

David K. Byers  
Administrative Director  
Administrative Office of the Courts  
1501 W. Washington, Suite 411  
Phoenix, AZ 85007-3327  
Phone: (602) 452-3301  
Projects2@courts.az.gov

**ARIZONA SUPREME COURT**

In the matter of: )  
)  
PETITION TO AMEND RULE 26.11 OF ) Supreme Court No. 22-0039  
RULES OF CRIMINAL PROCEDURE )  
AND RULES 1, 3, 4, AND 42 OF THE ) REPLY  
RULES OF PROTECTIVE ORDER )  
PROCEDURE AND ADOPT RULE 43 OF )  
THE RULES OF PROTECTIVE ORDER )  
PROCEDURE )  
\_\_\_\_\_ )

David K. Byers, Administrative Director, Administrative Office of the Courts, and Petitioner in this matter, hereby replies pursuant to Rule 28(e)(5), Rules of the Supreme Court of Arizona and this Court’s Order dated October 6, 2022.

**I. Procedural History**

On October 3, 2022, Petitioner filed a petition to amend Rule 26.11 of the Arizona Rules of Criminal Procedure and several rules in the Arizona Rules of Protective Order Procedure to implement the legislature’s enactment of A.R.S. § 13-719 through Senate Bill (SB) 1653 related to lifetime no-contact injunctions during the 2022 Second Regular Session of the Fifty-fifth Legislature. Because SB 1653

became effective on September 24, 2022, Petitioner requested expedited consideration of the petition and emergency adoption of the proposed rule amendments at the Court's December 2022 Rules Agenda with a comment period to follow. Given the short time period between the date SB 1653 was signed into law and its effective date, Petitioner also requested that this petition be open for public comment until October 31, 2022, so that the Court could additionally consider any comments at its December 2022 Rules Agenda.

On October 6, 2022, this Court granted Petitioner's request to consider this petition on an expedited basis. The Court further ordered the petition be opened for public comment until October 31, 2022, with any reply due by November 4, 2022. The Court will consider whether to adopt these amendments on an emergency basis at its December 2022 Rules Agenda. After the Court's consideration of this petition at its December 2022 Rules Agenda, it will reopen the public comment period until May 1, 2023, with any reply due by June 1, 2023.

Petitioner files this reply to address the comments received during the first comment period and incorporate changes to the proposed rule amendments as set forth in the Appendix.

## **II. Discussion**

This petition received three comments. The first comment was from the Clerk of Court for the Superior Court in Maricopa County. The second comment was a

joint comment from the Directors of the Maricopa County Indigent Defense Agencies. The third comment was from the Honorable Jennifer Green, Criminal Presiding Judge in the Superior Court in Maricopa County. Petitioner will reply to each comment in turn.

**A. Clerk of Court for the Superior Court in Maricopa County**

***1. Criminal Rule 26.11(c), (c)(1) and (c)(3)***

The Clerk's comment proposes clarifying Criminal Rule 26.11(c) to indicate that the *clerk* be required to provide a copy of the order for lifetime no-contact injunction to the victim and that the order be provided to the victim instead of providing it to the prosecutor to provide to the victim. Petitioner acknowledges that there may be instances where the victim elects not to use the prosecutor's office to provide advocates services but recognizes that when a victim does use the prosecutor's office to provide advocate services, the prosecutor may be in a better position to provide the order to the victim if the victim is not present at sentencing. Therefore, Petitioner recommends amending Criminal Rule 26.11(c) as reflected in the Appendix to provide that the clerk provide the order to the victim or to the prosecutor if the prosecutor is providing advocate services to the victim.

The comment also proposes adding verbiage to Criminal Rule 26.11(c)(1) to address service of the order for lifetime no-contact injunction on the defendant if the defendant is not present at sentencing. However, it is Petitioner's position that this

would contradict the clear language of Criminal Rule 26.9, which states “[t]he defendant . . . must be present at sentencing.” Petitioner understands that although a defendant may be ordered to appear at sentencing, the defendant may nonetheless fail to appear. This is contemplated by Criminal Rule 26.3(a)(1)(C), which requires the court not to proceed with sentencing, but to issue a warrant: “[w]hen setting a sentencing date, the court must order the defendant to be present for sentencing and, if the defendant fails to appear, issue a warrant for the defendant's arrest.”

Petitioner believes that adding language to a court rule that suggests the defendant may be sentenced in absentia undermines and confuses the requirements of Criminal Rule 26.9. See *State v. Fettis*, 136 Ariz. 58, 59, 664 P.2d 208, 209 (1983).

The comment additionally proposes adding to Criminal Rule 26.11(c)(3) clarification that an order for a lifetime no-contact injunction is effective immediately *upon service*. Presumably this suggestion is based on the comment proposing verbiage be added to Criminal Rule 26.11(c)(1) related to service when the defendant is in absentia during sentencing, but Petitioner believes that “upon service” can be added to Criminal Rule 26.11(c)(3) independently of the proposed verbiage for Rule 26.11(c)(1). The Appendix incorporates this suggested verbiage.

