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IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the matter of:	)	
	)	
PETITION TO AMEND RULES 2.4, 3.1,	)	Supreme Court No. 25-_____
3.2, 4.1, 4.2, AND 41, FORMS 2(a) AND	)	(expedited consideration
(b) OF THE RULES OF CRIMINAL	)	and emergency adoption
PROCEDURE	)	requested)
_____	)	

Pursuant to Rule 28 of the Rules of the Supreme Court of Arizona, David K. Byers, Administrative Director, Administrative Office of the Courts, respectfully petitions this Court to amend the Rules of Criminal Procedure as proposed in Appendix A. The proposed amendments are prompted by the enactment of Senate Bill (SB) 1232, Arrest warrant; Issuance; Affidavit, during the First Regular Session of the Fifty-seventh Legislature, as more particularly described below.

[SB 1232](#) will become effective on September 26, 2025. Accordingly, Petitioner seeks expedited consideration of this petition and emergency adoption of the proposed amendments to Criminal Rules 2.4, 3.1, 3.2, 4.1, 4.2, and 41, Forms 2(a) and (b), with an effective date of September 26, 2025 for the amendments to

Criminal Rules 2.4, 3.1, 3.2, 4.1, and 41, Forms 2(a) and (b), and an immediate effective date for the technical amendments to Criminal Rule 4.2.

I. Background and Introduction

The following Arizona Revised Statutes set out procedures relating to where an arrested person must be taken when an arrest occurs with or without a warrant, based on where the arrest occurs:

- A.R.S. § 13-3897 – arrest with a warrant in the county where the offense was committed and the warrant was issued
- A.R.S. § 13-3898 – arrest without a warrant
- A.R.S. §§ 13-3963 and 13-3964 – arrest with a warrant in a county other than where the offense was committed

Specifically, when an arrest with a warrant occurs in the county where the warrant was issued and the offense was committed, A.R.S. § 13-3897 requires the officer making the arrest to take the person before the issuing magistrate, unless that magistrate is absent or unable to act. In such case, the person must be taken before the nearest or most accessible magistrate in the same county. A.R.S. § 13-3897 applies to all warrants when the arrest occurs in the county of warrant issuance and the commission of the offense. Criminal Rule 4.1(c)(1) tracks the procedures set out in A.R.S. § 13-3897.

When an arrest by virtue of a warrant is made in a county other than the county where the offense was committed, A.R.S. § 13-3963(A) requires that the person be taken before the nearest or most accessible magistrate in the county of arrest or before a magistrate in the county where the offense was committed. In addition to the bail procedures set forth in A.R.S. §§ 13-3963 and 13-3964, Criminal Rule 4.1(c)(2) tracks A.R.S. § 13-3963(A) relating to the magistrate to whom the person must be taken upon arrest, except that Rule 4.1(c)(2) turns on where the warrant was issued rather than where the offense was committed. The latter portion of Rule 4.1(c)(2) tracks the requirements of A.R.S. § 13-3965 when a person is not released—that the person must be taken before the issuing magistrate or the nearest or most accessible magistrate in the county where the warrant originated, if the issuing magistrate is absent or unable to act.

Lastly, when an arrest is made without a warrant, A.R.S. § 13-3898 requires that the person be taken before the nearest or most accessible magistrate in the county of arrest, or if the offense that the person is being arrested for was committed in another county, before either the nearest or most accessible magistrate in the county of arrest or a magistrate in the county where the offense was committed.

Petitioner outlines the statutory scheme here because it is important in understanding the impact and application of the changes made by SB 1232.

II. Grounds for Approval

A. SB 1232, Arrest warrant; Issuance; Affidavit (Laws 2025, Ch. 227)

SB 1232 makes two significant changes to A.R.S. § 13-3897. First, it creates a new basis for issuing an initial arrest warrant for the alleged commission of a felony offense. Currently, courts are authorized to issue warrants on the filing of a complaint or the return of a grand jury indictment. A.R.S. § 13-3897 additionally authorizes the court to issue a warrant based on an affidavit rather than a complaint or a grand jury indictment. Specifically, if an affidavit is presented under A.R.S. § 13-3897(A) alleging a felony offense has been committed, and the magistrate determines that probable cause exists that the defendant committed the alleged offense, the magistrate must issue the warrant.

