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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. R-25-0045
3.2, 4.1, 4.2, AND 41, FORMS 2(a) AND	)	
(b) OF THE RULES OF CRIMINAL	)	Amended Petition and
PROCEDURE	)	Request to Extend Comment
	)	and Reply Period
	)	

David K. Byers, Administrative Director, Administrative Office of the Courts (AOC) (“Petitioner”), respectfully files this Amended Petition and Request to Extend the Comment and Reply Period to propose amendments to Supreme Court Rule 123 and further amendments to the Rules of Criminal Procedure to implement Senate Bill (SB) 1232 based on stakeholder input and feedback received after the filing of the initial petition, and to additionally request an extended comment and reply period so that stakeholders have additional time to consider the proposed rule amendments as set forth in Appendix A of this amended petition.

I. Background

On July 18, 2025, Petitioner filed petition R-25-0045 (“initial petition”), proposing several amendments to the Rules of Criminal Procedure to implement the changes to A.R.S. § 13-3897 made by SB 1232.

Senate Bill 1232 creates a new basis for issuing an initial arrest warrant for the alleged commission of a felony offense. 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 person named in the affidavit committed the alleged offense, the magistrate must issue the warrant. It also changes where a person arrested on a warrant must be taken when the arrest occurs in the county where the warrant was issued by removing the requirement that the person be taken before the issuing magistrate.

Based on the unique nature of these warrants (i.e., they will be issued without charges having been formally filed) and feedback from stakeholders after the filing of the initial petition, the AOC formed a workgroup to examine and make recommendations for additional procedures necessary to implement SB 1232. The Chief Justice has since issued Administrative Order Nos. [2025-170](#) and [2025-177](#) to establish additional interim procedures, which align with the recommendations of the workgroup and are reflected in this amended petition.

II. Workgroup Members

Prior to filing this amended petition, the workgroup met several times. The workgroup included:

- Superior Court Administrators from Coconino, Maricopa, and Pima County
- The Limited Jurisdiction Court Administrator from Pima County
- General Counsel for the Superior Court in Maricopa County
- The Clerk of Superior Court or representatives from the Office of the Clerk of the Superior Court in Maricopa, Mohave, Pima, and Yavapai County
- Two representatives from the Department of Public Safety (DPS)
- Three representatives from the Maricopa County Sheriff's Office
- A representative from the Pima County Sheriff's Office
- A legal advisor for the Scottsdale City Police Department
- Numerous AOC staff, including senior staff

III. Summary of Proposed Rule Amendments

Rules of the Supreme Court of Arizona, Rule 123

The Superior Court in and for Maricopa County filed a comment to the initial petition and made a number of recommendations. Among these recommendations was one to require that unexecuted A.R.S. § 13-3897(A) warrants (hereinafter “pre-charge arrest warrants”) be maintained as a closed record until the court receives a certificate of execution. Workgroup members agreed that court records relating to pre-charge arrest warrants should not be made publicly accessible until the warrant

is served. This policy exists for search warrants and the same rationale justifies applying this policy to pre-charge arrest warrants, as the court should not become a conduit for obtaining warrant information in an ongoing investigation that may otherwise be publicly unavailable.

For these reasons, Petitioner proposes amending Supreme Court Rule 123(d) to add a new subsection 8 as set forth in Appendix A. The text of this new subsection tracks Supreme Court Rule 123(d)(3) relating to protective orders such that no information relating to the request for issuance of a pre-charge arrest warrant may be made publicly available until the court has received proof of service, the warrant has expired, or the warrant has been quashed.

Petitioner points out that the text in this proposed rule amendment is intentional in two ways. First, it applies only when a pre-charge arrest warrant is *issued*. This provision would therefore not extend to any records the court may opt to retain when a request for a pre-charge arrest warrant is denied. Second, the proposed rule amendment begins with the text “Unless otherwise ordered by the court,” to allow latitude for law enforcement to request that the records be kept publicly inaccessible beyond the return, expiration, or quash date. Petitioner is not proposing a rule amendment to address how such a request must be made—rather, courts can set those procedures at the local level.

Petitioner’s proposed amendments track the provisions of Administrative Order No. 2025-170 but add that the records will become publicly accessible upon the warrant expiring or being quashed, rather than only upon the court receiving proof of service. Petitioner’s proposed amendments are set forth in Appendix A.

