

SUPREME COURT OF ARIZONA

In the Matter of	)	Arizona Supreme Court
	)	No. R-22-0035
RULES OF CRIMINAL PROCEDURE	)	
	)	FILED: 12/08/2022
	)	
	)	
	)	
	)	

ORDER AMENDING RULES OF CRIMINAL PROCEDURE

On January 10, 2020, Colleen Clase on behalf of Arizona Voice for Crime Victims filed a petition, R-20-0031, proposing to amend the Rules of Criminal Procedure ("the Rules") to enhance the rights of victims under Arizona's rules of court. The petition in R-20-0031 proposed to fully integrate the rights guaranteed to victims under the Arizona Constitution and implementing legislation, which had previously been codified primarily in Rule 39 of the Rules, into the Rules as a whole. The petition proposed to relocate each specific victims' rights provision into the rule governing the applicable situation or proceeding. The avowed goal of this proposal was to assure that trial courts, litigants, and attorneys would be more aware of what victims' rights are mandated in each specific situation.

At its August 2020 Rules Agenda, the Court continued the petition in R-20-0031 "pending the work of a Restyling Committee to be formed to carry out this proposal's goal of integrating

selected provisions of Rule 39 of the Rules of Criminal Procedure into other related provisions of the Rules of Criminal Procedure where they more logically belong and where they will safeguard the rights of victims in the criminal justice system.”

Thereafter, the Committee on Criminal Rules Regarding Victims was empaneled to carry out the Court’s mandate. On July 12, 2022, Justice John R. Lopez, as Chair, filed this petition, proposing amendments to over forty of the Rules. As proposed, each such amendment to a rule, instead of being sequentially numbered, was entitled “Section (v) Victims’ Rights” for the purpose of greater clarity. The matter was circulated for public comment under an expedited schedule. Three comments and a Reply having been submitted, upon consideration,

IT IS ORDERED that the Rules of Criminal Procedure are amended in accordance with the attachment to this order, effective July 1, 2023.

IT IS FURTHER ORDERED that Rule 2(a)(2), Rules of Procedure for Special Actions, is amended by deleting the reference to the definition of “victim” in Criminal Rule 39(a) and substituting a reference to Rule 1.4(v) in its place, effective July 1, 2023.

DATED this 8th day of December, 2022.

/s/
ROBERT BRUTINEL
Chief Justice

TO:

Rule 28 Distribution
John R. Lopez IV
Rosemarie Pena-Lynch
Steve B Koestner
Sherri McGuire Lawson
Gary M Kula
Shannon L Burns
Colleen Clase
Paul G Cassell

ATTACHMENT¹

RULES OF CRIMINAL PROCEDURE

RULE 1. SCOPE, PURPOSE AND CONSTRUCTION, AND OTHER GENERAL PROVISIONS

Rules 1.1 through 1.2. [No change]

Rule 1.3. Computation of Time

~~(a) General Time Computation.~~ When computing any time period more than 24 hours prescribed by these rules, by court order, or by an applicable statute, the following rules apply:

~~(1) Day of the Event.~~ Exclude the day of the act or event from which the designated time period begins to run.

~~(2) Last Day.~~ Include the last day of the period, unless it is a Saturday, Sunday or legal holiday, in which case the period ends on the next day that is not a Saturday, Sunday, or legal holiday.

~~(3) Time Period Less Than 7 Days.~~ If the time period is less than 7 days, exclude intermediate Saturdays, Sundays and legal holidays from the computation.

~~(4) Next Day.~~ The “next day” is determined by counting forward when the period is measured after an event, and backward when measured before an event.

~~(5) Additional Time After Service.~~ If a party may or must act within a specified time after service and service is made under a method authorized by Rule 1.7(c)(2)(C), (D), or (E), 5 calendar days are added after the specified time period would otherwise expire under (a)(1)–(4), except as provided in Rule 31.3(d). This provision does not apply to the clerk’s distribution of notices, minute entries, or other court generated documents.

~~(b) If an Arraignment Is Not Held.~~ If an arraignment is not held under Rule 14.5, the date of arraignment for the purpose of computing time is the date the defendant receives notice of the next court date under Rule 5.8.

~~(c) Entry.~~ A court order is entered when the clerk files it.

Rule 1.3. Victim Participation.

Although a victim is not a party in a criminal proceeding, a victim has a right to participate in the proceeding pursuant to the rights provided by law, including rights detailed in Rule 39 and in the section (v) provisions (“Victims’ Rights”) of these rules.

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

COMMENT TO THE 2023 AMENDMENT

The Court adopted Rule 1.3 and the section (v) provisions of these rules to give victims' rights greater visibility in the Criminal Rules. Integrating victims' rights, as reflected in the Arizona Constitution, Arizona statutes, and Rule 39, into these rules is an attempt to assure their application to the hearing or proceeding in which those rights arise, so that victims, judges, and attorneys are aware of those rights and victims' rights are not overlooked. Rule 1.3 and the section (v) provisions are not intended to expand victims' substantive or procedural rights or to conflict with victims' rights as provided in Rule 39.