Once the defendant is arrested on the warrant, the standard procedures and requirements for an initial appearance will apply. Accordingly, Petitioner’s proposed amendments implement A.R.S. § 13-3897(A) by amending the “front end” rules applicable to the warrant issuance process and leave unchanged the rules applicable to the initial appearance process and other proceedings that may follow. Specifically, Petitioner proposes amending Rules 2.4 and 3.1 as follows:

- Rule 2.4 (“duty of magistrate upon presentation of complaint”) – amending the heading to include “Affidavit Under A.R.S. § 13-3897” and adding a new subpart (c) to provide the following:

If an affidavit is presented under A.R.S. § 13-3897, the magistrate must determine whether there is probable cause to believe a felony offense has been committed and whether the defendant committed it. If the magistrate finds probable cause, the magistrate must proceed under Rule 3.1. If the magistrate does not find probable cause, the magistrate must deny the request.

- Rule 3.1 (“issuance of summons or warrant”) – amending (a)(2) (“finding of probable cause”) relating to when a court is authorized to issue a warrant to add that if a magistrate makes a finding of probable cause under Rule 2.4(c), the court must promptly issue a warrant.

Petitioner also proposes amendments to Rule 3.1(b) (“preference for summons”) and Rule 3.1(c) (“initial arrest warrant”) because the court does not have discretion in whether to issue a warrant or summons on a finding of probable cause under A.R.S. § 13-3897—the court must issue a warrant. The proposed amendment to Rule 3.1(b) and (c) clarify and account for this.

The second significant change SB 1232 makes is that it changes the procedures relating to where a person arrested on a warrant must be taken when the arrest occurs in the county where the warrant was issued. Specifically, it removes the requirement that the person be taken before the issuing magistrate, and instead requires only that the person be taken before the nearest or most accessible magistrate in the county of arrest.

Since A.R.S. § 13-3897 is the only statute that addresses arrests on warrants that occur within the county where the offense occurred, it is reasonable to conclude that the legislature intends for this statute to continue to apply to all warrants in which the arrest occurs within the county where the offense occurred and not only to warrants issued under A.R.S. § 13-3897(A).

Recognizing this Court's authority to establish court procedure, the court rules governing the procedures for where a person must be taken on arrest with a warrant have historically tracked the procedures set forth in statute. See, for example, [R-20-0004](#). Petitioner therefore proposes amending Rule 4.1(c)(1) ("arrest in county of issuance") to track A.R.S. § 13-3897(B) and account for persons not eligible for release on bond as provided by A.R.S. § 13-3965. If the Court is inclined to adopt these changes, conforming changes, as set forth in Appendix A, are necessary for Rule 3.2(a)(1)(D) relating to the provisions a warrant must include and Rule 41, Forms 2(a) and (b) (felony and misdemeanor warrant forms, both of which are mandatory for statewide use).

Petitioner also proposes a conforming change to Rule 4.1(c)(2) ("arrest in another county") to track the requirements of A.R.S. § 13-3963(A) to change "where the warrant was issued" to "where the offense was committed," as where the officer must take the arrested person does not turn on whether the person is arrested in a county other than the one that issued the warrant. Rather, it turns on the arrest being

made in a county other than where the offense was committed. Should this Court be inclined to adopt procedures that track the statutory provisions related to out of county arrests, conforming changes, as set forth in Appendix A, are necessary for Rule 3.2(a)(1)(D) relating to the provisions a warrant must include and Rule 41, Forms 2(a) and (b).

B. Technical Corrections

Petitioner also proposes a technical amendment to Criminal Rule 4.2(a)(6) and (8) as set forth in Appendix A to correct a subpart reference due to renumbering in [R-22-0035](#).

III. Similar Petitions in Last Five Years

Rule petitions [R-20-0004](#) and [R-21-0029](#) have been filed in the past five years and contain pertinent background on the current structure of the rules addressed in this Petition and Forms 2(a) and (b). Petitioner is not aware of any rule petitions filed in the 2025 Rules Cycle that impact any of the rules or forms addressed in this Petition.

IV. Preliminary Comments

This petition has not been sent to the court community for pre-filing comments because of its technical nature and due to the short period of time since the enactment of the new statutory provisions.

V. Request for Expedited Consideration and Emergency Adoption

SB 1232 will become effective on September 26, 2025. Therefore, as permitted by Supreme Court Rule 28(h), Petitioner respectfully requests that this Court immediately open this Petition for comment; expedite its consideration of this Petition for inclusion on the August 2025 Rules Agenda; consider adoption of the proposed amendments as set forth in Appendix A on an emergency basis at that Agenda with an effective date of September 26, 2025 for the amendments to Criminal Rules 2.4, 3.1, 3.2, 4.1, and 41, Forms 2(a) and (b), and an immediate effective date for the technical amendments to Criminal Rule 4.2; and consider adopting the proposed amendments on a permanent basis at this Court's November 2025 Rules Agenda.

Respectfully submitted this 18th day of July, 2025.