Rules of Criminal Procedure

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

On August 27, 2025, this Court adopted an amendment to Criminal Rule 2.4 on an emergency basis to add a new subsection c as proposed in Petitioner’s initial petition. Based on the workgroup’s meetings, Petitioner proposes further amending Criminal Rule 2.4(c) to slightly change the title of the rule and to change “defendant” to “person named in the affidavit” since no charges will have been filed at this point in the process. This will additionally align with the text of the affidavit and warrant forms that Petitioner is proposing be adopted, detailed later in this amended petition. Petitioner also proposes adding a reference to Rule 2.7—a new rule Petitioner is proposing in this amended petition, further explained below.

Petitioner’s proposed amendments to Rule 2.4 as it was adopted on an emergency basis are set forth in Appendix A. Petitioner’s proposed amendments to Rule 2.4 as compared to the text of the rule before this Court’s August 27, 2025 emergency order are set forth in Appendix B for comparison purposes.

B. Proposed Rule 2.7. Pre-Charge Arrest Warrants (A.R.S. § 13-3897(A))

Warrants issued under § 13-3897(A) are unique and distinct from other types of arrest warrants issued in criminal cases because they will be issued without charges having been formally filed, meaning that no criminal case exists when the warrant is issued. These warrants must therefore be handled differently than other types of arrest warrants. Based on workgroup recommendations and feedback, Petitioner proposes that a new Criminal Rule 2.7, titled “Pre-charge Arrest Warrants (A.R.S. § 13-3897(A)),” be adopted to establish procedures that apply only to pre-charge arrest warrants.

The following is a summary of proposed Criminal Rule 2.7. The entirety of the rule is set forth in Appendix A.

- a. Scope and Applicability.** Clarifies that Criminal Rule 2.7 applies only to arrest warrants issued under A.R.S. § 13-3897(A). Also provides that the phrase “pre-charge arrest warrant,” when used in the Criminal Rules, is shorthand for “a warrant issued under A.R.S. § 13-3897(A).”
- b. Generally.** Requires that if a magistrate makes a probable cause finding under Criminal Rule 2.4(c), the magistrate must issue an arrest warrant. This tracks A.R.S. § 13-3897(A).
- c. Affidavit Under A.R.S. § 13-3897(A).** Sets forth the forms that must be used to request a pre-charge arrest warrant. Specifically, a written affidavit must be

on Form 2(d) or a substantial equivalent. This tracks the provisions of Administrative Order No. 2025-170.

Also allows the requestor to sign the affidavit using an electronic signature. Petitioner proposes this provision because even though Criminal Rule 1.7(d) allows for electronic signatures on filed documents, the affidavit will not be “filed” in terms of what “filed” means as set forth in Rule 1.7.

Lastly, some courts have indicated that the magistrate conducting the initial appearance for someone arrested on a pre-charge arrest warrant may find the affidavit useful, so this rule also allows a court to require the affidavit be submitted to the court when filing Rule 41, Form 4(a).

d. Warrant Form. Mandates that Form 2(c) be used for pre-charge arrest warrants. Since no case will exist in the court’s case management system, courts will not have the ability to generate a pre-populated warrant, meaning that the warrant form will have to be manually populated. This subsection also requires the person requesting the warrant to provide a pre-filled Form 2(c) to the magistrate, completed to the greatest extent possible, since the person requesting the warrant is in the best position to fill in the necessary information. The practice of the requestor providing the forms to the magistrate tracks the practice courts utilize for search warrants. The provisions of this subsection also track the provisions of Administrative Order No. 2025-170 and align with the

recommendations of the Maricopa County Superior Court's comment to the initial rule petition.

