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(FIRM STATE BAR NO. 00032000)**

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(STATE BAR NUMBER 005379 )**

**ARIZONA SUPREME COURT**

**PETITION TO AMEND Rule  
38.2(b), Arizona Rules of Criminal  
Procedure.**

R-23-0031

MARICOPA COUNTY ATTORNEY'S OFFICE  
COMMENT IN SUPPORT


Over the past few years, the deferred prosecution (diversion) programs of the Maricopa County Attorney's Office (MCAO) have expanded and flourished. The number of defendants taking advantage of these programs is the highest ever in Maricopa County. These programs allow for accountability and reparation without consuming valuable court and prosecution resources.

It is not unusual for a defendant to fail to enroll in the program properly or to otherwise unsuccessfully complete the program for reasons that should not forever preclude them from these programs. The current language of Rule 38.2(b) doesn't allow for the defendant to be given subsequent opportunities to have the case deferred once prosecution is resumed after a previous failure. By adding the language sought by the Petitioner, there would be a clear mechanism for allowing the prosecution to re-extend diversion to these defendants.

For these reasons, we support Petitioner's proposal to amend Rule 38.2(b) of the Arizona Rules of Criminal Procedure.

Respectfully submitted this 27<sup>th</sup> of April, 2023.

RACHEL H MITCHELL  
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BY   
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