

§ 41-1750, the amendments to Rules 3.2, 4.2, 14.4 and to Form 3(a) of the Rules of Criminal Procedure were to become effective on January 1, 2023. The order also provided that the Court would consider whether to adopt the rule amendments and form changes on a permanent basis at its December 2022 Rules Agenda.

On September 26, 2022, Petitioner filed a request to amend petition and amended petition. In an order dated September 27, 2022, the Court granted the request to amend the petition. The Court also extended the public comment period until October 17, 2022, with any reply due no later than October 21, 2022.

The Court has not received any comments. Having considered the petition and the amended petition,

IT IS ORDERED that the amendments to Rules 3.2, 4.2, 7.3, 11.5, 14.4, and 39 and to Forms 3(a) and 6 of the Rules of Criminal Procedure are adopted permanently in accordance with Attachment A to this order, effective January 1, 2023. Attachment B to this order shows the changes to Rules 3.2, 4.2, and 14.4 and to Form 3(a) that the Court made to the version of those rules and form that was adopted on an emergency basis.

DATED this 8th day of December, 2022.

/s/
ROBERT BRUTINEL
Chief Justice

Arizona Supreme Court No. R-22-0029
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TO:

Rule 28 Distribution
David K Byers

ATTACHMENT A¹

RULES OF CRIMINAL PROCEDURE

Rule 3.2. Content of a Warrant or Summons

(a) [No change]

(b) Summons.

(1)-(2) [No change]

(3) *10-Print Fingerprints Required.* If a summons is issued for a defendant who is charged with one of the following offenses, the summons must direct the defendant to provide 10-print fingerprints to the applicable law enforcement agency: a felony offense; a violation of an offense listed in Title 13, Chapters 12, 14, 15 except A.R.S. § 13-1509, 18, 20 through 23, 32, 34, or 34.1; A.R.S. §§ 13-1401 et seq., a violation of A.R.S. §§ 28-1301 et seq., or a domestic violence offense as defined in A.R.S. § 13-3601; a violation of A.R.S. §§ 13-1604, 13-2406, 13-2904, 13-2907 to 13-2907.05, 13-2910, 13-2916, 13-3102, 13-3103, 13-3513, 13-3555, 13-3558, 13-3613, 13-3619, 13-3623, 13-3704, or 46-215; or a violation of an offense listed in Title 28, Chapter 4 ~~the summons must direct the defendant to provide 10 print fingerprints to the applicable law enforcement agency.~~

* * *

Rule 4.2. Initial Appearance

(a) **Generally.** At an initial appearance, the magistrate must:

(1)-(9) [No change]

(10) order a summoned defendant to be 10-print fingerprinted no later than 20 calendar days by the appropriate law enforcement agency at a designated time and place if:

(A) the defendant is charged with a felony offense; a violation of an offense listed in Title 13, Chapters 12, 14, 15 except A.R.S. § 13-1509, 18, 20 through 23, 32, 34, or 34.1; A.R.S. §§ 13-1401 et seq. or A.R.S. §§ 28-1301 et seq., or a domestic violence offense as defined in A.R.S. § 13-3601; a violation of A.R.S. §§ 13-1604, 13-2406, 13-2904, 13-2907 to 13-2907.05, 13-2910, 13-2916, 13-3102, 13-3103, 13-3513, 13-3555, 13-3558, 13-3613,

¹ Additions to the text of a rule are shown by underscoring and deletions of text are shown by ~~strike through~~.

13-3619, 13-3623, 13-3704, or 46-215; or a violation of an offense listed in Title 28, Chapter 4; and

(B) [No change]

(11) [No change]

(b)-(c) [No change]

* * *

Rule 7.3. Conditions of Release

(a) [No change]

(b) Mandatory Condition if Charged with an Offense Listed in A.R.S. § 13-610(O)(3) or a New Violation of A.R.S. § 13-2910.

(1)-(2) [No change]

(3) New Violation of A.R.S. § 13-2910. If a defendant is serving a term of probation for committing animal cruelty under A.R.S. § 13-2910 and is charged with a new violation of A.R.S. § 13-2910, and if the defendant is released on their own recognizance or on bail, the court must impose a condition of release that prohibits the defendant from possessing or having contact with any animal.