- e. **Electronically Transmitted Warrants.** Authorizes the electronic exchange of pre-charge arrest warrant documents using a secure internet connection, allows for the use of an electronic oath for electronically transmitted warrants, and establishes that the electronic copy of the warrant with the magistrate's electronic signature will be considered the original order. This subsection tracks Maricopa County Superior Court's Local Rule 4.10 relating to the electronic transmission of search warrants.
- f. **Appearance by Virtual or Telephonic Means.** Allows for a person requesting a pre-charge arrest warrant to appear by virtual or telephonic means if permitted by the magistrate.
- g. **Pre-Charge Arrest Warrants Issued After Hours.** Courts anticipate that pre-charge arrest warrants will be requested outside of normal court hours, similar to search warrants. Since this may result in the electronic exchange of documents, this rule requires that the magistrate transmit the court's copy of the documents to the court the next business day so that court staff can create a record in the court's tracking or indexing system.
- h. **Alternative to Written Affidavit; Authorization for Magistrate Signature.**
The process for issuing pre-charge arrest warrants will largely track the process

used for search warrants. For search warrants, A.R.S. § 13-3914(C) allows a magistrate to take an oral statement in lieu of or in addition to a written affidavit. In counties that lack the ability to exchange documents through electronic means for after-hours requests, search warrants are routinely requested by phone according to the requirements of A.R.S. § 13-3914(C). The search warrant is then issued by the magistrate orally authorizing the peace officer to sign the magistrate's name on the physical warrant on the peace officer's end. *See* A.R.S. § 13-3915(D).

The Pima County Superior Court, for example, issues roughly 2,000 to 3,000 search warrants per year and approximates that half are requested after court hours. Because the court does not have a means by which documents can be electronically exchanged after hours, requests are routinely made over the phone and issued via the magistrate's authorization for the peace officer to sign the magistrate's name on the warrant.

The Pima County Superior Court anticipates that pre-charge arrest warrants will similarly be requested after hours and will need a means by which requests can be made and warrants can be issued when documents cannot be exchanged due to lack of technology or other reasons. The Pima County Superior Court proposed that the process used for after-hour search warrants be used for after-

hour pre-charge arrest warrants. To accomplish this, Petitioner proposes Rule 2.7(h) consisting of five subparts as follows:

1. In lieu of submitting a written affidavit, allows a magistrate to permit a peace officer to prepare Form 2(d) and sworn under oath, recite the affidavit to the magistrate verbatim. Requires the recital to be recorded by the peace officer and provides that reciting the affidavit to the magistrate meets the requirements for presentation of an affidavit for the purposes of issuing a pre-charge arrest warrant. Provides requirements for transcription of the recording. This tracks A.R.S. § 13-3914(C) relating to search warrants.
2. Allows the magistrate to orally authorize a peace officer requesting a pre-charge arrest warrant to sign the magistrate's name on the warrant. This tracks A.R.S. § 13-3915(D) relating to search warrants.
3. Requires the magistrate to inform the peace officer of the exact name the magistrate wants the peace officer to sign on the warrant and that the peace officer must sign as the magistrate has instructed. The magistrate must also inform the peace officer of the expiration date if the warrant expires sooner than 90 days and whether the offense is, or is materially related to, a victims' rights applicable offense. The peace officer must indicate this information on the warrant as directed by the magistrate and inform the magistrate of the warrant number.

4. Requires the magistrate to record the exact time of issuance of the pre-charge arrest warrant, the name and date of birth of the person to be arrested, the warrant number, and the expiration date.
 5. Requires the peace officer who signs the magistrate's name to provide a copy of the affidavit and warrant to the court the next business day after the warrant is issued and requires the court to maintain the copies as provided in Rule 2.7(l). Also provides that a warrant issued in this manner must be returned in the same manner as other pre-charge arrest warrants.
- i. Release Conditions.** Establishes that a person arrested on a pre-charge arrest warrant cannot be released on bond without having an initial appearance under Rule 4.2. This tracks the requirements for post-charge felony warrants. *See* Rule 3.2(a)(2), “when the warrant is issued for a felony offense, the defendant must not be released on bond without having an initial appearance before a magistrate.”
- j. Expiration.** In its August 27, 2025 emergency order, this Court amended Criminal Rule 3.1 to add a new subsection (f), establishing that pre-charge arrest warrants expire 90 days after issuance, unless the magistrate orders otherwise. Since Petitioner is proposing a new Rule 2.7 addressing only pre-charge arrest warrants, Petitioner proposes relocating the expiration provision to Rule 2.7 as subsection (j). Petitioner also proposes slight revisions to this

provision so that 90 days is the maximum amount of time that a pre-charge arrest warrant will be valid, while maintaining that a magistrate may order a shorter expiration. This creates consistency by placing a time certain on the amount of time any pre-charge arrest warrant could be valid. This certainty is important for policymaking in other areas relating to these warrants. For example, retention policies must be adopted. If the retention will be measured from the date of issuance, having a maximum expiration date will ensure that every pre-charge arrest warrant is retained after expiration for a minimum amount of time. To illustrate, if retention is set for one year after issuance, this will ensure that every pre-charge arrest warrant is retained for at least 275 days after it expires.

