



**IT IS FURTHER ORDERED**, consistent with the Court's September 7, 2023 order, that the Court will consider whether to adopt these rule amendments on a permanent basis during its August 2024 Rules Agenda.

**IT IS FURTHER ORDERED** that this petition is reopened for public comment under Rule 28(c), Rules of the Supreme Court of Arizona, with all comments due no later than May 1, 2024, and any reply due no later than June 3, 2024.

The petition may be viewed by going to: <http://www.azcourts.gov/Rules-Forum>. This opens the "Welcome" page. Petitions are posted under the appropriate body of rules, for example, Rules of Criminal Procedure, which is found by scrolling down the page.

For instructions on how to post comments electronically, click on <https://www.azcourts.gov/rules/Forum-FAQ> at the top of the "Forum FAQ" page and then "How do I file a comment on a Rule 28 petition?"

Alternatively, commenters may submit comments by filing an original and one paper copy of the comment and one electronic copy of the written comments and supporting documents in Microsoft Word format on a CD or other compatible electronic medium with the Clerk of the Supreme Court, 1501 West Washington St., Room 402, Phoenix, AZ 85007 in an envelope marked "Rule Comment."

Any person filing a comment must send a copy of the comment to the Petitioner electronically or by ordinary mail.

DATED this 5 day of December, 2023.



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ROBERT BRUTINEL  
Chief Justice

TO:

Rule 28 Distribution  
David K Byers

## ATTACHMENT<sup>1</sup>

### RULES OF THE SUPREME COURT OF ARIZONA

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

**(a)-(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)-(6) [No change]**

**(7) Sexually Violent Person or Dangerous and Incompetent Person Case Records.**

(A) Except as otherwise provided by this rule or law, in cases filed under ARS Title 36, Chapters 37 or 40, 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), or 36-4002 is closed to the public.

(B) Documents described in 7(A) that are filed in an ARS Title 36, Chapter 37 or 40 case are open to the following:

(i) the county attorney who is entitled to initiate the case under ARS § 36-3704(A) or is representing the state in an ARS Title 36, Chapter 40 proceeding 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 or the secure state mental health facility where the defendant is committed;

(iii) the respondent or the committed defendant;

(iv) the respondent's or the committed defendant'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 or the secure state mental health facility where the defendant is committed;

(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

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

terms and conditions of a person's placement in a less restrictive alternative under ARS §§ 36-3710 or 36-4005; and

(vii) a retained or appointed competent professional under ARS § 36-4002;  
and

(viii) 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)-(D) [No change]**

(E) All other documents in ARS Title 36, Chapters 37 and 40 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]**