

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-23-0042
RULE 6.1, RULES OF CRIMINAL)
PROCEDURE)
)
)
)
) **FILED:08/22/2024**
)
_____)

**ORDER ADOPTING ON A PERMANENT BASIS
AMENDMENTS TO RULES 4.2 AND 6.1 OF
THE RULES OF CRIMINAL PROCEDURE**

On August 18, 2023, David K. Byers, on behalf of the Administrative Office of the Courts, filed a rule petition requesting expedited consideration and emergency adoption of amendments to Rule 6.1 of the Rules of Criminal Procedure. On August 28, 2023, the Court granted the request for expedited consideration and opened the petition for public comment through October 31, 2023.

During the December 2023 Rules Agenda, the Court adopted the proposed amendments on an emergency basis with a further emergency amendment to Rule 4.2 of the Rules of Criminal Procedure. The Court also reopened the comment period through May 1, 2024, and ordered that it would consider whether to adopt the emergency amendments on a permanent basis during the August 2024 Rules Agenda. Having considered the petition, one comment submitted in support, and the reply,

IT IS ORDERED that the amendments to Rules 4.2 and 6.1 of the Rules of Criminal Procedure that were adopted on an emergency basis on December 6, 2023, are hereby adopted permanently in accordance with the attachment to this order, effective immediately. The attachment is the same as the attachment to the Court's December 6, 2023 order.

DATED this 22nd day of August, 2024.

/s/
ANN A. SCOTT TIMMER
Chief Justice

TO:

Rule 28 Distribution
David K Byers
Mary Helen Maley Maynard
David P Stoller

ATTACHMENT¹

RULES OF CRIMINAL PROCEDURE

Rule 4.2. Initial Appearance

(a) Generally. At an initial appearance, a magistrate must:

(1)-(4) [No change]

(5) appoint counsel if the defendant ~~requests and~~ is eligible for appointed counsel under Rule 6;

(6)-(11) [No change]

(b)-(v) [No change]

* * *

Rule 6.1. Right to Counsel; Right to Appointment of an Attorney; Waiver of the Right to Counsel; Authority of a Legal Paraprofessional

(a) [No change]

(b) Right to Appointment of an Attorney.

(1) *As of Right.* An indigent defendant is entitled to a court-appointed attorney in any criminal proceeding:

(A) ~~in any criminal proceeding~~ that may result in punishment involving a loss of liberty; or

~~(B) for the limited purpose of determining release conditions at or following the initial appearance, if the defendant is detained after a misdemeanor charge is filed; or~~

~~(C) if the defendant is held on while incarcerated because of a bond imposed at the initial appearance. The appointment will terminate upon the defendant's release from incarceration unless continued appointment is otherwise required by law or ordered by the court.~~

(2) [No change]

(c)-(g) [No change]

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