(c) [No change]

* * *

Rule 11.5. Hearing and Orders

(a) [No change]

(b) Orders.

(1)-(2) [No change]

(3) If Incompetent and Not Restorable.

(A) Superior Court. If the superior court determines that the defendant is incompetent and that there is no substantial probability that the defendant will become competent within 21 months or within the defendant's maximum possible sentence as defined by A.R.S. § 13-4515, whichever is less, the court may on request of the examined defendant or the State do one or more of the following:

(i) [No change]

(ii) Order appointment of a guardian ad litem to investigate whether the defendant is or may be in need of a guardian, a conservator or any other protective order under A.R.S. §§ 14-5301 et seq.;

(iii)-(iv) [No change]

(B) [No change]

(4) [No change]

(c)-(d) [No change]

* * *

Rule 14.4. Proceedings at Arraignment

At an arraignment, the court must:

(a)-(f) [No change]

(g) order a summoned defendant to be 10-print fingerprinted no later than 20 calendar days by the appropriate law enforcement agency at a designated time and place if:

(1) the defendant is charged with a felony offense; a violation of an offense listed in Title 13, Chapters 12, 14, 15 except A.R.S. § 13-1509, 18, 20 through 23, 32, 34, or 34.1; A.R.S. §§ 13-1401 et seq. or A.R.S. §§ 28-1301 et seq., or a domestic violence offense as defined in A.R.S. § 13-3601; a violation of A.R.S. §§ 13-1604, 13-2406, 13-2904, 13-2907 to 13-2907.05, 13-2910, 13-2916, 13-3102, 13-3103, 13-3513, 13-3555, 13-3558, 13-3613, 13-3619, 13-3623, 13-3704, or 46-215; or a violation of an offense listed in Title 28, Chapter 4; and

(2) [No change]

* * *

Rule 39. Victims' Rights

(a) [No change]

(b) **Victims' Rights.**

(1)-(10) [No change]

(11) the right to require the prosecutor to withhold, during discovery and other proceedings, the victim's identifying and locating information as provided by A.R.S. § 13-4434.

(A) Exception. A court may order disclosure of the victim's identifying and locating information as necessary to protect the defendant's constitutional rights or as otherwise provided by law. If disclosure is made to defense counsel, counsel must not disclose the information to any person other than counsel's staff and designated investigator, and must not convey the information to the defendant without prior court authorization.

(B) [No change]

(12)-(18) [No change]

(c) Exercising the Right to Be Heard.

(1)-(3) [No change]

(4) *Before Disclosure of Identifying or Locating Information.* Before a court orders disclosure of identifying or locating information under (b)(11)(A), the victim must be notified and given an opportunity to be heard.

(4-5) [No change in text]

(d)-(h) [No change]

Form 3(a). Summons: Ten-Print Fingerprint Required

_____ Court _____ County, Arizona

STATE OF ARIZONA, Plaintiff [CASE/COMPLAINT NO.] SUMMONS

-vs-

_____ (Ten-print Fingerprint Required)
Defendant (FIRST, MI, LAST)

TO: _____

YOU ARE ORDERED to appear at [name of entity and address] _____
(Required for all felonies, domestic violence, sexual or DUI offenses) between the hours of ___ a.m./p.m. at any time prior to your court appearance date to be photographed and ten-print fingerprinted. (Required for all offenses listed in Rule 3.2(b)(3)).

YOU ARE SUMMONED to appear before this court for the following reason:

[(List reason for summons; e.g., filing of indictment, information or complaint (list charges or other reasons)).]

YOU ARE ORDERED TO REPORT on _____, 20__ at _____ a.m./p.m.

LOCATED AT: _____

IF YOU FAIL TO APPEAR AS ORDERED, A WARRANT MAY BE ISSUED FOR YOUR ARREST.

Date: _____
_____ Judicial Officer

Requests for reasonable accommodation for persons with disabilities must be made to the court by parties at least 3 working days in advance of a scheduled court proceeding.

CERTIFICATE OF PERSONAL SERVICE

I swear that I personally served this summons as follows:
Date Received: _____ Date Served: _____ Time Served: _____
Person Served: _____
Location Where Served: _____ County.

