

TO:

Rule 28 Distribution
David K Byers
Hon Jay M Polk

ATTACHMENT¹

RULES OF THE SUPREME COURT OF ARIZONA

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

(a) [No change]

(b) Definitions

(1)-(13) [No change]

(14) *Mental Health Proceeding*. “Mental health proceeding” means a proceeding brought under ARS Title 36, Chapter 5, Article 4 or 5.

~~(14)-(15) [No change in text]~~

~~(15)-(16) [No change in text]~~

~~(16)-(17) [No change in text]~~

~~(17)-(18) [No change in text]~~

~~(18)-(19) [No change in text]~~

~~(19)-(20) [No change in text]~~

~~(20)-(21) [No change in text]~~

(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) 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)-(F) [No change]

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

(7) Sexually Violent Person Case Records.

(A) Except as otherwise provided by this rule or law, in cases filed under ARS Title 36, Chapter 37, any document that is closed under (d)(2)(A) or is listed in ARS § 36-3702(D)(2)(a), (b), or (D)(3) through (D)(9) is closed to the public.

(B) Documents described in 7(A) that are filed in an ARS Title 36, Chapter 37 case are open to the following:

(i) the county attorney who is entitled to initiate the case under ARS § 36-3704(A) and any deputy county attorney in that office who is assigned to the case;

(ii) the Arizona attorney general and any assistant attorney general who is assigned to represent either the Arizona state hospital or a licensed facility under the supervision of the superintendent of the Arizona state hospital that provides treatment under ARS Title 36, Chapter 37;

(iii) the respondent;

(iv) the respondent's attorney;

(v) a lawful representative of the Arizona state hospital or of a licensed facility under the supervision of the superintendent of the Arizona state hospital that provides treatment under ARS Title 36, Chapter 37;

(vi) a lawful representative of a service provider designated by the court to provide inpatient or outpatient treatment or to monitor or supervise any other terms and conditions of a person's placement in a less restrictive alternative under ARS § 36-3710; and

(vii) upon a showing of good cause and after notice to the parties to the case, any other person the judge presiding over the case has authorized to access the document.

(C) A party filing a paper document that is closed under this section must identify the document as confidential by placing it in an envelope or box marked with the case name, the case number, the name of the document being filed, the name of the party filing the document, and the words "Confidential Document." A confidential document referenced in a pleading or motion as an exhibit, attachment, or appendix must state on the envelope or box the title of that pleading or motion and identify the exhibit, attachment, or appendix number. A party must place all confidential documents in one or more envelopes or boxes that conceal the contents.

(D) The clerk is not required to review a document to determine whether it is a confidential document. The responsibility for identifying confidential documents, including for electronic filings, rests solely with the person filing a document.

(E) All other documents in ARS Title 36, Chapter 37 case files maintained by the clerk of the court are open to the public, unless prohibited by law or sealed by court order.

(e)-(j) [No change]