Some of these rules refer to a victim requesting rights. See AZ Const. art. II, § 2.1(A)(2) & (3); and A.R.S. § 13-4401, et seq. Before conviction, a victim requests rights by completing and submitting a form to the agency or the investigating law enforcement agency that is responsible for providing notice to the victim. The form must include the victim's current telephone number and address. If the victim fails to keep that telephone number and address current, the request for notice is deemed withdrawn. See A.R.S. § 13-4417. After conviction, the prosecutor provides the victim with information about requesting notice of post-conviction and appellate proceedings. See A.R.S. § 13-4411. Requesting pre-conviction and post-conviction notice is optional, and a victim who does not request notice still has a right to be present and to be heard at all criminal proceedings at which the defendant has a right to be present.

Rule 1.4. Definitions.

(a)-(g). [No change]

~~(h) Victim.~~ ~~"Victim" means a person as defined in A.R.S. § 13-4401.~~

(v) Victims' Rights. "Victim" means a person against whom the criminal offense has been committed, including a minor, or if the person is killed or incapacitated, the person's spouse, parent, child, grandparent or sibling, any other person related to the person by consanguinity or affinity to the second degree or any other lawful representative of the person, except if the person or the person's spouse, parent, child, grandparent, sibling, other person related to the person by consanguinity or affinity to the second degree or other lawful representative is in custody for an offense or is the accused.

Rule 1.5. Interactive Audiovisual System.

(a) Generally. [No change]

(b) Requirements. If an interactive audiovisual system is used:

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

(3) provisions must be made to:

(A) allow for confidential communications between the defendant and defendant's counsel before, during, and immediately after the proceeding;

~~(B) allow a victim a means to view and participate in the proceedings and ensure compliance with all victims' rights laws;~~

(~~E~~B) allow the public a means to view the proceedings consistent with applicable law; and

(~~D~~C) allow for use of interpreter services when necessary and, if an interpreter is required, the interpreter must be present with the defendant absent compelling circumstances.

(c) When a Defendant May Appear by Videoconference. [No change]

(v) Victims' Rights.

(1) An interactive audiovisual system must allow a victim a means to view and participate in the proceeding and ensure compliance with all victims' rights laws.

(2) If the court reschedules a hearing under (c)(4), the victim upon request must be notified of the rescheduled court date.

Rule 1.6. Form of Documents. [No change]

Rule 1.7. Filing and Service of Documents.

(a)-(c) [No change]

(v) Victims' Rights. When the victim is represented by an attorney, the certificate of service required by (c)(3) must show that a copy of the filed document was provided to the victim's attorney.

Rule 1.8. Clerk's Distribution of Minute Entries and Other Documents.

(a)-(b) [No change]

(v) Victims' Rights. The clerk must include every victim's attorney who has filed a notice of appearance under Rule 6.3(v)(2) in the clerk's distributions of minute entries and other documents under (a) and (b).

Rule 1.9. Motions, Oral Argument, and Proposed Orders.

(a)-(f) [No change]

(v) Victims' Rights.

(1) *In the Trial Court.* A victim has standing to file motions that request the court to enforce any right guaranteed to victims, or that challenge an order denying any such right. A victim may file a reply concerning that motion. A victim may also file a response to a party's motion if the party's motion impacts a victim's right.

(2) *Special Action.* Under Rule 2(a)(2) of the Rules of Procedure for Special Actions, a victim may file a petition for special action seeking relief from an order affecting any victim's right guaranteed by law.

Rule 1.10. Computation of Time.

(a) General Time Computation. When computing any time period more than 24 hours prescribed by these rules, by court order, or by an applicable statute, the following rules apply:

(1) Day of the Event. Exclude the day of the act or event from which the designated time period begins to run.

(2) Last Day. Include the last day of the period, unless it is a Saturday, Sunday or legal holiday, in which case the period ends on the next day that is not a Saturday, Sunday, or legal holiday.

(3) Time Period Less Than 7 Days. If the time period is less than 7 days, exclude intermediate Saturdays, Sundays and legal holidays from the computation.

(4) Next Day. The “next day” is determined by counting forward when the period is measured after an event, and backward when measured before an event.

(5) Additional Time After Service. If a party may or must act within a specified time after service and service is made under a method authorized by Rule 1.7(c)(2)(C), (D), or (E), 5 calendar days are added after the specified time period would otherwise expire under (a)(1)-(4), except as provided in Rule 31.3(d). This provision does not apply to the clerk's distribution of notices, minute entries, or other court-generated documents.

(b) If an Arraignment Is Not Held. If an arraignment is not held under Rule 14.5, the date of arraignment for the purpose of computing time is the date the defendant receives notice of the next court date under Rule 5.8.

(c) Entry. A court order is entered when the clerk files it.

(v) Victims' Rights. The time computation provisions of (a) also apply to victims.

PART II. PRELIMINARY PROCEEDINGS

RULES 2 THROUGH 3. [No change]

RULE 4. INITIAL APPEARANCE

Rule 4.1. Procedure upon Arrest.

