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**IN THE SUPREME COURT
STATE OF ARIZONA**

In the matter of:	)	
	)	
PETITION TO AMEND RULE 36.1(d)(3),	)	
ARIZONA RULES OF CRIMINAL	)	Supreme Court No. R
PROCEDURE	)	
_____	)	

Pursuant to Rule 28 of the Rules of the Supreme Court of Arizona, Xochitl Orozco, Conviction & Sentencing Integrity Unit Supervisor, Pima County Attorney's Office, respectfully petitions this Court to amend Rule 36.1(d)(3), Ariz. R. Crim. P. as proposed in the Appendix. The proposed amendment is prompted by the enactment of [Senate Bill \(SB\) 1639](#) by the Second Regular Session of the Fifty-sixth Legislature, modifying A.R.S. § 13-911, and the subsequent amendments made to Ariz. R. Crim. P. 36.1.

I. Ariz. R. Crim. P. 36.1(d)(3) should be amended to reflect the changes made to 36.1(f)(1) after A.R.S. § 13-911 was amended in 2024.

SB 1639 made multiple changes to A.R.S. § 13-911 related to sealing of criminal case records. In response to these modifications, a petition was filed to amend various Rules of the Supreme Court of Arizona, Rules of Civil Procedure, and Rules of Criminal Procedure to reflect the amended provisions of the statute. The Court subsequently ordered a number of rule changes, including an amendment to Ariz. R. Crim. P. 36.1(f)(1) that extended to 60 days the time the court must wait after a petition to seal records is filed before granting or denying the petition. Rule 36.1(d)(3), Ariz. R. Crim. P., however, remains unchanged, and permits the prosecutor or victim to file a response to the petition “[n]o later than 30 days after the petition’s filing.” The incongruity between the two subsections is obvious.

Petitioner, therefore, proposes an amendment to Ariz. R. Crim. P. 36.1(d)(3) to extend the deadline for response to 60 days. Specifically, petitioner proposes a corresponding change to Criminal Rule 36.1(d)(3) to change “30” to “60.” In the prior version of the Rule, the time for response and the time the court must wait before granting or denying a petition were both 30 days. Currently, after the amendments to Rule 36.1, the time for response remains 30 days, despite the Rule being amended to reflect the change to A.R.S. § 13-911. If the purpose of extending

the time the court must wait before granting or denying a petition was to allow ample time for prosecutor and victim input, the response time should reflect this change.

Furthermore, A.R.S. § 13-911(E) requires the person petitioning the court to wait for a statutorily prescribed period of time. The amount of time depends on the severity of the offense and ranges from two to ten years. This requirement presents added challenges for prosecutorial agencies, as the process of locating victims and getting their input is time consuming. An extension of the time for response from 30 to 60 days would provide prosecutors more opportunity to notify victims of the petitions and receive their input. This change would reflect the legislature's intent in amending the statute. Providing additional time would also strengthen the rights of victims, as enshrined in the Victims' Bill of Rights. Victims have a constitutional right to "confer with prosecution . . . before any disposition of the case and to be informed of the disposition." Ariz. Const. art. II, § 2.1(6). Accordingly, an extension to 60 days comports with the legislature's intent in amending A.R.S. § 13-911 and helps prosecutorial agencies protect the constitutional rights of victims of crimes in Arizona.

Conclusion

For the foregoing reasons, the Petitioner respectfully asks this Court to amend Rule 36.1 as set forth in the Appendix.

By /s/ Xochitl Orozco
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APPENDIX

(deletions shown with ~~strikethrough~~, new language is underlined)

Arizona Rules of Criminal Procedure

Rule 36.1. Sealing Arrest, Conviction, and Sentencing Records

(a) through (c) [No change]

(d) Processing of Petition.

(1) and (2) [No change]

(3) *Response*. No later than ~~30~~ 60 days after the petition's filing, the prosecutor or victim may file a response stating any objections to the petition. The person filing the response must send a copy of the response to the petitioner's attorney or the petitioner, if unrepresented.

(4) and (5) [No change]

(e) through (i) [No change]