safety (DPS) so that DPS can register the lifetime no-contact injunction with the National Crime Information Center (NCIC), as required by A.R.S. § 13-719(C).
- Subsection (c)(3) tracks statute by providing that an order for a lifetime no-contact injunction is effective immediately and is valid for the defendant's

natural lifetime unless it is dismissed. It then refers to Rule 43(i) of the Arizona Rules of Protective Order Procedure for the procedures governing requests for dismissal.

- Subsection (c)(4) requires the use of statewide forms approved under Rule 43(k) of the Arizona Rules of Protective Order Procedure so that an order for a lifetime no-contact injunction issued at the time of sentencing will look the same as an order for a lifetime no-contact injunction issued after sentencing pursuant to A.R.S. § 13-719(D). This will assist law enforcement with recognizing these orders and prioritizing them.

## **B. The Arizona Rules of Protective Order Procedure**

Petitioner proposes amending the Arizona Rules of Protective Order Procedure (ARPOP) to include lifetime no-contact injunctions filed under A.R.S. § 13-719(D) as follows:

### *1. Rule 1, ARPOP*

Petitioner proposes amending Rule 1, ARPOP to broaden the title from “Scope” to “Scope and Applicability” to specify which rules apply to orders of protection, injunctions against harassment, and injunctions against workplace harassment and which rules apply to lifetime no-contact injunctions because the procedures for issuing a lifetime no-contact injunction under A.R.S. § 13-719(D) differ from the procedures used for orders of protection, injunctions against

harassment, and injunctions against workplace harassment. As such, Petitioner proposes amending Rule 1 to state that Rules 2 through 42 govern the procedures for orders of protection, injunctions against harassment, and injunctions against workplace harassment, and Rules 3, 4, 42, and 43 govern procedures for lifetime no-contact injunction petitions filed under A.R.S. § 13-719(D).

### *2. Rule 3(g), ARPOP*

Petitioner proposes amending the definition of “protective order” in Rule 3(g), ARPOP to add lifetime no-contact injunctions as a protective order. However, Petitioner proposes verbiage to specifically indicate that “protective order” as used in *rules 4 through 42* means an order of protection, injunction against harassment, or injunction against workplace harassment,” except that “protective order” as used in rule 4 also includes a lifetime no-contact injunction issued pursuant to A.R.S. § 13-719(D). Rule 4 is the only rule in rules 4 through 42 where the term “protective order” will mean an order of protection, injunction against harassment, injunction against workplace harassment, or a lifetime no-contact injunction issued under A.R.S. § 13-719(D).

### *3. Rule 4, ARPOP*

Petitioner proposes amending Rule 4, ARPOP to add lifetime no-contact injunctions issued under A.R.S. § 13-719(D) as a new subsection “(e)” to the list of protective orders governed by the Arizona Rules of Protective Order Procedure.

Petitioner's proposed description is intentional in its wording to clarify that this type of injunction is available only to certain crime victims and the defendant must have been convicted and sentenced for the crime before September 24, 2022 because for defendants sentenced on or after September 24, 2022, a crime victim seeking a lifetime no-contact injunction must make the request at the time of sentencing.

#### *4. Rule 42, ARPOP*

Petitioner proposes amending Rule 42, ARPOP to add lifetime no-contact injunctions to the orders that are appealable. Specifically, Petitioner proposes adding to Rule 42(a)(1) that an order granting or denying a petition for a lifetime no-contact injunction is appealable. Petitioner also proposes adding a new subsection (a)(4) to provide that an order granting or denying a request to dismiss a lifetime no-contact injunction is appealable.

#### *5. New Rule 43, ARPOP*

Petitioner proposes creating a new section XI to add a new Rule 43 to establish procedures specific to lifetime no-contact injunctions filed under A.R.S. § 13-719(D). A summary of proposed Rule 43 is as follows:

- Subsection (a) establishes applicability by stating that Rule 43 governs petitions that are filed pursuant to A.R.S. § 13-719(D) for the issuance of a lifetime no-contact injunction against a defendant sentenced before

September 24, 2022 for a conviction of an offense listed in A.R.S. § 13-719(A).