Officer Serving Summons

CERTIFICATE OF SERVICE BY MAILING

I certify that a copy of this document was sent by Registered or Certified mail, return receipt requested, to the defendant at the above-listed address.

Dated: _____
_____ CLERK

Form 6. Release Order

COURT _____

County, Arizona

| STATE OF ARIZONA Plaintiff -vs- Defendant (FIRST, MI, LAST) _____ | | | | | | | | | | RELEASE ORDER | | | |
|---|---------------|----------------|----|-----|-----|----|------|----|----|----------------------|----|----|----|
| Booking Number _____ Date of Birth _____ | | | | | | | | | | | | | |
| LINE # | COMPLAINT NO. | VIOLATION CODE | NF | ORR | PSR | 3P | BOND | BA | UB | DB | SB | CB | NB |
| 1 | | | | | | | \$ | | | | | | |
| 2 | | | | | | | \$ | | | | | | |
| 3 | | | | | | | \$ | | | | | | |
| 4 | | | | | | | \$ | | | | | | |
| 5 | | | | | | | \$ | | | | | | |

(NF=Charge not filed; ORR=Own recognizance release; PSR=Pretrial supervision release; 3P=Third party custody; Bond=Amount of bond; BA=Bond applies; UB=Unsecured bond; DB=Deposit bond; SB=Secured bond; CB=Cash bond; NB=Non-bailable)

If you are released from jail, you must follow all release conditions and appear at court as indicated below:

MANDATORY AND STANDARD CONDITIONS OF YOUR RELEASE:

1. Appear at _____ court on: _____ at _____ a.m. / p.m., Courtroom: _____
(Court name and address) (Date) (Time)
 for _____ and attend all future court hearings.

2. Violate no federal, state or local criminal laws.

3. Not leave the state of Arizona without written permission from the court.

Defendant may leave the state of Arizona provided defendant returns for court dates.

4. Diligently pursue any appeal if released from custody after judgment and sentence have been imposed.

5. Maintain contact with your attorney.

6. Provide a current address and phone number to the court and to your attorney and immediately notify both of any changes.

7. Not threaten or initiate any type of contact with the alleged victim(s).

8. Not drive a motor vehicle without a valid driver's license in your possession.

9. Not threaten or initiate any type of contact with any person as specified here: _____.

10. Not possess weapons as specified here: _____.

11. Not possess or have contact with any animal.

~~11-12~~. Not consume any alcoholic beverages.

~~12-13~~. Not go to scene of the alleged crime.

~~13-14~~. Not go to locations as specified here: _____.

~~14-15~~. Comply with 3rd party custody release conditions as specified here: _____.

~~15-16~~. Contact probation or parole officer. (See 3rd party obligations in this document.)

~~16-17~~. Electronic monitoring, if available, (mandatory if charged with a felony offense under Chapters 14 or 35.1 of Title 13)

~~17-18~~. Other: _____.

ADDITIONAL CONDITIONS FOR YOUR PRETRIAL SUPERVISION RELEASE (PSR):

~~18-19~~. Comply with the assigned pretrial supervision program as specified here: _____.

~~19-20~~. Provide a current address and phone number to Pretrial Services immediately and notify of any changes.

FINANCIAL CONDITIONS OF RELEASE: If you cannot post an appearance bond of \$ _____ you will remain in custody until your next court hearing on _____.

IF YOU VIOLATE THIS ORDER: You have the right to be present at your trial and at all other proceedings in your case. IF YOU FAIL TO APPEAR THE COURT MAY ISSUE A WARRANT FOR YOUR ARREST AND/OR HOLD THE TRIAL OR PROCEEDING IN YOUR ABSENCE. IF CONVICTED, YOU WILL BE REQUIRED TO APPEAR FOR SENTENCING. IF YOU FAIL TO APPEAR, YOU MAY LOSE YOUR RIGHT TO A DIRECT APPEAL.

If you violate any condition of a bond, the court may order the bond and any related security deposit forfeited to the State of Arizona. In addition, the court may issue a warrant for your arrest upon learning of any violation of the conditions of release. After a hearing, if the court finds that you have not complied with the release conditions, the court may modify the conditions or revoke the release altogether.

