

TO:

Rule 28 Distribution
David K Byers
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ATTACHMENT A¹

RULES OF THE SUPREME COURT OF ARIZONA

Rule 30. Verbatim Recording of Judicial Proceedings

(a) [No change]

(b) **Use of Court Reporting Resources.**

1. [No change]

2. *When a certified reporter is required.* The court must use a certified reporter to make the record, and not solely electronic means, as follows:

a. [No change]

b. ~~Proceedings brought pursuant to~~ As required by A.R.S. Title 36, Chapter 5;

c.-e. [No change]

3. [No change]

* * *

Rule 123. Access to Judicial Records of the State of Arizona

(a)-(c) [No change]

(d) **Access to Case Records.** All case records are open to the public except as may be closed by law or as provided in this rule. The court must state the reason for closing any record and include a reference to any statute, case, rule or administrative order on which the court relied.

(1) *Juvenile Records.*

(A) [No change]

(B) All records of proceedings under Rule ~~47.3-327~~, Rules of Procedure for the Juvenile Court, dependency, guardianship under ARS §§ 8-871 through 8-874, termination of parental rights, adoption, and other related proceedings are confidential and must be withheld from public inspection unless authorized by law, rule, or court order.

(C) [No change]

(2)-(5) [No change]

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

(6) Mental Health Case Records.

(A) Except as otherwise provided by this rule or law, the case records and information of mental health proceedings are closed to public access or inspection. "Mental health proceeding" means a proceeding brought under ARS Title 36, Chapter 5, Article 4 or 5.

(B) Case records and information are open to the following:

(i) the subject person, which means a person who is the subject of the mental health proceedings whose records or information are being sought;

(ii) a current attorney of record in the mental health proceeding;

(iii) the subject person's current attorney of record in any other Arizona court proceeding;

(iv) the subject person's court-appointed guardian or conservator and that guardian's or conservator's current attorney of record in an Arizona court proceeding related to the subject person;

(v) an investigator, appointed under ARS Title 14, Chapter 5 in a pending guardianship, conservatorship, or other protective proceeding for the subject person;

(vi) a medical professional as defined in Rule 2, Arizona Rules of Probate Procedure, appointed under ARS Title 14, Chapter 5 in a pending guardianship, conservatorship, or other protective proceeding for the subject person;

(vii) the subject person's representative appointed under ARS § 14-10302 or guardian ad litem, and their respective attorneys;

(viii) a lawful representative of a regional behavioral health authority or health care provider as defined in ARS § 36-501 and their respective attorneys through an electronic system as established by the director of the Administrative Office of the Courts; and

(ix) the Arizona Department of Corrections if the subject person is confined to a state prison and is a patient in the Arizona State Hospital on an authorized transfer either by voluntary admission or by court order.

(C) Limited release of case record and information.

(i) The Arizona Department of Public Safety may be provided the information described in ARS § 36-540(O) and a certified copy of the court's order or minute entry requiring the subject person to undergo mental health treatment.

(ii) A law enforcement or prosecuting agency that is investigating or prosecuting a prohibited possessor as defined in ARS § 13-3101 may be

provided with a certified copy of the court's order or minute entry requiring the subject person to undergo mental health treatment and a certified copy of any order or minute entry renewing or terminating such treatment.

(iii) A federal law enforcement agency that is investigating or prosecuting a violation of 18 USC § 922(g) may be provided with a certified copy of any detention orders entered with respect to the subject person, a certified copy of the court's order or minute entry requiring the subject person to undergo mental health treatment, and a certified copy of any order or minute entry renewing or terminating such treatment.

(D) A request for case records or information relating to a mental health proceeding must be referred to a judicial officer if the clerk cannot determine whether the requestor is an individual listed in (d)(6)(B) or an agency listed in (d)(6)(C).

(E) Upon a written request and after the subject person has had an opportunity to respond, the judicial officer assigned to the proceeding, for good cause shown, may authorize the release of case records and information in a mental health proceeding to an individual not listed in (d)(6)(B). The court's finding of good cause must be in the order authorizing the release.