- Subsection (b) defines “qualifying conviction” for purposes of determining a victim’s eligibility for a lifetime no-contact injunction. Specifically, a qualifying conviction is a conviction of any of the following offenses, whether completed or preparatory, if the conviction has not been dismissed, expunged, or overturned and the defendant has not been pardoned:

(1) A dangerous offense as defined in A.R.S. § 13-105 that is also a felony;

(2) A serious offense or violent or aggravated felony as defined in A.R.S. § 13-706; or

(3) A felony offense included in Title 13, Chapter 14 or 35.1.

- Subsection (c) sets forth who may file. Specifically, the victim or victim representative may file the petition, except that if the victim requesting the lifetime no-contact injunction is a minor, then the parent, legal guardian, or person who has statutorily defined legal custody of the minor victim must file the petition unless the court determines otherwise. This proposed subsection also defines “victim” by reference to A.R.S. § 13-4401.
- Subsection (d) establishes where a petition filed under A.R.S. § 13-719(D) must be filed. The superior court in each county does not have ready access

to superior court records in other counties. Therefore, Petitioner's proposed rule requires that the petition be filed in the court that sentenced the defendant so that courts can more easily verify whether the conviction is a qualifying conviction under A.R.S. § 13-719(A).

- Subsection (e) sets the requirements for the contents of the petition, which includes (1) whether the filer is the victim or a victim representative; (2) the defendant's name and date of birth; (3) the eligible conviction that forms the basis of the request; (4) whether the victim and the defendant have an existing parenting time plan in place so that family court judges can be made aware of the existence of a lifetime no-contact injunction; and (5) the criminal case number for the conviction.

The petition should also include, if available, the defendant's address, telephone number, and email address; the defendant's whereabouts or information regarding the best location for service; the defendant's name at the time of arrest if different than the defendant's current name; and a copy of the sentencing order to aid the court in verifying whether the defendant was convicted of a qualifying offense as listed in A.R.S. § 13-719(A).

This proposed subsection also requires a declaration under penalty of perjury, which substantially mirrors the verbiage used for petitions for orders

of protection, injunctions against harassment, injunctions against workplace harassment, and post-conviction filings in criminal cases.

The petition must also be accompanied by a Confidential Victim Information Sheet, which will be adopted through proposed subsection (k) more particularly described later in this petition and will provide the necessary contact information for the victim and the victim representative. This form is imperative because the petition will contain very little information about the victim, as the victim's date of birth, address, phone number, and other contact information will not appear on the petition because the petition may eventually become a public record. Having the victim's information on a confidential information sheet that is not subject to public access will allow courts to keep the victim's identifying and locating information confidential to the greatest extent possible.

Lastly, the process that Petitioner proposes will result in the court determining whether the conviction is a qualifying offense based solely on the petition, and as such, Petitioner proposes adding verbiage that allows the court to request supporting documentation before making a ruling.

- Subsection (f) mirrors the requirement for other protective orders related to the victim's continuing duty to provide the clerk of court with an updated mailing address and phone number so that the court can notify the victim, if

necessary—for example, if the defendant requests a dismissal or a hearing is set.

- Subsection (g) requires that the court, upon determining that the offense for which the defendant was convicted is a qualifying offense, issue a written order for the lifetime no-contact injunction and provide a copy to the victim. Should the court determine that the conviction is not a qualifying conviction, the court must deny the petition, issue a written order to that effect, and provide a copy of the order to the victim. “Provide” as used in this rule means to send by mail or email, or to allow the victim to obtain a copy in person.
- Subsection (h) establishes the requirements for service and requires that an order for a lifetime no-contact injunction be served by the sheriff or other law enforcement agency, or a process server. It also clarifies that the order does not need to be a certified copy, and that if the sheriff or other law enforcement agency serves the order, the victim cannot be charged a fee for service, as provided in A.R.S. § 13-719(D).

This subsection also provides a requirement for the prompt filing of the return of service by fax, email or in person, no later than 72 hours after service, which mirrors the requirement for orders of protection, injunctions against harassment, and injunctions against workplace harassment.