## ***2. Criminal Rule 26.11(c)(2)***

The Clerk's comment also proposes adding verbiage to indicate that the clerk *or other court staff* must forward a copy of the order for a lifetime no-contact injunction and confidential victim information sheet to the Department of Public Safety. Petitioner has no objections to this proposal and has incorporated this verbiage as set forth in the Appendix.

### ***3. Proposed Protective Order Rule 43(c)***

The Clerk's comment and Judge Green's comment propose adding to proposed Protective Order Rule 43(c) to clarify what a "victim representative" is. Petitioner does not object to this proposal and proposes adding the verbiage as proposed by Judge Green which replaces "victim representative" with "the victim's attorney, the victim's legal guardian, or the prosecutor."

The Clerk's comment points out that the language in A.R.S. § 13-719(D) does not mirror the language in A.R.S. § 13-719(A) in that under A.R.S. § 13-719(A), the victim *or the prosecutor* may request the lifetime no-contact injunction at the time of sentencing, whereas A.R.S. § 13-719(D) provides that the *victim* may submit a petition to the court when the defendant was sentenced before the effective date of A.R.S. § 13-719. However, it is not the Clerk's position that a petition under A.R.S. § 13-719(D) should be limited to filing by the victim. Petitioner agrees.

The legislature has granted the prosecutor the authority to request a lifetime no-contact injunction on behalf of the victim at the time of sentencing. If the

prosecutor is permitted to make the request on behalf of victims at sentencing, it is appropriate to allow the prosecutor to make the same request on behalf of victims when the defendant was sentenced before the effective date of the statute.

Although A.R.S. § 13-719(D) states, “[a] victim may submit a petition to the court requesting an injunction against a defendant sentenced . . . before the effective date of this section,” Section 6 of SB 1653 states “[t]he supreme court shall develop and adopt procedures for a victim . . . to petition the superior court for an injunction . . .” The procedures developed and adopted by this Court can establish the mechanism by which a victim may submit a petition to the court, including through an authorized representative, namely the victim’s attorney, the victim’s legal guardian, or the prosecutor.

#### ***4. Proposed Protective Order Rule 43(d)***

The Clerk’s comment proposes that proposed Protective Order Rule 43(d) be amended to require the petition to be filed into the criminal case because a criminal case will likely already exist, and allowing petitions to be filed as a civil matter may cause significant confusion between lifetime no-contact injunctions and other protective orders issued under the Arizona Rules of Protective Order Procedure. Petitioner is unclear as to how allowing petitions to be filed as a civil case might cause confusion between lifetime no-contact injunctions and other protective orders

issued under the Protective Order Rules, as the forms used for lifetime no-contact injunctions are distinct from those used for other protective orders.

Moreover, the issue as to whether lifetime no-contact injunctions issued under A.R.S. § 13-719(D) are a criminal matter or a civil matter that arises from a criminal conviction is unsettled. Although the provision for lifetime no-contact injunctions appears in Title 13, its placement is not dispositive as to whether injunctions issued under A.R.S. § 13-719(D) are indeed a criminal matter. See *State v. Trujillo*, recognizing that although codification in Title 13 arguably evinces a legislative intent to classify a statute as criminal, this is not dispositive. 248 Ariz. 473, 479, 462 P.3d 550, 556 (2020). This is exemplified by the placement of orders of protection in Title 13, which are handled as civil matters.

Further, before the enactment of SB 1653, injunction against harassment petitions filed by victims for the same crimes listed in A.R.S. § 13-719(A) were governed by the Arizona Rules of Protective Order Procedure and handled as civil matters. 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). Although 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, it does not necessarily follow that a petition issued under A.R.S. § 13-719(D) is a

criminal matter. A.R.S. § 13-719 governs the victim's ability to request a lifetime no-contact injunction at sentencing, so its placement in Title 13 is appropriate. Whether a lifetime no-contact injunction issued against a defendant sentenced before September 24, 2022 is a criminal matter or a civil matter hinges on legislative intent.

Therefore, Petitioner does not support proposing a rule that would require that petitions filed under A.R.S. § 13-719(D) be placed under the criminal case number. Administrative Order 2022-117 provides that the presiding judge of each county will establish procedures to determine how these cases are filed into each court, including determining whether these petitions will be placed in the criminal case or in a civil case. It is Petitioner's position that this is still the best approach, as each county functions differently and may have different procedures regarding which judicial officers will hear these petitions.

