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ARIZONA SUPREME COURT

In the Matter of:

PETITION TO AMEND RULES 14.4
AND 17.2 OF THE ARIZONA RULES
OF CRIMINAL PROCEDURE

Supreme Court No. R-24-0025

Comment by the Directors of
Maricopa County Indigent Defense
Agencies

The Maricopa County indigent representation offices (IR) collectively handle most cases filed in Maricopa County in which there has been a finding of indigency. The Office of Public Defense Services (OPDS) provides administrative and financial oversight to the

staffed offices and the Office of Contract Counsel (OCC). The staffed offices are comprised of the Office of the Public Defender (OPD), the Office of the Legal Advocate (OLA), the Office of the Legal Defender (OLD), and the Office of the Public Advocate (OPA).

While we support the petition, we should make clear at the outset that we don't believe collateral consequences should be imposed on our clients in the first place. The suspension of civil rights following a plea creates barriers to reintegration into the community and raises the risk of recidivism. Nevertheless, if collateral consequences are to be imposed, our clients should be informed about these consequences before accepting a plea.

The overwhelming majority of defendants in the criminal legal system in Maricopa County resolve their cases via plea agreement with either the Maricopa County Attorney's Office or the Arizona Attorney General's Office.¹ Given that nearly all criminal defendants resolve their cases via plea agreement, Chief Justice Robert Brutinel issued Administrative Order 2021-84 establishing a Task Force on Plea Bargaining, Sentencing and Dispositions, in part to ensure "public trust in the fundamental fairness of the plea process."²

¹ *Statistics: Superior Court Criminal Manner of Disposition*, ARIZ. SUP. CT., <https://www.azcourts.gov/statistics/Interactive-Data-Dashboards/Superior-Court-Filings-and-Terminations> (last accessed March 12, 2024).

² Supreme Court No. R-24-0025, *In the Matter of Petition to Amend Rules 14.4 and 17.2 of the Arizona Rules of Criminal Procedure*, <https://www.azcourts.gov/Rules-Forum/aft/1561> (last accessed March 12, 2024).

Felony convictions in Arizona come with a bevy of collateral consequences. Conviction of a felony suspends the right to vote, to hold office, to possess a firearm, and to sit on a jury. Ariz. Const. art. VII, §2(C); Ariz. Rev. Stat. §§13-904(A)(1)-(4). An individual may also be denied state, county, or municipal employment because of a felony or misdemeanor conviction if the offense had a reasonable relationship to the functions of employment sought. Ariz. Rev. Stat. §13-904(E)-(F). Further, depending on the nature of a felony conviction or the type of the license sought, defendants face suspension and/or denial of certain professional licenses. Ariz. Rev. Stat. §32-4701. Similarly, felony convictions can impact whether an individual may obtain a fingerprint clearance card. Ariz. Rev. Stat. §41-1758.04. Felony drug convictions may also result in the loss of certain public state benefits, including university or college scholarships, welfare benefits, and public housing. Ariz. Rev. Stat. §13-3418. Additionally, certain misdemeanor and felony convictions require mandatory revocation of a driver's license. Ariz. Rev. Stat. §28-3304. All of this is in addition to whatever criminal punishment the individual faces.

At the outset, the Petition mentions the possibility of modifying Forms 18(a) and 18(b), Rule 41, *Ariz. R. Crim. P.*, in a future petition. Although not addressed in this Petition, we agree with the rationale. The current forms should be modified to fully address the most significant loss of rights and collateral consequences associated with felony convictions. We recognize that outlining every collateral consequence in a plea agreement is a Herculean task (and that collateral consequences can change). Modifying the standard forms to include the most important collateral consequences—specific immigration consequences, loss of civil rights, restoration of rights, and professional licensure

consequences—guarantees that every defendant is apprised of the consequences of a felony conviction.

We support the Petition. We believe that advising defendants that certain civil rights may be suspended by virtue of their plea provides a valuable service. It may prompt defendants to learn more about how the collateral consequences may impact their lives post-sentencing, and to ask questions of their attorneys. Some defendants may choose to go to trial rather than agree to the suspension of their civil rights. They will not be able to fully weigh their options if they are not informed of the collateral consequences until sentencing.

Further, including an advisement regarding collateral consequences at multiple hearings—not just the change of plea colloquy—ensures multiple opportunities for defendants to consider the far-reaching consequences of pleading guilty to felonies. Court proceedings are stressful for many defendants, especially defendants who have never been in the criminal legal system. Appearing before a judge can cause defendants a great deal of anxiety and fear, and because of this, defendants may not catch everything a judge says. Repeating critical information at multiple court dates will help defendants retain the knowledge and inquire further with their attorneys about their specific circumstances.

This Petition is a great step in the right direction and furthers the mission of the Task Force on Plea Bargaining, Sentencing and Dispositions, as well as the goals of the Maricopa County indigent defense offices. Consequently, the directors of the defense agencies of Maricopa County support the proposed amendments to Rules 14.4 and 17.2, *Ariz. R. Crim. P.*

DATED this 28th day of April 2024.

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