Lastly, the court is required under A.R.S. § 13-719(C) to forward information to DPS that will allow DPS to register the lifetime no-contact injunction with the NCIC. The information required by DPS includes a copy of the order, the returned proof of service so that DPS can enter a service date, and the victim's information. Therefore, Petitioner's proposed rule requires that upon receiving proof of service, the clerk or other court staff forward a copy of the returned proof of service, order for lifetime no-contact injunction, and Confidential Victim Information Sheet to DPS.

- Subsection (i) provides that a lifetime no-contact injunction is valid for the defendant's natural lifetime, pursuant to A.R.S. § 13-719(E), unless it is dismissed. Subsection (i) also clarifies that a lifetime no-contact injunction issued pursuant to A.R.S. § 13-719(D) is effective on service. Although A.R.S. § 13-719(B) states "[a]n injunction issued under this section is effective immediately and shall be served on the defendant at the time of sentencing," constitutionally, this provision can only be applied to injunctions issued pursuant to A.R.S. § 13-719(A) where the injunction is issued and served at the time of sentencing. This reading renders A.R.S. § 13-719 silent as to when injunctions issued after sentencing and without prior notice to the defendant will become effective and for that reason, Petitioner proposes

language in this rule to clarify that lifetime no-contact injunctions issued under A.R.S. § 13-719(D) become effective on service.

Subsection (i) also details when an injunction may be dismissed. Specifically, the victim may request dismissal, by written motion, at which time court staff must verify the victim's identity, and the court may schedule a hearing to make a determination on the request. The defendant may also request dismissal, by written motion, but only in the following limited circumstances: (1) the victim has died; (2) the conviction on which the lifetime no-contact injunction is based has been dismissed, expunged, or overturned or the defendant has been pardoned; or (3) the conviction on which the lifetime no-contact injunction is based is not a qualifying conviction. Before granting a defendant's request to dismiss a lifetime no-contact injunction based on (2) or (3), the court must notify the victim of the request and give the victim an opportunity to file a written response.

- Subsection (j) details the public access requirements for lifetime no-contact injunctions issued under A.R.S. § 13-719(D). This requirement largely mirrors Supreme Court Rule 123(d)(3) in that it prohibits public access to any information regarding the filing for, contents of a petition for, or issuance of a lifetime no-contact injunction until proof of service of the injunction has been filed with the court. The court may share information about the lifetime

no-contact injunction with the victim or victim representative and prosecutors or law enforcement when necessary to carry out their official responsibilities.

This subsection contains additional verbiage to indicate that the Confidential Victim Information Sheet cannot be made available to the public or the defendant, even after the defendant has been served, but allows the court to provide a copy to DPS for purposes of registering the lifetime no-contact injunction with the NCIC.

- Subsection (k) requires courts to provide lifetime no-contact injunction forms free of charge and requires the Director of the Administrative Office of the Courts to adopt forms that courts and parties must use statewide without alterations, except that courts may make margin and caption changes.

Statewide use of forms for lifetime no-contact injunctions is imperative so that law enforcement will recognize these orders and can prioritize them. It is also important so that law enforcement will recognize that the victim is not to be assessed a fee for service. Additionally, requiring the use of statewide forms for lifetime no-contact injunctions is consistent with current requirements for order of protection, injunction against harassment, and injunction against workplace harassment forms.

#### **IV. Preliminary Comments.**

This petition has not been sent to the court community for pre-filing comments because of its technical nature and due to the short period of time since the enactment of the new statutory provisions. However, the procedures adopted in Administrative Order 2022-117 and proposed here, with slight conforming changes, as new Rule 43 of the Arizona Rules of Protective Order Procedure were circulated to the SB 1653 workgroup members for feedback.

#### **V. Request for Expedited Consideration and Emergency Adoption**

Petitioner is requesting expedited consideration and emergency temporary adoption of the proposed rule amendments with a comment period to follow, for the reasons more particularly described below.