#### ***5. Proposed Protective Order Rule 43(f)***

The Clerk proposes adding verbiage to proposed Protective Order Rule 43(f) to require a victim who is updating their address or phone number to provide the information on the Confidential Victim Information Sheet. Petitioner has no objections to this proposal and has incorporated verbiage for this purpose as reflected in the Appendix.

#### ***6. Proposed Protective Order Rule 43(h)(3)***

The Clerk proposes removing “facsimile” from proposed Protective Order Rule 43(h)(3) regarding how proof of service may be submitted to the court. Petitioner understands that facsimile may not be the preferred method of receiving proof of service in Maricopa County, but Petitioner does not recommend limiting the means by which proof of service may be submitted to the court, as it may be a frequently used method by which other counties receive proof of service.

Moreover, facsimile is an acceptable method of submitting proof of service to the court for orders of protection, injunctions against harassment, and injunctions against workplace harassment under A.R.S. §§ 12-1809(L), 12-1810(K), and 13-3602(P) and Protective Order Rule 31(i). To maintain consistency in how proof of service may be submitted to the court for the four types of protective orders, Petitioner recommends keeping facsimile in proposed Protective Order Rule 43(h)(3) as a method by which proof of service may be submitted to the court.

## **B. Directors of the Maricopa County Indigent Defense Agencies**

### ***1. Proposed Protective Order Rule 43(i)***

The comment from the Directors of the Maricopa County Indigent Defense Agencies proposes revisions to proposed Protective Order Rule 43(i)(1) and (2) regarding the dismissal of lifetime no-contact injunctions on request of the victim or the defendant. Specifically, the comment proposes verbiage to more closely align the proposed rule with A.R.S. § 13-719(E) as to when the court must grant a victim’s

or defendant's request for dismissal. Petitioner does not object but proposes slightly alternative language to require the court to make a finding that the victim is not under duress or coercion before ordering the lifetime no-contact injunction dismissed, and requiring the defendant to make a showing that at least one of the criteria for dismissing the lifetime no-contact injunction has been met. The proposed verbiage is set forth in the Appendix.

## ***2. Proposed Protective Order Rule 43(g)***

The Directors of the Maricopa County Indigent Defense Agencies also propose adding a new subsection to the proposed Protective Order Rule 43 that would require notice to the defendant and the opportunity to respond to the petition before the lifetime no-contact injunction is issued. Petitioner takes no position on this comment.

### **C. Honorable Jennifer Green, Criminal Presiding Judge in the Superior Court in Maricopa County**

#### ***1. Criminal Rule 26.11***

Judge Green's comment points out that the proposed changes to Criminal Rule 26.11 does not make provisions for service post-sentencing, which may be necessary if adequate victim information is not available for the court to issue the lifetime no-contact injunction until after sentencing. Specifically, there may be a scenario where the prosecutor requests a lifetime no-contact injunction on behalf of the victim at

sentencing, but the victim is not present at sentencing and the prosecutor lacks the adequate information to provide to the court so that the court can issue the lifetime no-contact injunction.

The purpose of requiring the Confidential Victim Information Sheet to be submitted to the court is so that the court will have the required information so that it can issue the lifetime no-contact injunction and serve it at the time of sentencing as required by A.R.S. § 13-719(B). Petitioner proposes clarifying verbiage in Criminal Rule 26.11(c) requiring the prosecutor or victim to submit the Confidential Victim Information Sheet to the court before or at the time of sentencing. The proposed verbiage is set forth in the Appendix.

## ***2. Proposed Protective Order Rule 43(b)***

Judge Green's comment proposes a slight revision to proposed Protective Order Rule 43(b) to read "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; *or* the defendant has not been pardoned," instead of reading ". . . and the defendant has not been pardoned."

Petitioner has no objections to this proposal but recommends a slight revision so that the rule reads more clearly as follows: "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, unless the conviction has been dismissed, expunged, or overturned, or the defendant has been pardoned.” This verbiage is reflected in the Appendix.

### ***3. Proposed Protective Order Rule 43(c) and (h)(3)***

Judge Green’s comment proposes replacing “victim representative” in proposed Protective Order Rule 43(c) with “the victim’s attorney, the victim’s legal guardian, or the prosecutor.” Judge Green also proposes limiting who can initiate service of the order to the victim, victim’s attorney, and the victim’s legal guardian. Petitioner has no objection to these proposals and has incorporated the proposed verbiage into proposed Protective Order Rule 43(c) and (h)(3) as set forth in the Appendix.

Petitioner also proposes adding language to proposed Protective Order Rule 43(c) to clarify that a minor victim’s attorney or the prosecutor may file on behalf of the minor victim if the parent, legal guardian, or person who has statutorily defined legal custody of the minor victim authorizes the person to do so. The proposed verbiage is set forth in the Appendix.

