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**IN THE SUPREME COURT  
STATE OF ARIZONA**

In the Matter of

Arizona Supreme Court No. R-24-0018

ARIZONA RULE OF EVIDENCE 412

**REPLY IN SUPPORT OF  
PETITION TO AMEND ARIZONA  
RULE OF EVIDENCE 412**

**REPLY TO COMMENT ON PETITION TO AMEND  
ARIZONA RULE OF EVIDENCE 412**

In support of its pending Petition to Amend Arizona Rule of Evidence 412, the Advisory Committee on Rules of Evidence (the “Committee”), by and through its Chair, the Honorable Sara Agne, provides this Reply to respond to a comment filed by the Arizona Attorneys for Criminal Justice (“AACJ”).<sup>1</sup>

The Committee submitted the Petition to correct an oversight regarding the coverage of Arizona’s rape-shield law. Arizona has had a *criminal* rape-shield statute, A.R.S. § 13-1421, since 1998. When this Committee was formed in 2012, it

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<sup>1</sup> Additional comments—by the State Bar of Arizona, the Arizona Commission on Access to Justice, and three individual ASU Law students—each supported the Petition in full.

did not adopt a *civil* rape-shield rule, presumably on the belief that the criminal statute covered the field. It did not, and it does not. To fill that gap, the Committee's Petition proposed amendments to Arizona Rule 412 to cover non-criminal cases.

The AACJ comment raises many issues regarding the scope and procedures of the *criminal* statute. The Committee does not take a position on those issues raised by the comment, as the criminal statute is outside the scope of the proposed amendments. In petitioning, we had not conducted any research on the issues the AACJ raises. Nor have we surveyed stakeholders regarding the workability of the current *criminal* statute as implemented. But we do not believe that the issues raised by the AACJ preclude adoption of a *civil* rape-shield rule in Arizona. Indeed, the AACJ comment does not raise any concerns regarding the non-criminal applications of rape-shield protections.

The Committee respectfully requests that the Court adopt the changes proposed by the Petition to Amend Rule 412 of the Arizona Rules of Evidence as presented, with an effective date of January 1, 2025.

DATED this   2nd day of   June, 2024.

  /s/ Sara J. Agne \_\_\_\_\_  
Sara J. Agne  
Chair, Advisory Committee on Rules of Evidence