(a)-(e) [No change]

(v) Victims' Rights. Upon request, the victim must be informed of the date, time, and place for the defendant's initial appearance in accordance with A.R.S. § 13-4406. The victim upon request must be notified of the defendant's release from custody at or after the initial appearance.

Rule 4.2. Initial Appearance.

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

(1)-(5) [No change]

~~(6) permit and consider any victim's oral or written comments concerning the defendant's possible release and conditions of release;~~

(7) [No change in text]

(8) [No change in text]

(9) [No change in text]

(10) [No change in text]

(11) [No change in text]

(b) Felonies Charged by Complaint. [No change]

(c) Combining an Initial Appearance with an Arraignment. If the defendant is charged with a misdemeanor or indicted for a felony and defense counsel is present or the defendant waives the presence of counsel, the magistrate may arraign a defendant under Rule 14 during an initial appearance under (a). If, however, the magistrate lacks jurisdiction to try the offense, the magistrate may not arraign the defendant and must instead transfer the case to the proper court for arraignment. If the court finds that delaying the defendant's arraignment is indispensable to the interests of justice, the court ~~when setting~~ must set a date for the continued arraignment ~~must provide sufficient notice to victims under Rule 39(b)(2).~~

(v) Victims' Rights.

(1) At the defendant's initial appearance, a victim has a right to be heard concerning the defendant's possible release and the conditions of release.

(2) If a magistrate combines an initial appearance and an arraignment under (c), the victim must be given sufficient notice and an opportunity to be present and to be heard. If a magistrate delays an arraignment under (c), sufficient notice must be provided to the victim of the date for the continued arraignment.

Rule 4.3. Initial Appearance Masters. [No change]

RULE 5. PRELIMINARY HEARING

Rule 5.1. Right to a Preliminary Hearing; Waiver; Continuance

(a)-(d) [No change]

(v) Victims' Rights.

(1) Upon request by the victim, the State must notify the victim of a preliminary hearing.

(2) Before continuing a preliminary hearing on motion or on its own initiative under (c), a magistrate must also consider the victim's right to a speedy disposition. If the magistrate orders a continuance of the preliminary hearing, the victim, if requested, must be notified of the magistrate's order and the new hearing date under A.R.S. § 13-4409.

(3) If an in-custody defendant demands a preliminary hearing under (d), the hearing date set by the magistrate must allow for sufficient notice to the victim under A.R.S. § 13-4409.

Rules 5.2 through 5.3. [No change]

Rule 5.4. Determining Probable Cause.

(a)-(d) [No change]

(v) Victims' Rights. The victim has a right to be heard whenever the defendant under (a) requests a magistrate to reconsider the conditions of the defendant's release.

Rules 5.5 through 5.7. [No change]

Rule 5.8. Notice if an Arraignment is Not Held.

(a)-(b) [No change]

(v) Victims' Rights. Pursuant to A.R.S. § 13-4409, a victim has a right to receive notice from the prosecutor, on request, of dates for further proceedings.

PART III. RIGHTS OF PARTIES

RULE 6. RIGHT TO COUNSEL; DUTIES OF COUNSEL; COURT-APPOINTED ATTORNEYS, INVESTIGATORS, AND EXPERTS

Rules 6.1 through 6.2. [No change]

Rule 6.3. Duties of Counsel; Withdrawal.

(a)-(e) [No change]

(v) Victims' Rights.

(1) *Court Consideration of the Victim's Rights Under (c).* If a motion to withdraw under (c) could result in a continuance of the trial date, the court in deciding the motion must consider the victim's right to a speedy disposition.

(2) *Appearance and Withdrawal of the Victim's Attorney.* Before representing a victim in a criminal proceeding, a victim's attorney must file a notice of appearance. Unless the court orders otherwise, a victim's attorney may file a notice of withdrawal at any time.

Rules 6.4. through 6.8 [No change]

RULE 7. RELEASE

Rule 7.1. Definitions. [No change]

Rule 7.2. Right to Release.

(a) Before Conviction; Bailable Offenses.

(1)-(3) [No change]

(b) Before Conviction; Defendants Charged with an Offense Not Eligible for Bail. [No change in text]

(c)-(d) [No change]

(v) Victims' Rights. Upon request, a victim has the rights to be notified of, present at, and heard at any proceeding involving a post-arrest release decision, and to be informed if a defendant is released from custody.

Rule 7.3. Conditions of Release.

(a) Mandatory Conditions. [No change]

(b) Victim Protection. The court must order the defendant not to contact a victim if such an order is reasonably necessary to protect a victim from physical harm, harassment, intimidation, or abuse.

(bc) 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]

(ed) Additional Conditions. ~~The court must order the defendant not to contact a victim if such an order is reasonably necessary to protect a victim from physical harm, harassment, intimidation, or abuse.~~ The court also may impose as a condition of release one or more of the following conditions, if the court finds the condition is reasonably necessary to secure the defendant's appearance or to protect another person or the community from risk of harm by the defendant. In making determinations under this rule, the court must consider, if provided, the results of a risk assessment approved by the Supreme Court and a law enforcement agency's lethality assessment.

