

attachment to this order, effective immediately.

IT IS FURTHER ORDERED, pursuant to Rule 28(h)(2) of the Rules of the Supreme Court of Arizona, that Rule 43 of the Arizona Rules of Protective Order Procedure is hereby adopted on an emergency basis in accordance with the amendments shown on the attachment to this order, effective immediately.

IT IS FURTHER ORDERED that during its August 2023 Rules Agenda, the Court will consider whether to adopt the rule and rule amendments on a permanent basis.

IT IS FURTHER ORDERED that this petition, rule and rule amendments are opened for public comment under Rule 28(c), Rules of the Supreme Court of Arizona, with all comments due no later than May 1, 2023, and any reply due no later than June 1, 2023.

The petition, rule, and rule amendments may be viewed by going to: <http://www.azcourts.gov/Rules-Forum>. This opens the "Welcome" page. Petitions are posted under the appropriate body of rules, for example, Rules of Criminal Procedure, which is found by scrolling down the page.

For instructions on how to post comments electronically, click on <https://www.azcourts.gov/rules/Forum-FAQ> at the top of the "Forum FAQ" page and then "How do I file a comment on a Rule 28 petition?"

Alternatively, commenters may submit comments by filing an original and one paper copy of the comment and one electronic

TO:

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ATTACHMENT¹

RULES OF CRIMINAL PROCEDURE

Rule 26.11. A Court's Duty After Pronouncing Sentence

(a)-(b) [No change]

(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 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 if present at sentencing. The court must indicate on the Order for Lifetime No-Contact Injunction that the defendant was served with the order at sentencing. If the defendant is not present at the time of sentencing, Rule 43(h) of the Arizona Rules of Protective Procedure governs service of process.

(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.

(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(j) 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(l) of the Arizona Rules of Protective Order Procedure. Courts may make margin and caption changes.

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

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 for any petition filed under A.R.S. § 13-719(D) for an Order for Lifetime No-Contact Injunction.

Rule 3. Definitions

(a)-(f) [No change]

(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 under A.R.S. § 13-719(D).

Rule 4. Protective Orders Governed by These Rules

(a)-(e) [No change]

(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)-(3) [No change]

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

(5) 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 under 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 under 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 in which 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 to verify 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) Notice to the Defendant. The court must provide the defendant's sentencing counsel notice of the victim's petition, which must include the information provided in the victim's petition under Rule 43(e)(1)-(3) and (5), by mailing the notice to counsel's last known address. Upon receipt, counsel must forward the notice to the defendant's last known address. If the defendant was unrepresented by counsel at sentencing, the court must provide notice of the petition to the defendant, which must include the information provided in the victim's petition under Rule 43(e)(1)-(3) and (5), by mailing the notice to the defendant's last known address. The defendant may file a written response, but it must be filed with the court no later than 21 days after the court mails the notice to counsel or the defendant.

(h) 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.

(i) 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 under 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.

(j) Validity; Dismissal. An Order for Lifetime No-Contact Injunction issued under 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 (i)(2)(B) or (C), the court must notify the victim of the request and give the victim an opportunity to file a written response.

(k) Public Access to Petition or Injunction Information.

(1) The court must not make publicly available any information regarding the filing of or 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 with prosecutors or law enforcement if necessary to carry out their official responsibilities.

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

(l) Forms. Courts must provide, without charge, lifetime no-contact injunction forms. To assist 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.