

Procedure are amended on an emergency basis in accordance with the attachment to this order, effective September 14, 2024.

IT IS FURTHER ORDERED, pursuant to Rule 28(h)(2) of the Rules of the Supreme Court of Arizona, that Rules 26.11(a), 26.13, 31.5(a), 35.1, and 41, Forms 7, 31(a), and 31(b), of the of the Rules of Criminal Procedure are amended on an emergency basis in accordance with the attachment to this order, effective immediately.

IT IS FURTHER ORDERED, consistent with the Court's July 8, 2024 order, that the Court will consider whether to adopt these rule amendments on a permanent basis during its December 2024 Rules Agenda.

DATED this 22nd day of August, 2024.

/s/
ANN A. SCOTT TIMMER
Chief Justice

TO:

Rule 28 Distribution
David K Byers

ATTACHMENT¹

RULES OF THE SUPREME COURT OF ARIZONA

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

(a)-(d) [No change]

(e) **Access to Administrative Records.** All administrative records are open to the public except as provided herein:

(1)-(9) [No change]

(10) *Juror Records.* The dates of birth, email addresses, home and work telephone numbers and addresses of jurors, and all other information obtained by special screening questionnaires or in voir dire proceedings that personally identifies jurors summoned for service, except the names of jurors on the master jury list, are confidential, unless disclosed in open court or otherwise opened by order of the court.

(11)-(14) [No change]

(f)-(j) [No change]

RULES OF CIVIL PROCEDURE

Rule 47. Jury Selection; Juror Information; Voir Dire; Challenges

(a) [No change]

(b) **Juror Information.**

(1) [No change]

(2) *Confidentiality of Eligibility and Biographical Information.* The clerk must obtain and maintain juror information in a manner and form approved by the Supreme Court as set forth in statute, rule, Administrative Code, or Administrative Order, and this information may only be used for the purpose of jury selection. The clerk must keep all jurors' dates of birth, email addresses, home and business telephone numbers and addresses confidential and may not disclose them unless by order of the court for good cause shown.

(3) [No change]

(c)-(e) [No change]

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

RULES OF CRIMINAL PROCEDURE

Rule 18.3. Jurors' Information

(a) [No change]

(b) **Confidentiality of Eligibility and Biographical Information.** The court must obtain and maintain juror information in a manner and form approved by the Supreme Court as set forth in statute, rule, Administrative Code or Administrative order, and this information may be used only for the purpose of jury selection. The court must keep all jurors' dates of birth, email addresses, home and business telephone numbers and addresses confidential, and may not disclose them unless by order of the court for good cause shown.

(c) [No change]

* * *

Rule 26.11. A Court's Duty After Pronouncing Sentence

(a) **Disclosures.** After pronouncing judgment and sentence, the court must:

(1) [No change]

(2) advise that:

(A) if the defendant is indigent, as defined in Rule 6.1(b-g), the court will appoint counsel to represent the defendant on appeal;

(B)-(C) [No change]

(b)-(c) [No change]

* * *

Rule 26.13. ~~Consecutive~~ Multiple Sentences

~~If the court imposes separate sentences of imprisonment on a defendant for two or more offenses, the sentences run consecutively unless the judge expressly directs otherwise. Except as otherwise provided by law, if multiple sentences of imprisonment are imposed on a person at the same time, the sentences imposed by the court may run consecutively or concurrently, as determined by the court. The court must state on the record the reason for its determination. This rule applies even if the offenses are not charged in the same indictment or information. There is no presumption favoring consecutive sentences rather than concurrent sentences.~~

* * *

Rule 29.1. Grounds; Notice

(a) [No change]

(b) Sex Trafficking Victims. Under A.R.S. § 13-909, a sex trafficking victim may apply in writing to the court to vacate the victim's conviction under A.R.S. § 13-3214, or a city or town ordinance that has the same or substantially similar elements, ~~if the offense was committed before July 24, 2014.~~

* * *

Rule 31.5. Appointment of Counsel on Appeal; Waiver of the Right to Appellate Counsel

(a) Determination that the Defendant Is Indigent.

(1)-(2) [No change]

(3) Definition of “Indigent.” The term “indigent” is defined in Rule 6.1**(b-g)**.

(b)-(f) [No change]

* * *

Rule 35.1. Definition

(a)-(b) [No change]

COMMENT

This rule is applicable to all types of contempt except the comparatively narrow class of direct criminal contempts covered by A.R.S. §§ 12-861 to -863 which must be prosecuted according to the terms of those statutes.