The legislation identified in this petition became effective on September 24, 2022. Although Administrative Order 2022-117 establishes procedures for petitions filed under A.R.S. § 13-719(D) against defendants sentenced before September 24, 2022, procedures related to requests made and granted at the time of sentencing have not been established. These procedures are necessary for purposes of forwarding orders for lifetime no-contact injunctions to DPS and using statewide forms so that orders for lifetime no-contact injunctions issued at sentencing will be issued using the same form as those issued based on a petition filed under A.R.S. § 13-719(D).

Therefore, as permitted by Supreme Court Rule 28(h), Petitioner requests expedited consideration and emergency temporary adoption of the proposed rule

amendments at the Court's December 2022 Rules Agenda with a comment period to follow and consideration for permanent adoption at the Court's August 2023 Rules Agenda. Additionally, Petitioner respectfully requests that this petition be open for preliminary comments until October 31, 2022, with a reply due by November 4, 2022, to provide an opportunity for the public to comment before this petition is considered at the Court's December 2022.

Respectfully submitted this 3<sup>rd</sup> day of October, 2022.

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## APPENDIX A

(deletions shown with ~~strikethrough~~, new language is underlined)

### Arizona Rules of Criminal Procedure

#### Rule 26.11. A Court's Duty After Pronouncing Sentence

(a) and (b) [No Changes]

(c) Lifetime No-Contact Injunction. If the defendant is convicted of an offense listed in A.R.S. § 13-719(A), upon request by the prosecutor or victim at the time of sentencing, the court must issue a written Order for Lifetime No-Contact Injunction to prohibit the defendant from contacting the victim. The court must require that a Confidential Victim Information Sheet be submitted to the court and must provide a copy of the Order for Lifetime No-Contact Injunction to the prosecutor to provide to the victim.

(1) Service. An order for a lifetime no-contact injunction issued under this rule must be served on the defendant at the time of sentencing. The court must indicate on the Order for Lifetime No-Contact Injunction that the defendant was served with the Order for Lifetime No-Contact Injunction at the time of sentencing.

(2) Forwarding the Order to the Department of Public Safety (DPS). The clerk must promptly forward a copy of the Order for Lifetime No-Contact Injunction and Confidential Victim Information Sheet to DPS. The Confidential Victim Information Sheet cannot otherwise be made available to the public or the defendant to inspect, obtain copies of, or otherwise have access to.

(3) Effective Date; Validity; Requests for Dismissal. An order for a lifetime no-contact injunction is effective immediately and is valid for the defendant's natural lifetime unless it is dismissed. Rule 43(i) of the Arizona Rules of Protective Order Procedure governs requests for dismissal.

(4) Forms. For purposes of assisting law enforcement and other agencies with recognizing orders for lifetime no-contact injunctions, courts and parties must use the forms approved under Rule 43(k) of the Arizona Rules of Protective Order Procedure. Courts may make margin and caption changes.

### Arizona Rules of Protective Order Procedure

#### Rule 1. Scope and Applicability

~~These r~~Rules 2 through 42 govern procedures in Arizona courts for any case brought under Arizona Revised Statutes ("A.R.S.") § 13-3602, Order of Protection; A.R.S.

§ 13-3624, Emergency Order of Protection; A.R.S. § 12-1809, Injunction Against Harassment; or A.R.S. § 12-1810, Injunction Against Workplace Harassment. Rules 3, 4, 42, and 43 govern procedures in Arizona for any petition filed under A.R.S. § 13-719(D) for a Lifetime No-Contact Injunction.

### **Rule 3. Definitions**

**(a) through (f) [No Changes]**

**(g) “Protective order,”** as used in ~~these rules~~ 4 through 42, means an Order of Protection, an Emergency Order of Protection, an Injunction Against Harassment, or an Injunction Against Workplace Harassment, except that “protective order” as used in rule 4 also includes a Lifetime No-Contact Injunction issued pursuant to A.R.S. § 13-719(D).

### **Rule 4. Protective Orders Governed By These Rules**

**(a) through (e) [No Changes]**

**(e) Lifetime No-Contact Injunction Under A.R.S. § 13-719(D).** A Lifetime No-Contact Injunction prohibits any contact by the defendant in a criminal case against the victim in that case and may be issued under A.R.S. § 13-719(D) if the defendant was convicted of and sentenced for an offense in A.R.S. § 13-719(A) before September 24, 2022.