(1)-(2) [No change]

Rule 7.4. Procedure

(a) Initial Appearance. [No change]

(b) Bail Eligibility Hearing.

(1) *Right to Secure Witnesses, Cross-Examine, and Review Witness Statements.*
[No change]

~~(2) *Victims.* Notwithstanding the time limits of Rule 39(g)(1), a victim must be afforded the rights provided in Rule 39(g).~~

(32) *Admissibility.* [No change in text]

(c) Later Review of Conditions.

(1) *Generally.* [No change]

(2) *Motion Requirements and Hearing.* The court may modify the conditions of release only after giving the parties an opportunity to respond to the proposed modification. ~~A motion to reexamine the conditions of release must comply with victims' rights requirements provided in Rule 39.~~

(3) *Eligibility for Bail.* [No change]

(d)-(g) [No change]

(v) Victims' Rights. Upon request, a victim has the rights to be notified of, present at, and heard at any proceeding involving a post-arrest release decision, and to be informed if a defendant is released from custody.

Rule 7.5. Review of Conditions; Revocation of Release

(a)-(f) [No change]

(v) Victims' Rights. Upon request, a victim has the rights to be notified of, present at, and heard at any proceeding involving a post-arrest release decision, and to be informed if a defendant is released from custody.

Rule 7.6. Transfer and Disposition of Bond [No change]

RULE 8. SPEEDY TRIAL

Rule 8.1. Priorities in Scheduling Criminal Cases

(a)-(e) [No change]

(v) Victims' Rights. When presented with a motion to suspend Rule 8, the court must permit the victim to be heard and must consider the victim's right to a speedy disposition.

Rules 8.2 through 8.4. [No change]

Rule 8.5. Continuing a Trial Date.

(a) Motion. [No change]

(b) Grounds. A court may continue trial only on a showing that extraordinary circumstances exist, and that delay is indispensable to the interests of justice, and only for so long as is necessary to serve the interests of justice. The court must consider the rights

of the defendant ~~and any victim~~ to a speedy disposition of the case. The court must state specific reasons for continuing trial.

(v) Victims' Rights. In deciding a motion to continue a trial date, the court must also consider the victim's views and the right of the victim to a speedy disposition of the case.

Rules 8.6 through 8.7. [No change]

RULE 9. PRESENCE OF THE DEFENDANT, WITNESSES, AND SPECTATORS

Rules 9.1 through 9.2. [No change]

Rule 9.3. Exclusion of Witnesses and Spectators

(a) Witnesses.

(1) *Generally.* [No change]

(2) ~~Exceptions.~~ *Investigator.*

~~(A) Victim.~~ A victim has a right to be present at all proceedings at which the defendant has that right.

~~(B) Investigator.~~ If the court enters an exclusion order, both the defendant and the State are nevertheless entitled to the presence of one investigator at counsel table.

(3)-(4) [No change]

(b)-(c) [No change]

(v) Victims' Rights. A victim has a right to be present at all proceedings at which the defendant has that right.

RULES 10 THROUGH 13. [No change]

RULE 14. ARRAIGNMENT

Rules 14.1 through 14.3. [No change]

Rule 14.4. Proceedings at Arraignment

At an arraignment, the court must:

(a)-(g) [No change]

(v) Victims' Rights. If the court under (b) decides a release motion at the defendant's arraignment, a victim has the rights provided in Rule 7.2(v).

Rule 14.5. Proceedings in Counties Where No Arraignment Is Held [No change]

RULE 15. DISCLOSURE

Rule 15.1. The State's Disclosures

(a)-(h) [No change]

(i) Additional Disclosures in a Capital Case.

(1) Notice of Intent to Seek the Death Penalty.

(A)-(B) [No change]

~~(C) Victim Notification. If the victim has requested notice under A.R.S. § 13-4405, the prosecutor must confer with the victim before agreeing to extend the deadline under (i)(1)(B).~~

(2)-(4) [No change]

(j) Item Prohibited by A.R.S. §§ 13-3551 et seq. or Is the Subject of a Prosecution Under A.R.S. § 13-1425.

(1) Scope. [No change]

(2) Disclosure Obligation. The State is not required to reproduce the item or release it to the defendant for testing or examination except as provided in (j)(3), ~~and (j)(4), and (v)(2).~~ The State must make the item reasonably available for inspection by the defendant, but only under such terms and conditions necessary to protect a victim's rights.

(3) Court-Ordered Disclosure for Examination or Testing.

(A) Generally. [No change]

(B) Conditions. A court must issue any order necessary to ~~protect a victim's rights,~~ document the chain of custody, or protect physical evidence. The court may issue an order under (v)(3) to protect a victim's rights.

(4) General Restrictions. [No change]

(v) Victims' Rights.