Rule ~~33.1~~35.1 defines criminal contempt. The definition derives from A.R.S. § 12-861 and the Arizona Supreme Court's statements in *Ong Hing v. Thurston*, 101 Ariz. 92, 96, 416 P.2d 416, 420 (1966). This definition, and the succeeding sections, apply only to criminal contempt. Civil contempt, which is possible in a criminal case (such as in the case of a witness who refuses to submit to a deposition) is not treated in this rule. The general distinction between civil and criminal contempt is the purpose for which the punishment is imposed. A person is imprisoned for civil contempt to force compliance with a lawful order of the court; that person holds the keys to the jail and can gain release at any time by complying with the order. *See Shillitani v. United States*, 384 U.S. 364, 370-71 (1966). A criminal contempt citation, on the other hand, is intended to vindicate the dignity of the court. It is a criminal offense for which a specific punishment is meted out, over which the defendant has no control. *See United States v. Barnett*, 376 U.S. 681, 692-94 (1964).

* * *

Rule 36.1. Sealing Arrest, Conviction, and Sentencing Records

(a) [No change]

(b) Eligibility. A person may file a petition to seal all case records related to an eligible criminal offense if the person has not previously had a petition denied in the past three years and the person was:

(1) ~~except as provided in A.R.S. § 13-911(O)~~, convicted of a ~~criminal~~ the offense and has completed all the terms and conditions of probation or sentence, including the payment of all monetary obligations and restitution to all victims, and the required timeframes in A.R.S. § 13-911(E), and (F), ~~and (G)~~ have passed;

(2) charged with a ~~criminal~~ the offense and the charge was subsequently dismissed or resulted in a not guilty verdict at a trial; or

(3) arrested for a ~~criminal~~ the offense and no charges were filed.

(c)-(e) [No change]

(f) Disposition.

(1) *Timeframe for Ruling on the Petition.* At least ~~30~~ 60 days must elapse from the date of the petition's filing before the court can grant or deny a petition, unless the court receives notice that the prosecutor and all victims who have made a request for post-conviction notice do not object to the petition.

(2) *Granting or Denying the Petition.* The court must grant the petition if it determines that granting the petition is in the best interests of the petitioner and the public's safety, except that if the petitioner has another criminal charge pending or is charged with an offense after filing a petition and the ~~offense charge~~ could result in a conviction that cannot be sealed or that could extend the time to file a petition to seal case records, the court may not grant or deny the petition until the court disposes of that charge. Unless the petitioner, prosecutor, or victim requests a hearing, the court may grant or deny a petition without a hearing.

(3)-(4) [No change]

(g)-(i) [No change]

* * *

RULE 41. FORMS

Form 6. Release Order

COURT										County, Arizona			
STATE OF ARIZONA Plaintiff -vs-										RELEASE ORDER			
Defendant (FIRST, MI, LAST)			Booking Number				Date of Birth						
LINE #	COMPLAINT NO.	VIOLATION CODE	NF	ORR	PSR	3P	BOND	BA	UB	DB	SB	CB	NB
1							\$						
2							\$						
3							\$						
4							\$						
5							\$						

(NF=Charge not filed; ORR=Own recognizance release; PSR=Pretrial supervision release; 3P=Third party custody; Bond=Amount of bond; BA=Bond applies; UB=Unsecured bond; DB=Deposit bond; SB=Secured bond; CB=Cash bond; NB=Non-bailable)

If you are released from jail, you must follow all release conditions and appear at court as indicated below:

MANDATORY AND STANDARD CONDITIONS OF YOUR RELEASE:

1.-16. [No change]

17. Electronic monitoring, if available, (mandatory if charged with a felony offense under Chapters 14 or 35.1 of Title 13 or 13-3212)

18. [No change]

ADDITIONAL CONDITIONS FOR YOUR PRETRIAL SUPERVISION RELEASE (PSR):

[No change]

FINANCIAL CONDITIONS OF RELEASE:

[No change]

IF YOU VIOLATE THIS ORDER:

[No change]

ACKNOWLEDGEMENT:

[No change]

THIRD PARTY OBLIGATIONS

[No change]

WARNING

[No change]

Form 7. Appearance Bond

_____ COURT _____ County, Arizona

STATE OF ARIZONA Plaintiff -vs- Defendant (FIRST, MI, LAST)	Booking Number	Date of Birth	APPEARANCE BOND

WARNING TO DEFENDANT AND DEFENDANT’S SURETY (if any)

[No change]

OATH OR AFFIRMATION

TYPE OF APPEARANCE BOND ORDERED: [No change]
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I declare under penalty of perjury that the information I have provided on this form and in any attachments is true and correct.