### **Rule 42. Appeals**

**(a) Appealable Orders.** The following orders are appealable and are not subject to Rule 54(c), Rules of Civil Procedure, or Rule 78(c), Rules of Family Law Procedure:

(1) An order denying a petition for an Order of Protection, an Injunction Against Harassment, ~~or an Injunction Against Workplace Harassment,~~ or an order granting or denying a petition for a Lifetime No-Contact Injunction.

(2) and (3) [No Change]

(4) An order granting or denying a request to dismiss a Lifetime No-Contact Injunction.

**(b) [No Change]**

## **PART XI. LIFETIME NO-CONTACT INJUNCTIONS UNDER A.R.S. § 13-719(D)**

### **Rule 43. Lifetime No-Contact Injunctions**

**(a) Applicability.** This rule governs petitions that are filed pursuant to A.R.S. § 13-719(D) for the issuance of a lifetime no-contact injunction against a defendant sentenced before September 24, 2022 for a conviction of an offense listed in A.R.S. § 13-719(A).

**(b) Qualifying Convictions.** A qualifying conviction for a lifetime no-contact injunction issued pursuant to this rule is a conviction of any of the following offenses, whether completed or preparatory, if the conviction has not been dismissed, expunged, or overturned and the defendant has not been pardoned:

- (1) A dangerous offense as defined in A.R.S. § 13-105 that is also a felony;
- (2) A serious offense or violent or aggravated felony as defined in A.R.S. § 13-706; or
- (3) A felony offense included in Title 13, Chapter 14 or 35.1.

**(c) Who May File.** The victim or victim representative may file the petition, except that if the victim requesting the lifetime no-contact injunction is a minor, then the parent, legal guardian, or person who has statutorily defined legal custody of the minor victim must file the petition unless the court determines otherwise. “Victim” as used in this rule and in Rule 4(e) has the same meaning as set forth in A.R.S. § 13-4401.

**(d) Place of Filing.** The petition must be filed in the court where the defendant was sentenced.

**(e) Petition; Supporting Documentation.**

(1) Required Information. The petition must include:

- (a) whether the filer is the victim or a victim representative;
- (b) the defendant’s name and date of birth;
- (c) the eligible conviction that forms the basis of the request;
- (d) whether the victim and the defendant have an existing parenting time plan in place; and
- (e) the criminal case number for the conviction.

(2) Other Information, if Available. The petition should also include, if available:

- (a) the defendant’s address, telephone number, and email address;
- (b) the defendant’s whereabouts or information regarding the best location for service;
- (c) the defendant’s name at the time of arrest if different than the defendant’s current name; and

(d) a copy of the sentencing order.

(3) Declaration Under Penalty of Perjury. The filer must sign the petition with the following declaration: “I declare under penalty of perjury that the information I have provided in this petition and any attachments is true and correct to the best of my knowledge.”

(4) Confidential Victim Information Sheet. The filer must attach a completed Confidential Victim Information Sheet to the petition.

(5) Supporting Documentation. The court may request supporting documentation for purposes of verifying that the offense for which the defendant was convicted is a qualifying offense.

**(f) Continuing Duty to Provide Current Address.** The victim has a continuing duty to provide the clerk of the court with a current and correct phone number and mailing address where the victim can be notified.

**(g) Processing the Petition.** If the court determines that the conviction is a qualifying offense, the court must issue the lifetime no-contact injunction and provide a copy to the victim. If the court determines that the conviction is not a qualifying conviction, the court must issue a written order stating the reason for denial and provide a copy of the order to the victim.

**(h) Service.** If the court issues a lifetime no-contact injunction, a copy of the order must be personally served on the defendant. There is no requirement that the copy of the order served on the defendant be certified.

(1) Who Can Serve. A lifetime no-contact injunction issued pursuant to A.R.S. § 13-719(D) must be served by the sheriff or other law enforcement officer, or a process server.

(2) Service by Sheriff or Other Law Enforcement Officer. The victim or victim representative may initiate service by the sheriff or other law enforcement officer by delivering a copy of the order for the lifetime no-contact injunction to the sheriff of the issuing county or other appropriate law enforcement agency. A fee may not be charged for service by the sheriff or other law enforcement agency.