(1) Victim's Identifying or Locating Information. The State is not required to disclose a victim's identifying or locating information unless the court finds, after considering the rights of the victim, that disclosure is required to protect the defendant's constitutional rights. If disclosure of personal identifying or locating information is made to the defendant's attorney, the defendant's attorney must not disclose the information to any person other than the defendant's attorney's staff and designated investigator. The information provided to the defendant's attorney must not be conveyed to the defendant without prior court authorization. Rule 15.5(e) applies to information withheld under this rule.

(2) Disclosure of Items Under (j); Court Orders. Disclosure by the State to a defendant of any item described in (j) must be accompanied by terms and conditions that

are necessary to protect a victim's rights. A court also may issue an order necessary to protect a victim's rights regarding disclosure of any such item.

Rule 15.2. The Defendant's Disclosures [No change]

Rule 15.3. Depositions

(a) Availability. A party or a witness may file a motion requesting the court to order the examination of any person, except the defendant ~~and those excluded by Rule 39(b),~~ by oral deposition under the following circumstances:

(1)-(3) [No change]

(b)-(f) [No change]

(v) Victims' Rights. A victim has the right to refuse a deposition by the defendant, defendant's attorney, or other person acting on behalf of the defendant.

Rules 15.4 through 15.8. [No change]

RULE 16. PRETRIAL MOTIONS AND HEARINGS

Rules 16.1 through 16.3. [No change]

Rule 16.4. Dismissal of Prosecution

(a)-(e) [No change]

(v) Victims' Rights. On the victim's request, the victim must have an opportunity to confer with the prosecutor before the prosecutor moves to dismiss under (a).

PART V. PLEAS OF GUILTY AND NO CONTEST

RULE 17. PLEAS OF GUILTY AND NO CONTEST; SUBMITTING A CASE ON THE RECORD

Rule 17.1. The Defendant's Plea

(a)-(e). [No change]

(f) Limited Jurisdiction Court Alternatives for Entering a Plea and Sentencing. The parts of Rule 17 and Rule 26.9 requiring a defendant to be present are met by the defendant complying with this rule's requirements.

(1) *Telephonic Pleas.* "Telephonic" includes voice only and audio-video communications between the court and the parties. This rule's provisions concerning telephonic pleas also apply to pleas submitted through an online dispute resolution ("ODR") system approved by the Administrative Office of the Courts.

(A)-(E) [No change]

~~(F) Victim's Rights. In a telephonic plea proceeding, a victim has the same rights under Rule 39 to notice and participation as if the defendant physically appeared in the courtroom.~~

(2) *Plea by Mail.* [No change]

(v) Victims' Rights. In a telephonic plea proceeding, a victim has the same rights under Rule 39 to notice and participation as if the defendant physically appeared in the courtroom. The court may not accept a plea by mail in a case involving a victim.

Rules 17.2 through 17.3. [No change]

Rule 17.4 Plea Negotiations and Agreements

(a) Plea Negotiations.

(1)-(2) [No change]

~~(3) Victim Participation. The victim must have an opportunity to confer with the prosecutor, if they have not already conferred, before any case resolution. The prosecutor or the victim's representative must inform the court and defense counsel of the victim's position. If the defendant is present during settlement discussions, the victim also must have the opportunity to be present and to be heard regarding settlement.~~

(b)-(c) [No change]

(d) Accepting the Plea. After making the determinations required by ~~this rule and after considering any comments expressed by the victim~~ (c) and considering the victim's comments under (v)(2), the court must either accept or reject the submitted plea. The court is not bound by any provision in the plea agreement regarding the sentence or probation terms and conditions if, after accepting the agreement and reviewing a presentence report, the court rejects the provision as inappropriate.

(e)-(g) [No change]

(v) Victims' Rights.

(1) Victim Participation During Plea Discussions. The victim must have an opportunity to confer with the prosecutor, if they have not already conferred, before any case resolution. The prosecutor or the victim's representative must inform the court and defense counsel of the victim's position. If the defendant is present during settlement discussions, the victim also must have the opportunity to be present and to be heard regarding settlement.

(2) Before the Court Accepts or Rejects a Plea Agreement. Before the court makes the determinations required by (c) and accepts or rejects the plea agreement, it must afford the victim the opportunity to be heard and consider any comments expressed by the victim.

Rules 17.5 through 17.6. [No change]

Rule 17.7. Submitting a Case on the Record

(a)-(b) [No change]

(v) Victims' Rights. Before the State agrees to submit a case on the record, the victim must have an opportunity to confer with the prosecutor.

PART VI. TRIAL

RULE 18. TRIAL BY JURY; WAIVER; SELECTION AND PREPARATION OF JURORS [No change]

RULE 19. TRIAL

Rule 19.1. Conduct of Trial

(a)-(e) [No change]

(f) Use of a Facility Dog. The court will allow the assistance of a facility dog as directed by A.R.S. § 13-4442.

(v) Victims' Rights.

(1) *Victim's Opportunity to Confer with the Prosecutor.* The victim must have an opportunity to confer with the prosecutor about trial before the trial begins.