Date

Defendant

Date

~~Judicial Officer, Deputy Clerk or Notary Public~~
Notarial Officer

My Commission Expires/Seal

Approved:

Date

Surety or Authorized Agent

Form 21. Application to Vacate Conviction under A.R.S. § 13-909

COURT OF ARIZONA
IN _____ COUNTY

APPLICANT (Name/Address/Phone):	CASE NO. _____ APPLICATION	APPLICATION TO VACATE CONVICTION FOR A PRIOR OFFENSE UNDER A.R.S. § 13-909 AND SUPPORTING DECLARATION
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APPLICANT asks the court to vacate the conviction for the crime of Prostitution, under A.R.S. § 13-3214 or a city or town ordinance that has the same or substantially similar elements of section 13-3214, committed prior to July 24, 2014. The conviction occurred on _____ in this court. This relief is sought under A.R.S. § 13-909. The law provides that any person so convicted may apply to the sentencing court to vacate the conviction. The applicant is entitled to relief if the applicant can establish by clear and convincing evidence that the applicant's participation in the offense was the direct result of having been a victim of sex trafficking pursuant to A.R.S. § 13-1307.

Explain how you were a victim of sex trafficking and, as a direct result, were convicted of Prostitution:

If additional information is required, you may attach additional pages on lined paper.

I state under penalty of perjury that the information I have provided on this form is true and correct.

Date: _____ Signature _____

Applicant

CERTIFICATE OF MAILING

I CERTIFY that I delivered or mailed a copy of this application to the prosecutor's office that prosecuted the case at the following

Address: _____

Date: _____ Signature _____

Applicant

Form 23(a). Notice of Rights After Sentencing in the Superior Court

SUPERIOR COURT OF ARIZONA IN _____ County

STATE OF ARIZONA, Plaintiff

[Case/Complaint No.]

-vs-

Defendant (first, middle, and last name)

**NOTICE OF RIGHTS AFTER
SENTENCING IN THE SUPERIOR
COURT
(Non-Capital)**

RIGHT TO APPEAL.

[No change]

EXERCISING YOUR RIGHT TO APPEAL.

[No change]

RIGHT TO POST-CONVICTION RELIEF.

[No change]

RIGHT TO APPLY TO HAVE A CONVICTION SET ASIDE.

[No change]

RIGHT TO FILE PETITION TO HAVE CASE RECORDS SEALED.

On fulfillment of the conditions of probation or sentence, including the payment of all monetary obligations and restitution to all victims, you may be eligible under A.R.S. § 13-911 for an order that seals all case records of your arrest, conviction, and sentence that are related to the criminal offense(s) in this case by filing in the court where you were convicted a petition to seal all case records under A.R.S. § 13-911. To be eligible, a petition to seal the case records cannot have been denied in the past three years, and the timeframes required by A.R.S. § 13-911 must have passed.

~~**Note:** A person who was sentenced as a dangerous offender pursuant to A.R.S. § 13-704 or convicted of Case records for any of the offenses listed in A.R.S. § 13-911(O) cannot petition to have criminal case records are not eligible to be sealed under A.R.S. § 13-911.~~

RECEIPT BY DEFENDANT.

[No change]

Date

Defendant's Signature

Form 31(a). Application to Set Aside Conviction

_____ **COURT OF ARIZONA**
IN _____ **COUNTY**

<p>STATE OF ARIZONA</p> <p>-vs-</p> <hr/> <p>Defendant (FIRST, MI, LAST)</p> <p>Date of Birth: _____</p> <p>Applicant is: [] Defendant [] Attorney for Defendant [] Probation Officer</p>	<p>Case Number: _____</p> <p>APPLICATION TO SET ASIDE CONVICTION (A.R.S. § 13-905)</p> <p>Note: Your application may entitle you to restoration of the right to possess and carry a firearm pursuant to A.R.S. § 13-905(F<u>O</u>)</p>
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[No change to remainder of form]

Form 31(b). Order Regarding Application to Set Aside Conviction and Restore Firearm Rights

_____ **COURT OF ARIZONA**

IN _____ **COUNTY**

STATE OF ARIZONA, Plaintiff -vs- _____ Defendant (FIRST, MI, LAST) Date of Birth: _____	Case Number: _____ ORDER REGARDING APPLICATION TO SET ASIDE CONVICTION AND RESTORATION OF FIREARM RIGHTS A.R.S. §§ 13-905 & 13-910
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[No change]

CERTIFICATE OF SECOND CHANCE

IT IS FURTHER ORDERED:

[No change]

OR

GRANTING a certificate of second chance, and accordingly, pursuant to A.R.S. § 13-905(M):

1. Unless specifically excluded by A.R.S. § 13-905(M), the defendant is released from all barriers and disabilities in obtaining an occupational license issued under title 32 that resulted from the conviction if the defendant is otherwise qualified;

2.-4. **[No change]**

DATED this _____ day of _____, _____.

Judicial Officer