

SUPREME COURT OF ARIZONA

In the Matter of ) Arizona Supreme Court  
 ) No. R-23-0043  
RULE 123(d) (7), RULES OF THE )  
SUPREME COURT )  
 )  
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 )  
 ) **FILED 08/22/2024**  
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\_\_\_\_\_ )

**ORDER ADOPTING ON AN PERMANENT BASIS  
AMENDMENTS TO RULE 123(d) (7) OF  
THE RULES OF THE SUPREME COURT OF ARIZONA**

On September 1, 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 123(d) (7) of the Rules of the Supreme Court of Arizona. On September 7, 2023, the Court granted the request for expedited consideration and opened the petition for public comment through October 27, 2023.

During the December 2023 Rules Agenda, the Court adopted the proposed amendments on an emergency basis. 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. No comments having been received, upon consideration,

**IT IS ORDERED** that the amendments to Rule 123(d) (7) of the Rules of the Supreme Court of Arizona 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 22<sup>nd</sup> day of August, 2024.

\_\_\_\_\_  
/s/  
ANN A. SCOTT TIMMER  
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]