(2) *Identifying and Locating Information.* A victim has the right to refuse to testify regarding any identifying or locating information, unless the victim consents or the court orders disclosure after finding a compelling need for the information. The court must conduct a proceeding on a motion to require such testimony in camera.

(3) *Representative of a Minor or Incapacitated Victim.* If a representative of a minor victim or an incapacitated victim requests to be recognized during trial, the representative must notify the prosecutor, who must then inform the court of the request outside the presence of the jury. Any communications between the representative and the court during trial must be conducted in the presence of the parties or their counsel, and outside the jury's presence. Any substantive communications must be on the record.

Rules 19.2 through 19.4. [No change]

~~Rule 19.5. Presence of a Representative of a Minor or Incapacitated Victim~~

~~If a representative of a minor victim or an incapacitated victim wishes to be recognized during trial, the representative must notify the prosecutor, who must then inform the court out of the presence of the jury. Any communications between the representative and the court during trial must be conducted in the presence of the parties or their counsel, and outside the jury's presence. Any substantive communications must be on the record.~~

Rule ~~19.6~~ 19.5. Sequestration [No change in text]

RULES 20 THROUGH 23. [No change]

PART VII. POST-VERDICT PROCEEDINGS

RULE 24. POST-TRIAL MOTIONS

Rules 24.1 through 24.2. [No change]

Rule 24.3 Modification of Sentence

(a) Generally. [No change]

(b) Mitigation. Unless otherwise provided by law, the court may mitigate a monetary obligation imposed at sentencing. ~~The provisions of Rule 39 apply to any criminal proceeding concerning mitigation of a monetary obligation.~~

(c) Appeal. [No change]

(v) Victims' Rights. The provisions of Rule 39 apply to any criminal proceeding concerning mitigation of a monetary obligation, including mitigation under (b).

Rule 24.4. Clerical Error [No change]

RULE 25. PROCEDURE AFTER A VERDICT OR FINDING OF GUILTY EXCEPT INSANE [No change]

RULE 26. JUDGMENT, PRESENTENCE REPORT, PRESENTENCING HEARING, SENTENCE

Rules 26.1 through 26.5. [No change]

Rule 26.6. Court Disclosure of Reports Before Sentencing

(a) Disclosure to the Parties. [No change]

~~**(b) Disclosure to a Victim.** The court must permit the victim to review the presentence report after it makes the report available to the defendant, excluding any portions the court excises or that are confidential by law.~~

(eb) Date of Disclosure. A report prepared under Rule 26.7(c) must be available to the parties no later than two days after it is delivered to the court and no less than two days before a presentencing hearing, unless the parties agree otherwise.

(dc) Excision. [No change in text]

(ed) Court Disclosure of Reports After Sentencing. [No change in text]

(fe) Public Disclosure of Reports. [No change in text]

(v) Victims' Rights. The court must permit the victim to read the presentence report, excluding any portions the court excises or that are confidential by law, after it makes the report available to the defendant. If the victim requests, the prosecutor must provide the victim with an excised copy of the report.

Rule 26.7. Presentencing Hearing; Prehearing Conference

(a)-(c) [No change]

(v) Victims' Rights. The victim has a right to be heard at a presentencing hearing under (b).

Rule 26.8 through 26.9. [No change]

Rule 26.10. Pronouncement of Judgment and Sentence

(a)-(b) [No change]

(v) Victims' Rights.

(1) *Victim's Opportunity to Address the Court.* Before the court pronounces sentence, it also must give the victim an opportunity to address the court.

(2) *Information from the Prosecutor.* A victim has a right to be informed by the prosecutor of:

(A) the disposition of the case;

(B) the right to restitution, the items of loss within the scope of restitution, and the procedures for invoking that right; and

(C) the procedures for opting-in to post-conviction notification.

(3) *Restitution.* A victim has the right to present evidence or information and to make an argument to the court, personally or through counsel, at any proceeding to determine the amount of restitution under A.R.S § 13-804.

Rules 26.11 through 26.16. [No change]

RULE 27. PROBATION AND PROBATION REVOCATION

Rule 27.1. Conditions and Regulations of Probation [No change]

Rule 27.2. Intercounty Transfers

(a)-(b) Definitions. [No change]

(c) Transfer of Probation Jurisdiction.

(1) Authorizing Transfer.

~~(A) Generally.~~ The superior court in the sending county may order the transfer of probation jurisdiction to another Arizona county upon agreement of the original prosecuting agency, the probationer, the sending and receiving county probation departments, and the superior court in the receiving county.

~~(B) Victim's Rights.~~ A victim of the offense may request an opportunity to be heard concerning a transfer. The court in the sending county must give the victim notice of a proposed transfer and any hearing.

(2)-(8) [No change]

(v) Victims' Rights. A victim of the offense may request an opportunity to be heard concerning a transfer of probation jurisdiction. The court in the sending county must give the victim notice of a proposed transfer and any hearing.

Rule 27.3. Modification of Conditions or Regulations

(a) By a Probation Officer. [No change]

(b) By the Court.