- k. Return of Warrant.** Requires that a pre-charge arrest warrant be returned to the issuing court after the warrant is executed, expires, or there is a request to quash the warrant. The return must be made to the issuing court within 72 hours of the arrest or expiration. Establishes that the return must be made in person or by facsimile or electronic means, or in another manner permitted by the court. The provisions of this subsection track the provisions of Administrative Order No. 2025-170, except that it additionally requires a return when the warrant expires, to allow the court to maintain complete records relating to the issuance and disposition of the warrant.

The workgroup also recommended having a method by which the law enforcement agency may request that a pre-charge arrest warrant be quashed if it determines the warrant is no longer necessary. To accomplish this, a checkbox was placed under the return section of proposed Form 2(c) to allow the law enforcement officer to return the warrant unexecuted with a request that the warrant be quashed.

- 1. Warrant Records.** Establishes record keeping requirements for courts since pre-charge arrest warrants and associated documents will not be “filed.” Clarifies who must maintain the records, i.e., the clerk of court in the superior court and in limited jurisdiction courts, the court. The requirements of this provision apply only when the court issues the warrant, i.e., this rule will not require courts to maintain records when a request for a warrant is denied. Also clarifies that copies of warrant documents are sufficient. The provisions of this subsection track the provisions of Administrative Order No. 2025-170.

C. Rule 3.1. Issuance of Summons or Warrant

On August 27, 2025, this Court adopted amendments to Criminal Rule 3.1(a) through (c) on an emergency basis as proposed in Petitioner’s initial petition. Petitioner proposes additional non-substantive amendments to subsections (a) and (c), to relocate the text of the emergency amendments for clarity. Specifically, Petitioner proposes amending Rule 3.1(a)(2) so that the finding of probable cause

under this section applies only to findings made under Rule 2.4(a), which relates to arrest warrants issued after a complaint has been filed or an indictment has been returned (hereinafter “post-charge arrest warrants”). In such cases, the court may issue a warrant *or* a summons. Petitioner proposes adding a new subpart (a)(4) applying only to pre-charge arrest warrants in which a probable cause finding is made under Rule 2.4(c) and providing that the court must issue a warrant and *not* a summons. This new subpart consumes the clarification previously added into Rule 3.1(c) relating to not issuing a summons, so Petitioner proposes striking “and not a summons” from Rule 3.1(c) as it was amended on an emergency basis.

Petitioner requests that this Court permanently adopt the amendments to Rule 3.1(b) as set forth in this Court’s August 27, 2025 emergency order.

Petitioner’s proposed amendments to Rule 3.1 as it was adopted on an emergency basis are set forth in Appendix A. Petitioner’s proposed amendments to Rule 3.1 as compared to the text of the rule before this Court’s August 27, 2025 emergency order are set forth in Appendix B for comparison purposes.

D. Rule 3.2. Content of a Warrant or Summons

On August 27, 2025, this Court adopted amendments to Criminal Rule 3.2 on an emergency basis as proposed in Petitioner’s initial petition. Petitioner proposes that Rule 3.2(a)(1)(A) additionally be amended to provide that pre-charge arrest warrants may only be signed by a magistrate.

Petitioner also proposes a technical correction to Rule 3.2(a)(1)(C) as amended in this Court’s August 27, 2025 emergency order, to change “office” to “offense” and to add an “s” to “right.”

Petitioner has received stakeholder feedback reflecting a need to clarify when a person arrested on a warrant must be taken before the issuing magistrate in light of the amendments made by SB 1232 and the requirements of A.R.S. § 13-3965. Petitioner therefore proposes additional amendments to Rule 3.2(a)(1)(D) to specifically set forth where an arrested person must be taken (i) when the person is arrested in the county of offense, (ii) when the person is arrested in a county other than the county of offense, and (iii) when the person is not eligible for release on bond, clarifying that this applies only when the person is not eligible for release *under Rule 7.2(b)(1) or (2)*. Reference to Rule 7.2(b)(1) and (2) is necessary because scenario (iii) applies only to post-charge arrest warrants, to account for the requirements of A.R.S. § 13-3965; whereas scenarios (i) and (ii) apply to both pre-charge and post-charge arrest warrants.