### ***4. Proposed Protective Order Rule 43(e)(1)(D)***

Judge Green’s comment proposes expanding proposed Protective Order Rule 43(e)(1)(D) to include notification to the court regarding other types of orders that may be impacted other than parenting time orders. Petitioner has no objection to

this proposal and has incorporated the proposed verbiage into proposed Protective Order Rule 43(e)(1)(D) as set forth in the Appendix.

### **III. Request**

Petitioner appreciates the comments stakeholders submitted during the comment period and deems it important to file this Reply to address the concerns reflected in the comments. Based on the foregoing responses, Petitioner respectfully requests that the Court adopt on an emergency basis at its December 2022 Rules Agenda the proposed rule amendments as set forth in the Appendix.

Respectfully submitted this 4<sup>th</sup> day of November, 2022.

By /s/David K. Byers  
David K. Byers, Administrative Director  
Administrative Office of the Courts  
1501 W. Washington, Suite 411  
Phoenix, Arizona 85007  
(602) 452-3301  
Projects2@courts.az.gov

## APPENDIX

(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) Order for 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.

(1) Confidential Victim Information Sheet. The prosecutor or victim must submit a Confidential Victim Information Sheet to the court before sentencing or at the time of sentencing so that the court has the necessary information to issue the Order for Lifetime No-Contact Injunction.

(2) Providing the Order to the Victim. The clerk must provide a copy of the Order for Lifetime No-Contact Injunction to the victim or to the prosecutor if the prosecutor is providing victim advocate services to the victim.

(3) Serving the Defendant. The Order for Lifetime No-Contact Injunction 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 at the time of sentencing.

(4) Forwarding the Order to the Department of Public Safety (DPS). The clerk or other court staff 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.

(5) Effective Date; Validity; Requests for Dismissal. An Order for Lifetime No-Contact Injunction is effective immediately upon service 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.

(6) Forms. For purposes of assisting law enforcement and other agencies with recognizing an Order for Lifetime No-Contact Injunction, 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~~ 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 an Order for 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 an Order for 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) Order for Lifetime No-Contact Injunction Under A.R.S. § 13-719(D).** An Order for 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 an Order for Lifetime No-Contact Injunction.

(2) and (3) [No Change]

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

**(b) [No Change]**

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

**Rule 43. Order for Lifetime No-Contact Injunction**

**(a) Applicability.** This rule governs petitions that are filed pursuant to A.R.S. § 13-719(D) for the issuance of an Order for 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 an Order for Lifetime No-Contact Injunction issued pursuant to this rule is a conviction of any of the following offenses, whether completed or preparatory, unless the conviction has been dismissed, expunged, or overturned, or the defendant has 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, the victim’s attorney, the victim’s legal guardian, or the prosecutor may file the petition, except that if the victim requesting the Order for Lifetime No-Contact Injunction is a minor, unless the court determines otherwise, the parent, legal guardian, or person who has statutorily defined legal custody of the minor victim must file the petition or may authorize the prosecutor or the minor victim’s attorney to file the petition. “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 an authorized filer as set forth in Rule 43(c);
  - (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 existing orders in place under A.R.S. Title 25 regarding parenting time or decision-making or under A.R.S. Title 8; 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. To update contact information, the victim must file an Updated Confidential Victim Information Sheet.

**(g) Processing the Petition.** If the court determines that the conviction is a qualifying offense, the court must issue the Order for 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 an Order for 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. An Order for 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, the victim's attorney, the victim's legal guardian, or if the victim is a minor, the minor's parent, legal guardian, or person who has statutorily defined legal custody of the minor victim, may initiate service by the sheriff or other law

enforcement officer by delivering a copy of the Order for Lifetime No-Contact Injunction to the sheriff of the issuing county or other appropriate law enforcement agency. A fee cannot 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, the Order for Lifetime No-Contact Injunction, and Confidential Victim Information Sheet to DPS to register the Order for Lifetime No-Contact Injunction with the National Crime Information Center.

**(i) Validity; Dismissal.** An Order for 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 Order for 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 verify the victim's request and that the victim is not making the request under duress or coercion. The court must grant the victim's request upon verification, 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 an Order for Lifetime No-Contact Injunction only if:

(A) the victim has died;

(B) the conviction on which the Order for 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 Order for Lifetime No-Contact Injunction is based is not a qualifying conviction.

(3) Granting the Defendant's Request to Dismiss. The court must grant the defendant's request for dismissal upon a showing that one of the circumstances in (i)(2) exists.

(4) Notification; Response. Before granting a defendant's request to dismiss an Order for 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 an Order for Lifetime No-Contact Injunction issued under this rule until proof of service of the Order for Lifetime No-Contact Injunction has been filed with the court. The court may share information about the Order for Lifetime No-Contact Injunction with the victim, the victim's attorney, the victim's legal guardian, or if the victim is a minor, the parent, legal guardian, or person who has statutorily defined legal custody of the minor victim, 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 an Order for Lifetime No-Contact Injunction 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.