(1) *Generally.* Any modification of probation must comply with case law and statutes, due process, and statutory limitations. The court may modify or clarify any condition or regulation of probation after:

(A) ~~G~~giving notice to the State, the probationer, and the probation department;
~~and a victim who has the right to notice under Rule 27.10 and~~

(B) ~~C~~considering an investigation report, when required by (b)(3) of this rule.

(2)-(5) [No change]

(c) Written Copy and Effect. [No change]

(v) Victims' Rights. Upon request, a victim has the right to notice of a hearing under (b)(5). The victim has the right to be present at that hearing, and to be heard on a modification of conditions or regulations of probation or intensive probation that would substantially affect the probationer's contact with, or safety of, the victim or that would affect restitution or incarceration status.

Rule 27.4. Early Termination of Probation

(a) Discretionary Probation Termination.

(1) *Generally.* At any time during the term of probation, the court may terminate probation and discharge the probationer as provided by law after:

(A) ~~G~~giving notice to the State, the probationer, and the probation department,
~~and the victim who has the right to notice under Rule 27.10; and~~

(B) ~~C~~considering an investigation report.

(2)-(4) [No change]

(b)-(c) [No change]

(v) Victims' Rights. A victim has the right upon request to notice of any criminal proceeding involving the early termination of probation. A victim has a right to be present and to be heard at the hearing.

Rules 27.5 through 27.6. [No change]

Rule 27.7. Initial Appearance After Arrest

(a)-(c) [No change]

(v) Victims' Rights.

(1) Notice of Arrest. A victim upon request has the right to be notified of a probationer's arrest pursuant to a warrant issued for a violation of supervised probation, as provided in A.R.S. § 13-4415(A)(3).

(2) Notice of Hearing; Right to Be Heard. A victim upon request has the right to be notified of the probationer's initial appearance under (c). A victim has the right to be present and to be heard at that hearing regarding the probationer's release.

Rule 27.8. Probation Revocation

(a)-(f) [No change]

(v) Victims' Rights.

(1) At the Violation Hearing. The victim has a right to be present at a violation hearing under (b).

(2) At a Disposition Hearing. Upon request, a victim has the right to notice of a disposition hearing. A victim has the rights to be present and to be heard at a disposition hearing.

Rule 27.9. Admissions by the Probationer [No change]

~~Rule 27.10. Victims' Rights in Probation Proceedings~~

~~The court must afford a victim who has requested notice under Rule 39 the opportunity to be present and to be heard at any proceeding involving:~~

~~(a) the termination of any type of probation;~~

~~(b) probation revocation dispositions;~~

~~(c) a modification of probation or intensive probation conditions or regulations that would substantially affect the probationer's contact with, or safety of, the victim or that would affect restitution or incarceration status; or~~

~~(d) transfers of probation jurisdiction.~~

Rule 27.11 27.10. Probation Review Hearing Regarding Sex Offender Registration
[No change in text]

Rule 27.12. Abrogated

RULE 28. RETENTION AND DESTRUCTION OF RECORDS AND EVIDENCE
[No change]

RULE 29. SETTING ASIDE A CONVICTION

Rule 29.1 through 29.4. [No change]

Rule 29.5. Hearing

(a) Generally. On either party's request or on its own motion, the court may set a hearing. The hearing must be held no later than 120 days after the application's filing unless the court finds good cause for an extension. ~~The prosecuting agency must provide post conviction victim notice of the hearing date and the right to be heard, if the victim requested post conviction notification.~~

(v) Victims' Rights. If the victim requested post-conviction notification, the prosecuting agency must provide the victim notice of the hearing date. The victim has the right to be present and to be heard at the hearing.

Rule 29.6. through 29.8. [No change]

RULE 30. RESTORING CIVIL RIGHTS [No change]

Rule 30.1. Automatic Restoration; Exceptions; Notice [No change]

Rule 30.2. Application

(a)-(c) [No change]

~~**(d) Victim Notification.** The victim has the right to be present and be heard at any proceeding in which restoration of an applicant's civil rights is discretionary with the judicial officer and the defendant has filed an application to have civil rights restored. If the victim in a state court matter has requested post conviction notice, the prosecuting agency must provide the victim with notice of the defendant's application and the rights provided to the victim. The prosecuting agency must provide notice to the victim of the opportunity to be heard if the victim requested post conviction notification.~~

(v) Victims' Rights.

(1) Generally. The victim has the right to be present and be heard at any proceeding in which the defendant has filed an application to have civil rights restored.

(2) *Prosecutor's Notice to the Victim.* If the victim in a state court matter has requested post-conviction notice, the prosecuting agency must provide the victim with notice of the defendant's application and the rights provided to the victim, including the victim's opportunity to be heard on the application and the status of restitution.

Rules 30.3 through 30.6. [No change]

PART VIII. APPEAL AND OTHER POST-CONVICTION RELIEF

RULE 31. APPEALS

Section One. General Provisions

Rule 31.1. Scope, Procedure, Definitions, Victims' Rights

(a)-(c) [No change]

(v) Victims' Rights. Before granting a request to extend a deadline under Rules 31.3, 31.9, 31.13, 31.14, or any other rule, the court must consider the victim's right to a prompt and final conclusion of the case.