If you are released on a felony charge, and the court finds the proof evident or the presumption great that you committed a felony during the period of release, the court must revoke your release. You may also be subject to an additional criminal charge, and upon conviction you could be punished by imprisonment in addition to the punishment which would otherwise be imposable for the crime committed during the period of release. Upon finding that you violated conditions of release, the court may also find you in contempt of court and sentence you to a term of imprisonment, a fine, or both.

ACKNOWLEDGEMENT: I fully understand and will comply with all release conditions indicated above and further understand the consequences should I violate any part of this order.

Current Address where you live Apt. No.

Address where you receive mail if different from current address

() _____
Phone No.

() _____
Phone No.

X _____
Defendant Signature Date

X _____
Judicial Officer Date

ATTACHMENT B²

(Showing Changes from the Rule Amendments and Form Changes Adopted on an Emergency Basis)

RULES OF CRIMINAL PROCEDURE

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(a) [No change]

(b) Summons.

(1)-(2) [No change]

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(A) the defendant is charged with a felony offense; a violation of an offense listed in Title 13, Chapters 12, 14, 15 except A.R.S. § 13-1509, 18, 20 through

² Additions to the text of a rule or form that was adopted on an emergency basis are shown by underscoring and deletions from those rules or forms are shown by ~~strike-through~~.

23, 32, 34, or 34.1; A.R.S. §§ 13-1401 et seq. or A.R.S. §§ 28-1301 et seq., a domestic violence offense as defined in A.R.S. § 13-3601, or an offense listed in A.R.S. §§ 32-2422(A)(4), 32-2441(A)(4), 32-2612(A)(4), 32-2622(A)(4), 41-1758.03(B) or (C), or 41-1758.07(B) or (C); a violation of A.R.S. §§ 13-1604, 13-2406, 13-2904, 13-2907 to 13-2907.05, 13-2910, 13-2916, 13-3102, 13-3103, 13-3513, 13-3555, 13-3558, 13-3613, 13-3619, 13-3623, 13-3704, or 46-215; or a violation of an offense listed in Title 28, Chapter 4; and

(B) [No change]

(11) [No change]

(b)-(c) [No change]

* * *

Rule 14.4. Proceedings at Arraignment

At an arraignment, the court must:

(a)-(f) [No change]

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(2) [No change]

Form 3(a). Summons: Ten-Print Fingerprint Required

_____ Court _____ County, Arizona

STATE OF ARIZONA, Plaintiff

[CASE/COMPLAINT NO.]

SUMMONS

-vs-

Defendant (FIRST, MI, LAST)

(Ten-print Fingerprint Required)

TO: _____

YOU ARE ORDERED to appear at [name of entity and address] _____
(Required for all felonies, domestic violence, sexual or DUI offenses, and offenses listed in A.R.S. §§ 32-2422(A)(4), 32-2441(A)(4), 32-2612(A)(4), 32-2622(A)(4), 41-1758.03(B) or (C), and 41-1758.07(B) or (C)) between the hours of ____ a.m./p.m. at any time prior to your court appearance date to be photographed and ten-print fingerprinted. (Required for all offenses listed in Rule 3.2(b)(3)).

YOU ARE SUMMONED to appear before this court for the following reason:

[(List reason for summons; e.g., filing of indictment, information or complaint (list charges or other reasons)).]

YOU ARE ORDERED TO REPORT on _____, 20__ at _____ a.m./p.m.

LOCATED AT: _____

IF YOU FAIL TO APPEAR AS ORDERED, A WARRANT MAY BE ISSUED FOR YOUR ARREST.

Date: _____

Judicial Officer

Requests for reasonable accommodation for persons with disabilities must be made to the court by parties at least 3 working days in advance of a scheduled court proceeding.

CERTIFICATE OF PERSONAL SERVICE

I swear that I personally served this summons as follows:
Date Received: _____ Date Served: _____ Time Served: _____
Person Served: _____
Location Where Served: _____
_____ County.

Officer Serving Summons

CERTIFICATE OF SERVICE BY MAILING

I certify that a copy of this document was sent by Registered or Certified mail, return receipt requested, to the defendant at the above-listed address.

Dated: _____

CLERK