Petitioner also proposes an amendment to Rule 3.2(a)(2) to carve out pre-charge arrest warrants because the magistrate issuing a pre-charge arrest warrant will not make recommendations relating to a bond.

Petitioner’s proposed amendments to Rule 3.2 as it was adopted on an emergency basis are set forth in Appendix A. Petitioner’s proposed amendments to

Rule 3.2 as compared to the text of the rule before this Court’s August 27, 2025 emergency order are set forth in Appendix B for comparison purposes.

E. Rule 3.3. Execution and Return of Warrant; Defective Warrants

Rule 3.3(b) provides, “If the officer does not have the warrant when the arrest is made, the officer must inform the defendant of the charged offense and the fact that a warrant has been issued.” Petitioner proposes an amendment to Rule 3.3(b) to add “or alleged” after “charged” to account for scenarios where the person is arrested on a pre-charge arrest warrant since the offense may not have been charged at that point. Petitioner also proposes an amendment to Rule 3.3(c) to carve out pre-charge arrest warrants and direct that pre-charge arrest warrants be returned as provided in Rule 2.7. Petitioner’s proposed amendments are set forth in Appendix A.

F. Rule 4.1. Procedure Upon Arrest

On August 27, 2025, this Court adopted amendments to Criminal Rule 4.1(c) on an emergency basis as proposed in Petitioner’s initial petition. Petitioner proposes amendments to Rule 4.1(b) and additional clarifying amendments to Rule 4.1(c). Specifically, Rule 4.1(b) establishes requirements for persons arrested without a warrant, including where the person must be taken and the time for filing a complaint. These same procedures will apply to persons arrested on a pre-charge arrest warrant. Petitioner’s proposed amendments amend Rule 4.1(b) to make the procedures applicable to persons arrested without a warrant additionally applicable

to persons arrested on a pre-charge arrest warrant. This tracks the provisions of Administrative Order No. 2025-177.

Petitioner’s additional proposed amendments to Rule 4.1(c) amend the title to clarify that Rule 4.1(c) applies to warrants other than pre-charge arrest warrants. The proposed amendments also clarify where a person must be taken when the person is not eligible for release on bond by adding a reference to Rule 7.2(b)(1) and (2) for the same reasons that Petitioner proposes amending Rule 3.2(a)(1)(D) to add a new subpart (iii) as described above. Petitioner also proposes removing “alleged” from Rule 4.1(c)(1) to maintain consistency with Rule 4.1(c)(2) and other rules referencing the offense. Petitioner lastly proposes removing “either” from Rule 4.1(c)(2) as shown in the August 27, 2025 emergency order, as it was not in the pre-August 27th version of this rule and is not necessary.

Petitioner’s proposed amendments to Rule 4.1 as it was adopted on an emergency basis are set forth in Appendix A. Petitioner’s proposed amendments to Rule 4.1 as compared to the text of the rule before this Court’s August 27, 2025 emergency order are set forth in Appendix B for comparison purposes.

G. Rule 4.2. Initial Appearance

Petitioner proposes that this Court permanently adopt the technical amendments to Rule 4.2 as proposed in the initial petition and as reflected in this Court’s August 27, 2025 emergency order, but with one technical correction to

change “72” to “7.2” in Rule 4.2(a)(8) of the emergency order as reflected in Appendix A.

H. Rule 41. Forms

Petitioner proposes adoption of Form 2(c) (Pre-Charge Arrest Warrant (A.R.S. § 13-3897(A))) and Form 2(d) (Affidavit in Support of Pre-Charge Arrest Warrant (A.R.S. § 13-3897(A))) and amendment of Rule 41 for this purpose. Petitioner also proposes amending the text of Rule 41 to require the use of Form 2(c) in the same manner as Forms 2(a) and (b) are required, and to require the use of Form 2(d), or a substantial equivalent, in the same manner as Form 4(a).

Petitioner proposes no additional revisions to Forms 2(a) and (b) to those proposed in the initial petition, and requests that this Court permanently adopt the amendments to Forms 2(a) and (b) as set forth in the initial petition and in this Court’s August 27, 2025 emergency order.