By /s/ David K. Byers
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APPENDIX A

(deletions shown with strikethrough, new language is underlined)

Rules of Criminal Procedure

Rule 2.4. Duty of Magistrate upon Presentation of Complaint; Affidavit Under A.R.S. § 13-3897

(a) and (b) [No change]

(c) Affidavit Under A.R.S. § 13-3897. If an affidavit is presented under A.R.S. § 13-3897, the magistrate must determine whether there is probable cause to believe a felony offense has been committed and whether the defendant committed it. If the magistrate finds probable cause, the magistrate must proceed under Rule 3.1. If the magistrate does not find probable cause, the magistrate must deny the request.

Rule 3.1. Issuance of Summons or Warrant

(a) [No change in text]

(1) [No change]

(2) *Finding of Probable Cause.* If a magistrate makes a finding of probable cause under Rule 2.4(a), the court must promptly issue a warrant or summons. If a magistrate makes a probable cause finding under Rule 2.4(c), the court must promptly issue a warrant.

(3) [No change]

(b) Preference for Summons. Unless there is good cause to issue a warrant or a warrant is otherwise required by law, a court should issue a summons if the defendant is not in custody, the offense charged is bailable as a matter of right, and there is reason to believe that the defendant will appear. If a prosecutor requests a warrant, the prosecutor must state the reasons for issuing a warrant rather than a summons.

(c) Initial Arrest Warrant. Before issuing a warrant, the magistrate must determine that probable cause exists that the defendant committed the offense or find that such a determination was previously made. If an affidavit is presented under A.R.S. § 13-3897, the court must issue a warrant and not a summons. In all other cases, Tthe court may issue an initial arrest warrant if:

(1) through (3) [No change]

(d) and (e) [No change]

Rule 3.2. Content of a Warrant or Summons

(a) Warrant.

(1) *Mandatory Provisions.* A warrant must:

(A) through (B) [No change]

(C) state the alleged or charged offense and whether the offense is one to which victims' rights provisions apply; and

(D) command that the defendant be arrested and brought before ~~the issuing magistrate or, if the issuing magistrate is absent or unable to act,~~ the nearest or most accessible magistrate in the same county, except that if the defendant is not eligible for release on bond, the defendant must be brought before the issuing magistrate. If the issuing magistrate is unavailable or unable to act, the person must be taken to the nearest or most accessible magistrate in the county where the warrant was issued. If the defendant is arrested outside the county where the offense was committed, the person must be taken to the nearest or most accessible magistrate or in the county of arrest or to a magistrate in the county where the offense was committed if the defendant is arrested outside the county where the warrant was issued.

(2) and (3) [No change]

(b) [No change]

Rule 4.1. Procedure upon Arrest

(a) and (b) [No change]

(c) **On Arrest with a Warrant.**

(1) *Arrest in the County of Issuance-Offense.* A person arrested in the county where the ~~warrant-offense~~ was issued ~~committed~~ must be taken before the ~~magistrate who issued the warrant for an initial appearance.~~ If the magistrate is absent or unable to act, ~~the arrested person must be taken to the nearest or most accessible magistrate in the same county of arrest, except that if the warrant provides that the person is not eligible for release on bond, the person must be taken before the issuing magistrate. If the issuing magistrate is unavailable or unable to act, the person must be taken to the nearest or most accessible magistrate in the county where the warrant originated.~~

(2) *Arrest in Another County.* If a person is arrested in a county other than the one where the ~~warrant-offense~~ was issued ~~committed~~, the person must be taken before the nearest or most accessible magistrate in the county of arrest or in the county where the offense was committed. If eligible for release as a matter of right, the person must then be released under Rule 7.2. If not released immediately, the arrested person must be taken to the issuing magistrate in the county where the warrant originated, or, if that magistrate is absent or unable to act, before the nearest or most accessible magistrate in the county where the warrant originated.

(d) and (e) [No change]

(v) [No change]

Rule 4.2. Initial Appearance

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

(1) through (5) [No change]

(6) unless the magistrate determines under (a)(~~8–7~~) that release on bail is prohibited, determine the conditions of release under Rule 7.2(a);

(7) [No change]

(8) if the court determines that the defendant is not eligible for bail based on a determination under (a)(~~8–7~~)(A) or (B), schedule a bail eligibility hearing in superior court as required under Rule 7.2(b)(4);

(9) and (10) [No change]

(b) and (c) [No change]

(v) [No change]

Rule 41. Forms

Form 2(a): Felony Arrest Warrant

COURT _____

County, Arizona

STATE OF ARIZONA, Plaintiff -vs Defendant(s) (First, MI, Last) Address: _____	ARREST WARRANT CASE NO. ☐ DV [check if applicable] Fingerprint instruction upon arrest: ☐ 01 criminal history [check if required]	For Court Use
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TO: ANY AUTHORIZED LAW ENFORCEMENT OFFICER

YOU ARE COMMANDED to arrest and bring the defendant ~~before this court.~~ ~~If this court is unavailable, you must take the defendant to the nearest or most accessible magistrate in this county except that if the defendant is not eligible for release on bond as indicated below, you must bring the defendant before this court.~~ If this court is unavailable, you must take the defendant to the nearest or most accessible magistrate in this county. If the arrest is made in another county, you must take the defendant before the nearest or most accessible magistrate in that county or a magistrate in the county where the offense was committed.