(F) This section does not include opinions or memorandum decisions issued by the Supreme Court or Court of Appeals, but does include appellate briefs, the record on appeal, and appellate case records.

(e)-(f) [No change]

(g) Remote Electronic Access to Case Records.

(1) A court may provide remote electronic access to case records as follows:

(A)-(C) [No change]

(D) General Public, Registered Users.

(i) Members of the public may be provided remote electronic access under ACJA § 1-604 to all of the following categories of case records unless sealed or otherwise made confidential by rule or law:

(a) Civil case records in any action brought to enforce, redress, or protect a private or civil right but not:

- juvenile matters brought under ARS Title 8;
- family law, paternity, or other matters arising out of ARS Title 25;
- orders of protection, injunctions against harassment and all proceedings, judgments or decrees related to the establishment, modification or enforcement of such orders, including contempt; ~~or~~
- probate proceedings brought under ARS Titles 14 ~~and 36~~; or

- mental health proceedings as defined in (d)(6)(A) of this rule.

(b)-(d) [No change]

(ii) [No change]

(E) General Public, Non-Registered Users. Unless otherwise provided by rule or law, members of the public may be provided remote electronic access, without registering, to:

(i) the following data elements in juvenile delinquency, ~~mental health~~, probate, and criminal cases in which a defendant is charged with an offense listed in A.R.S. Title 13, chapters 14, 32, 35 or 35.1 or in which the victim was a juvenile at the time of the offense as provided in paragraph (g)(1)(D)(ii)(h) above:

- party names,
- case number,
- judicial assignment,
- attorney names, and
- in the above-described criminal cases only, the docket or register of actions, but not remote electronic access to other documents, so long as the names of victims do not appear in the docket or the register of actions.

(ii) except as provided in paragraph (g)(1)(D)(ii)(h) above, individual case information extracted from a case management system in all civil except mental health proceedings, criminal, and civil traffic cases identified in paragraphs—(g)(1)(D)(i)(a) through (d). Case information includes a list of documents filed, events, dates, calendars, party names, month and year of birth, residential city, state and zip code, case number, judicial assignment, attorneys, charges filed or claims made, interim rulings, and case outcomes, including sentence, fines, payment history, minute entries, and notices. Case information does not include any information regarding the registration, filing of a petition for, or issuance of an order of protection or an injunction against harassment, if such publication would be likely to reveal to the general public the identity or location of the party protected under such order.

(iii)-(iv) [No change]

(2)-(9) [No change]

(h) Access to Audiotape, Videotape, Microfilm, Computer or Electronic Based Records.

(1)-(3) [No change]

(4) *Databases, Operating Systems and Network Programs.*

(A) Databases and electronic records containing case and administrative records are open to the public. However, databases and electronic records containing confidential information that may not be entirely redacted, or records or information that is not subject to public inspection under law, rule, or court order, may be closed in accordance with the provisions of paragraph (f)(4).

(B)-(C) [No change]

(5) [No change]

(i) [No change]

(j) **Bulk or Compiled Data Dissemination in Bulk.**

(1)-(2) [No change]

(3) *Personal identifiers available in bulk court data.* The custodian of bulk data may release data that contains the following personal identifying information about a petitioner, plaintiff, respondent, or defendant other than a petitioner seeking an order of protection or the subject person in a mental health proceeding:

(A)-(D) [No change]

(4) [No change]

ATTACHMENT B²

RULES OF THE SUPREME COURT OF ARIZONA

Rule 30. Verbatim Recording of Judicial Proceedings

(a)-(b) [No change]

* * *

Rule 123. Access to Judicial Records of the State of Arizona

(a)-(c) [No change]

(d) **Access to Case Records.** All case records are open to the public except as may be closed by law or as provided in this rule. The court must state the reason for closing any record and include a reference to any statute, case, rule or administrative order on which the court relied.