IV. Pre-filing Vetting

The proposed rule amendments other than proposed Rule 2.7(h) were vetted with workgroup members, and the provisions that track Administrative Orders 2025-170 and 2025-177 were heavily communicated to stakeholders in the court and criminal justice community. No immediate concerns were expressed. The concerns that proposed amendments Rule 2.7(h) are intended to address were raised very

recently, so there was insufficient time for circulation to stakeholders before the filing of this amended petition.

V. Request

The comment period on this petition is open until October 1, 2025 with any reply due by October 15, 2025. Petitioner recognizes that the rule amendments proposed in this amended petition substantially differ from those proposed in the initial petition. Petitioner therefore respectfully requests that this Court extend the public comment period to October 14, 2025 and the reply deadline to October 20, 2025.

Petitioner supports the workgroup and stakeholder recommendations. Petitioner therefore requests that after considering any comments and reply, this Court at its November 2025 Rules Agenda:

- Amend and adopt Supreme Court Rule 123(d)(8) as set forth in Appendix A;
- Further amend and adopt Criminal Rule 2.4 as set forth in Appendix A;
- Adopt Criminal Rule 2.7 as set forth in Appendix A;
- Permanently adopt the amendments to Criminal Rule 3.1(b) as set forth in this Court's August 27, 2025 emergency order and further amend and adopt Criminal Rule 3.1 as set forth in Appendix A;
- Further amend and adopt Criminal Rule 3.2 as set forth in Appendix A;
- Amend and adopt Criminal Rule 3.3 as set forth in Appendix A;

- Further amend and adopt Criminal Rule 4.1 as set forth in Appendix A;
- Permanently adopt Criminal Rule 4.2 as set forth in this Court's August 27, 2025 emergency order subject to the technical correction set forth in Appendix A;
- Amend and adopt the text of Criminal Rule 41 as set forth in Appendix A;
- Permanently adopt the amendments to Criminal Forms 2(a) and 2(b) as set forth in this Court's August 27, 2025 emergency order; and
- Adopt Criminal Forms 2(c) and 2(d) as set forth in Appendix A.

Because SB 1232 became effective on September 26, 2025, the interim procedures established by Administrative Order Nos. 2025-170 and 2025-177 largely reflecting the rule amendments proposed in this amended petition, and the pre-filing vetting of this amended petition, Petitioner additionally requests that this Court make any amendments effective December 1, 2025 rather than the standard effective date of January 1, 2026 pursuant to Supreme Court Rule 28(g)(2).

Respectfully submitted this 1st day of October 2025.

/s/ David K. Byers

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Appendix A
Proposed Amendments Shown Against R-25-0045 Emergency Order
(deletions are shown with ~~strikethrough~~, new language is underlined)

Rules of the Supreme Court of Arizona

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

(a) through (c) [No change]

(d) Access to Case Records. [No change in text]

(1) through (7) [No change]

(8) A.R.S. § 13-3897(A) Pre-Charge Arrest Warrants. Unless otherwise ordered by the court, the custodian must not make publicly available any information regarding the request for or issuance of an A.R.S. § 13-3897(A) pre-charge arrest warrant until proof of service of the warrant has been provided to the court, the warrant has expired, or the warrant has been quashed. The custodian may permit law enforcement to access these records when necessary to carry out their official responsibilities.

(e) through (j) [No change]

Rules of Criminal Procedure

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

(a)-(b) [No change]

(c) Affidavit Under A.R.S. § 13-3897(A). If an affidavit is presented under A.R.S. § 13-3897(A), the magistrate must determine whether there is probable cause to believe a felony offense has been committed and whether the ~~defendant-person~~ named in the affidavit committed it. If the magistrate finds probable cause, the magistrate must proceed under Rules 2.7 and 3.1. If the magistrate does not find probable cause, the magistrate must deny the request.

Rule 2.7. Pre-Charge Arrest Warrants (A.R.S. § 13-3897(A))

(a) Scope and Applicability. This rule applies only to pre-charge arrest warrants. For purposes of these rules, a “pre-charge arrest warrant” means a warrant issued under A.R.S. § 13-3897(A).

(b) Generally. If a magistrate makes a probable cause finding under Rule 2.4(c), the magistrate must issue a warrant for the person’s arrest.