The defendant is accused of an offense or violation based on the following (examples: initial arrest warrant, failure to appear in court, probation violation): _____

This offense or violation is described as follows:

Offense Date	Statute/Rule & Literal Description	Class
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The defendant must NOT be released on bond without having an initial appearance before a magistrate.

If the defendant is eligible for release at the initial appearance, the recommended amount for a

[☐ secured appearance] [☐ unsecured appearance] [☐ deposit] or [☐ cash] bond is \$ _____

☐ Explanation regarding the recommended amount: _____

☐ There is no recommendation.

☐ The defendant is not eligible for release on bond.[Explain / add additional orders of the court]

☐ Yes ☐ No ☐ Unknown The offense is, or is materially related to, a victims' rights applicable offense.

BY ORDER OF: The Honorable _____, Judge of _____ Court. [If signed by Superior Court Deputy Clerk]

Date _____

Printed name of the Judge or Deputy Clerk of the Superior Court: _____

SEX:	RACE:	DOB:	HGT:	WGT:	EYES:	HAIR:
ADDRESS: [TYPE:]						
COURT ORI:		WARRANT #: *		LE AGENCY: [Arresting Agency]		
CITATION #: *		EXTRADITION: *		PURGE DATE: *		
DL#: *		STATE: *		SSN (LAST 4)		
VIN:	YEAR:	MAKE:	MODEL:	STYLE:		
DR #: *						

[*optional information can vary by court and may include the last four digits of the defendant's SSN]

CERTIFICATE OF EXECUTION

I certify that the defendant was arrested at _____ a.m./p.m. on _____, 20____,
(month) (day) (year)
and presented defendant before Judge _____ at _____.

Date _____

Agency _____

Form 2(a): Felony Arrest Warrant

Deputy Sheriff / Officer

Badge #

Form 2(b): Misdemeanor Arrest Warrant

COURT _____

County, Arizona

STATE OF ARIZONA, Plaintiff -vs Defendant(s) (First, MI, Last) Address: _____	ARREST WARRANT CASE NO. ☐ DV [check if applicable] Fingerprint instruction upon arrest: ☐ 01 criminal history [check if required]	For Court Use
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TO: ANY AUTHORIZED LAW ENFORCEMENT OFFICER

YOU ARE COMMANDED to arrest and bring the defendant ~~before this court. If this court is unavailable, you must take the defendant~~ to the nearest or most accessible magistrate in this county. If the arrest is made in another county, you must take the defendant before the nearest or most accessible magistrate in that county or a magistrate in the county where the offense was committed.

The defendant is accused of an offense or violation based on the following: (examples: initial arrest warrant, failure to appear in court, probation violation): _____

This offense or violation is described as follows:

Offense Date	Statute/Rule & Literal Description	Class
--------------	------------------------------------	-------

☐ Yes ☐ No The defendant may be released without having an initial appearance before a magistrate upon the posting of a [☐ *secured appearance*] [☐ *unsecured appearance*] [☐ *deposit*] or [☐ *cash*] bond in the amount of \$ ____.

☐ Yes ☐ No ☐ Unknown The offense is, or is materially related to, a victims' rights applicable offense.

BY ORDER OF: The Honorable _____, Judge of _____ Court. [If signed by Superior Court Deputy Clerk]

Date	Printed name of the Judge or Deputy Clerk of the Superior Court:
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SEX:	RACE:	DOB:	HGT:	WGT:	EYES:	HAIR:
ADDRESS: [TYPE:]						
COURT ORI:		WARRANT #: *		LE AGENCY: [Arresting Agency]		
CITATION #: *		EXTRADITION: *		PURGE DATE: *		
DL#: *		STATE: *		SSN (LAST 4)		
VIN:	YEAR:	MAKE:	MODEL:	STYLE:		
DR #: *						

[*optional information can vary by court and may include the last four digits of the defendant's SSN]

CERTIFICATE OF EXECUTION

I certify that the defendant was arrested at _____ a.m./p.m. on _____, 20____,
(month) (day) (year)
and presented defendant before Judge _____ at _____.

Date _____

Agency _____

Form 2(b): Misdemeanor Arrest Warrant

Deputy Sheriff / Officer

Badge #