(3) Proof of Service. Proof of service must be promptly filed with the clerk of the issuing court as soon as practicable after service but no later than 72 hours, excluding weekends and holidays. Proof of service may be submitted by facsimile, electronically, or in person.

(4) Notifying the Department of Public Safety (DPS). Upon receiving proof of service, the clerk or other court staff must forward a copy of the returned proof of service, order for the lifetime no-contact injunction, and Confidential

Victim Information Sheet to DPS to register the lifetime no-contact injunction with the National Crime Information Center.

**(i) Validity; Dismissal.** A lifetime no-contact injunction issued pursuant to A.R.S. § 13-719(D) is effective on service and is valid for the defendant's natural lifetime unless it is dismissed.

(1) Dismissal on Request of the Victim. The victim may make a request to the court to dismiss the lifetime no-contact injunction at any time by filing a written motion to dismiss. Court personnel must verify the victim's identity when the motion is filed. The court may schedule a hearing to make a determination on the victim's request for dismissal. If the court grants the victim's request, it must issue a written order and provide a copy to the victim and the defendant.

(2) Dismissal on Request of the Defendant. The defendant, by filing a written motion, may request dismissal of a lifetime no-contact injunction only if:

(a) the victim has died;

(b) the conviction on which the lifetime no-contact injunction is based has been dismissed, expunged or overturned, or the defendant has been pardoned; or

(c) the conviction on which the lifetime no-contact injunction is based is not a qualifying conviction.

(3) Notification; Response. Before granting a defendant's request to dismiss a lifetime no-contact injunction based on 2(b) or (c), the court must notify the victim of the request and give the victim an opportunity to file a written response.

**(j) Public Access to Petition or Injunction Information.**

(1) The court must not make publicly available any information regarding the filing for, contents of a petition for, or issuance of a lifetime no-contact injunction issued under this rule until proof of service of the injunction has been filed with the court. The court may share information about the lifetime no-contact injunction with the victim or victim representative and prosecutors or law enforcement when necessary to carry out their official responsibilities.

(2) The Confidential Victim Information Sheet filed under (e)(4) may be provided to DPS under (g)(4) but cannot otherwise be made available to the public or the defendant to inspect, obtain copies of, or otherwise have access to.

**(k) Forms.** Courts must provide, without charge, lifetime no-contact injunction forms. For purposes of assisting law enforcement with recognizing orders for

lifetime no-contact injunctions so that law enforcement can prioritize these orders and not assess a fee for service, courts and parties must use only the forms approved by the Director of the Administrative Office of the Courts. Courts may make margin and caption changes.

## APPENDIX B

### 13-719. Lifetime injunction; offenses; registration; previously sentenced defendants

**A.** At the time of sentencing, on the request of the victim or the prosecutor, the court shall issue an injunction that prohibits the defendant from contacting the victim if the defendant is convicted of any of the following offenses, whether completed or preparatory:

1. A dangerous offense as defined in section 13-105 that is a felony.
2. A serious offense or violent or aggravated felony as defined in section 13-706.
3. A felony offense included in chapter 14 or 35.1 of this title.

**B.** An injunction issued pursuant to this section is effective immediately and shall be served on the defendant at the time of sentencing.

**C.** The court shall provide information to the department of public safety to register the injunction with the national crime information system and shall notify the victim of the injunction.

**D.** A victim may submit a petition to the court requesting an injunction against a defendant who was sentenced for an offense listed in subsection A of this section before September 24, 2022. A law enforcement agency shall serve an injunction issued pursuant to this subsection at no charge to the victim.

**E.** An injunction that is issued pursuant to this section does not expire and is valid for the defendant's natural lifetime unless any of the following occurs:

1. The defendant makes a showing to the court that either:
  - (a) The victim has died.
  - (b) The conviction has been dismissed, expunged or overturned or the defendant has been pardoned.
2. The victim submits a written request to the court for an early expiration. The court may hold a hearing to verify the victim's request to dismiss the injunction.