Rules 31.2 through 31.7. [No change]

Section Two. The Record on Appeal; Briefs and Argument

Rules 31.8 through 31.14. [No change]

Rule 31.14. Provisions Applicable Only to Briefs in Capital Cases

(a)-(b) [No change]

(c) Request for Extension of Time to File a Brief. ~~(1) *Factors a Court Must Consider.*~~ In ruling on any request for an extension of a time limit to file a brief, the court must consider the rights of the defendant and the rights of the victim to a prompt and final conclusion of the case.

~~(1) *Notice to the Victim.*~~

(v) Victims' Rights

~~(A) (1) *Generally.*~~ *Generally.* If the victim in a capital case has filed a notice of appearance as provided in A.R.S. § 13-4042, a party requesting an extension of time to file a brief must provide notice of the request to the victim.

~~(B) (2) *Who Must Receive Notice.*~~ *Who Must Receive Notice.*

~~(i)~~ (A) The victim may specify in the notice of appearance whether notification should be provided directly to the victim or to another person, including the prosecutor.

~~(ii)~~ (B) Unless the victim specifies a different method in the notice of appearance, notice must be provided through the prosecutor's office handling the appeal.

~~(C)~~ (3) ~~Timing.~~ *Timing.*

~~(i)~~ (A) If the victim has requested direct notification, the party requesting an extension of time must provide notice to the victim no later than 24 hours after filing the request.

~~(ii)~~ (B) If the prosecutor has the duty to notify the victim on behalf of the defendant, the prosecutor must provide notice to the victim no later than 24 hours after receiving the request.

~~(D)~~ (4) ~~Manner of Providing Notice.~~ *Manner of Providing Notice.*

~~(i)~~ (A) The victim's notice of appearance may specify whether notice must be provided electronically, by telephone, or by regular mail.

~~(ii)~~ (B) Notice must be provided in the manner specified in the victim's notice of appearance. If no method is specified, notice must be provided by regular mail.

Rules 31.15 through 31.17. [No change]

Section Three. Appellate Court Procedures and Decisions

Rules 31.18 through 31.24. [No change]

RULE 32. POST-CONVICTION RELIEF FOR DEFENDANTS SENTENCED FOLLOWING A TRIAL OR CONTESTED PROBATION VIOLATION HEARING

Rules 32.1 through 32.6. [No change]

Rule 32.7. Petition for Post-Conviction Relief

(a) Deadlines for Filing a Petition for Post-Conviction Relief.

(1) *Noncapital Cases.*

(A) Generally. [No change]

(B) Time Extensions. For good cause and after considering the rights of the victim to a prompt and final conclusion of the case, the court may grant a defendant in a noncapital case a 30-day extension to file the petition. The court may grant additional 30-day extensions only on a showing of extraordinary circumstances.

(2) *Capital Cases.*

(A)-(B) [No change]

(C) *Time Extensions.* For good cause, the court may grant a capital defendant one 60-day extension in which to file a petition. After considering the rights of the victim to a prompt and final conclusion of the case, the court may grant additional extensions for good cause.

(b)-(f) [No change]

Rule 32.8. Transcript Preparation [No change]

Rule 32.9 Response and Reply; Amendments

(a) State's Response.

(1) *Deadlines.* The State must file its response no later than 45 days after the defendant files the petition. The court for good cause may grant the State a 30-day extension to file its response and may grant the State additional extensions only on a showing of extraordinary circumstances and after considering the rights of the victim to a prompt and final conclusion of the case.

(2) *Contents.* [No change]

(b)-(d) [No change]

Rules 32.10 through 32.20. [No change]

RULE 33. POST-CONVICTION RELIEF FOR DEFENDANTS WHO PLED GUILTY OR NO CONTEST, WHO ADMITTED A PROBATION VIOLATION, OR WHO HAD AN AUTOMATIC PROBATION VIOLATION

Rule 33.1 through 33.6 [No change]

Rule 33.7. Petition for Post-Conviction Relief

(a) Deadlines for Filing a Petition for Post-Conviction Relief.

(1)-(2) [No change]

(3) *Time Extensions.* For good cause and after considering the rights of the victim to a prompt and final conclusion of the case, the court may grant a defendant a 30-day extension to file the petition. The court may grant additional 30-day extensions only on a showing of extraordinary circumstances.

(b)-(f) [No change]

Rule 33.8 [No change]

Rule 33.9. Response and Reply; Amendments

(a) State's Response.

(1) *Deadlines.* The State must file its response no later than 45 days after the defendant files the petition. The court for good cause may grant the State a 30-day extension to file its response and may grant the State additional extensions only on a showing of extraordinary circumstances and after considering the rights of the victim to a prompt and final conclusion of the case.

(2) *Contents.* [No change]

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

Rule 33.10 through 33.17 [No change]

PART IX. MISCELLANEOUS

RULES 34 THROUGH 41. [No change]