

David K. Byers
Administrative Director
Administrative Office of the Courts
1501 W. Washington, Suite 411
Phoenix, AZ 85007-3327
Phone: (602) 452-3301
Projects2@courts.az.gov

ARIZONA SUPREME COURT

In the matter of:)
)
PETITION TO AMEND RULE 43(b) OF) Supreme Court No. 24-_____
THE RULES OF PROTECTIVE ORDER) (expedited consideration
PROCEDURE) and emergency adoption
) requested)
)
_____)

Pursuant to Rule 28 of the Rules of the Supreme Court of Arizona, David K. Byers, Administrative Director, Administrative Office of the Courts, respectfully petitions this Court to amend Rule 43, Arizona Rules of Protective Order Procedure (ARPOP) (“order for lifetime no-contact injunction”), as proposed in Appendix A. The proposed amendments are prompted by the enactment of Senate Bill (SB) 1436 during the Second Regular Session of the Fifty-sixth Legislature, as more particularly described below. A copy of SB 1436 is attached as Appendix B.

SB 1436 has a general effective date and is expected to become effective in early Fall 2024. Accordingly, Petitioner seeks expedited consideration of this petition and emergency adoption of the proposed amendments to Rule 43, ARPOP,

with an effective date that coincides with the general effective date of legislation from the Second Regular Session of the Fifty-sixth Legislature.

I. Purpose of the Proposed Rule Amendments.

SB 1436, Offenses; Lifetime Injunction (Laws 2024, Ch. 5)

A.R.S. § 13-719 allows a victim in a case to obtain a lifetime no-contact injunction against a defendant convicted of an offense listed in A.R.S. § 13- 719(A).

SB 1436 adds the following to the list of qualifying offenses in A.R.S. § 13- 719(A):

- a felony offense as set forth in A.R.S. § 13-1204(B) (aggravated assault);
- a felony offense as set forth in A.R.S. § 13-1424 (voyeurism); and
- a felony offense as set forth in A.R.S. § 13-2923 (stalking).

Rule 43(b), ARPOP (“qualifying convictions”), tracks A.R.S. § 13-719(A) and lists the offenses set out in A.R.S. § 13-719(A). Therefore, Petitioner proposes amending Rule 43(b) as set forth in Appendix A, to include the offenses added to A.R.S. § 13-719(A) by SB 1436 that are not already included in Rule 43(b), by adding the following verbiage to Rule 43(b) as a new subsection (4): “a felony offense as set forth in A.R.S. §§ 13-1204(B) or -2923.” (A.R.S. § 13-1424 is currently included under Rule 43(b)(3)).

II. Preliminary Comments.

This petition has not been sent to the court community for pre-filing comments because of its technical nature and due to the short period of time since the enactment of the new statutory provisions.

III. Request for Expedited Consideration and Emergency Adoption.

SB 1436 is expected to become effective in early Fall 2024. Therefore, as permitted by Supreme Court Rule 28(h), Petitioner respectfully requests that this Court expedite its consideration of this petition for inclusion on the August 2024 Rules Agenda, consider adoption of the proposed amendments as set forth in Appendix A on an emergency basis at that Agenda with an effective date that coincides with the general effective date of legislation from the Second Regular Session of the Fifty-sixth Legislature, open the petition for comment, and consider adopting the proposed amendments on a permanent basis at this Court's December 2024 Rules Agenda.

Respectfully submitted this 2nd day of April, 2024.

By /s/ David K. Byers
David K. Byers, Administrative Director
Administrative Office of the Courts
1501 W. Washington, Suite 411
Phoenix, Arizona 85007
(602) 452-3301
Projects2@courts.az.gov

APPENDIX A

Arizona Rules of Protective Order Procedure

(deletions shown with ~~strikethrough~~, new language is underlined)

Rule 43. Order for Lifetime No-Contact Injunction

(a) [No change]

(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) [No change]

(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; or

(4) a felony offense as set forth in A.R.S. §§ 13-1204(B) or -2923.

(c) through (k) [No change]