(1)-(5) [No change]

(6) *Mental Health Case Records.*

(A) [No change]

(B) Case records and information ~~may be available~~ are open to the following:

~~(i) a superior court judicial officer, court administrator, clerk of court, and staff;~~

(ii) the subject person, which means a person who is the subject of the mental health proceedings whose records or information are being sought;

(iii) ~~an~~ current attorney of record in the mental health proceeding;

~~(iv)~~ (i) the subject person's current attorney of record in any other Arizona court proceeding;

(ii) the subject person's court-appointed guardian or conservator, ~~or a person nominated, in a pending petition filed under ARS Title 14, Chapter 5, to serve as the subject person's guardian and conservator,~~ and that person's guardian's or conservator's current attorney of record in any Arizona court proceeding related to the subject person;

(iii) an investigator, appointed under ARS Title 14, Chapter 5 in a pending guardianship, conservatorship, or other protective proceeding for the subject person;

² Additions to the text of the rule adopted on an emergency basis are shown by underscoring and deletions are shown by ~~strike through~~.

(vii) a medical professional as defined in Rule 2, Arizona Rules of Probate Procedure, appointed under ARS Title 14, Chapter 5 in a pending guardianship, conservatorship, or other protective proceeding for the subject person;

(viii) **[No change to text]**

~~(ix) the subject person's agent under a valid health care or mental care power of attorney;~~

~~(xviii) the a lawful representative of a regional behavioral health authority or health care provider as defined in ARS § 36-501 and their respective attorneys through an electronic system as established by the director of the Administrative Office of the Courts; and~~

(ixi) **[No change to text]**

(C) **[No change]**

(D) A request for case records or information relating to a mental health proceeding must be referred to a judicial officer if the clerk cannot determine whether the requestor is an individual listed in (d)(6)(B) or an agency listed in (d)(6)(C).

~~(DE)~~ Upon a written request and after the subject person has had an opportunity to respond, the judicial officer assigned to the proceeding, for good cause shown, may authorize the release of case records and information in a mental health proceeding to an individual not listed in (d)(6)(B) or (C). The court's finding of good cause must be in the order authorizing the release.

~~(EF)~~ **[No change in text]**

(e)-(f) **[No change]**

(g) Remote Electronic Access to Case Records.

(1) A court may provide remote electronic access to case records as follows:

(A)-(C) **[No change]**

(D) General Public, Registered Users.

(i) Members of the public may be provided remote electronic access under ACJA § 1-604 to all of the following categories of case records unless sealed or otherwise made confidential by rule or law:

(a) Civil case records in any action brought to enforce, redress, or protect a private or civil right but not:

- juvenile matters brought under ARS Title 8;
- family law, paternity, or other matters arising out of ARS Title 25;

- orders of protection, injunctions against harassment and all proceedings, judgments or decrees related to the establishment, modification or enforcement of such orders, including contempt;
- probate proceedings brought under ARS Titles 14; or
- mental health proceedings ~~brought under ARS Title 36~~ as defined in (d)(6)(A) of this rule.

(b)-(d) [No change]

(ii) [No change]

(E) General Public, Non-Registered Users. Unless otherwise provided by rule or law, members of the public may be provided remote electronic access, without registering, to:

(i) [No change]

(ii) except as provided in paragraph (g)(1)(D)(ii)(h) above, individual case information extracted from a case management system in all civil except mental health proceedings, criminal, and civil traffic cases identified in paragraphs (g)(1)(D)(i)(a) through (d). Case information includes a list of documents filed, events, dates, calendars, party names, month and year of birth, residential city, state and zip code, case number, judicial assignment, attorneys, charges filed or claims made, interim rulings, and case outcomes, including sentence, fines, payment history, minute entries, and notices. Case information does not include any information regarding the registration, filing of a petition for, or issuance of an order of protection or an injunction against harassment, if such publication would be likely to reveal to the general public the identity or location of the party protected under such order.

(iii)-(iv) [No change]

(2)-(9) [No change]

(h)-(j) [No change]