(c) Affidavit Under A.R.S. § 13-3897(A). A person presenting an affidavit under A.R.S. § 13-3897(A) must use Form 2(d) or a substantially equivalent form. The

person may sign the affidavit using an electronic signature. A court may require the affidavit be submitted to the court when filing Rule 41, Form 4(a).

(d) Warrant Form. A person requesting a pre-charge arrest warrant must provide a pre-filled Form 2(c) to the magistrate. The person requesting the warrant must complete Form 2(c) to the greatest extent possible.

(e) Electronically Transmitted Warrants.

(1) Electronic Requests. Upon approval of the court, any forms required to request or issue a pre-charge arrest warrant may be transmitted through a secure internet connection.

(2) Electronic Oaths. The court may use an electronic oath for electronically transmitted warrants.

(3) Orders. The electronic copy of the warrant with the electronic signature will be considered the original order.

(f) Appearance by Virtual or Telephonic Means. A person requesting a pre-charge arrest warrant may appear by virtual or telephonic means if permitted by the magistrate.

(g) Pre-Charge Arrest Warrants Issued After Hours. If a pre-charge arrest warrant is issued outside normal court hours, the magistrate must transmit the court's copy of documents the next business day to the court in order to comply with Rule 2.7(l).

(h) Alternative to Written Affidavit; Authorization for Magistrate Signature. If a peace officer is appearing by telephonic or virtual means and is unable, due to technological capability, to receive a signed pre-charge arrest warrant from the magistrate:

(1) At the time of requesting the warrant, in lieu of a peace officer submitting a written affidavit to the magistrate, if permitted by the magistrate the peace officer may prepare Form 2(d) and sworn under oath, recite the affidavit to the magistrate verbatim. The recital must be recorded on tape, wire, or other comparable method by the peace officer reciting the affidavit to the magistrate. This recital may be made by telephone, virtual appearance, or other means of electronic communication. Reciting the affidavit to the magistrate meets the requirements for presentation of an affidavit for the purposes of issuing a pre-charge arrest warrant. The recording must be transcribed at the request of the court or either party. Any transcript produced under this provision must be certified by the magistrate and submitted to the court to maintain as provided in Rule 2.7(l).

(2) Authorization to Sign the Magistrate's Name. The magistrate may orally authorize a peace officer requesting a pre-charge arrest warrant to sign the magistrate's name on the warrant. A warrant signed using this procedure is deemed an arrest warrant and satisfies the requirements of Rule 3.2(a)(1)(A).

(3) Name to be Signed; Expiration; Victim Indication; Warrant Number. The magistrate must inform the peace officer of the exact name the magistrate wants the peace officer to sign on the pre-charge arrest warrant. The peace officer must sign the magistrate's name so that the signature reflects the instructions provided by the magistrate. The magistrate must also inform the peace officer of the expiration date if the warrant expires sooner than 90 days and whether the offense is, or is materially related to, a victims' rights applicable offense. The peace officer must include this information on the warrant as directed by the magistrate and inform the magistrate of the warrant number.

(4) Magistrate's Duties. The magistrate must record the exact time of issuance of the pre-charge arrest warrant, the name and date of birth of the person to be arrested, the warrant number, and the expiration date.

(5) Providing the Pre-Charge Arrest Warrant to the Court. The peace officer who signs the magistrate's name under Rule 2.7(h)(3) must provide a copy of the affidavit and warrant to the court the next business day. The court must maintain the copy as provided in Rule 2.7(l). The warrant must be returned as provided in Rule 2.7(k).

(i) Release Conditions. A person arrested on a pre-charge arrest warrant must not be released on bond or own recognizance without having an initial appearance under Rule 4.2.

(j) Expiration. Any warrant a magistrate issues under § 13-3897(A) expires 90 days after it is issued, unless the magistrate orders a shorter expiration.

(k) Return of Warrant. A pre-charge arrest warrant must be returned to the issuing court after the warrant is executed, expires, or there is a request to quash the warrant. The return must be made to the issuing court within 72 hours of the arrest or expiration. The return must be made in person or by facsimile or electronic means, or in another manner permitted by the court.

(l) Warrant Records. The clerk of court, or in the case of a limited jurisdiction court, the court, must maintain records relating to pre-charge arrest warrants, including a copy of the warrant, affidavit, and related documents, and must use a tracking or indexing system in which each warrant is assigned a unique identifier.

Rule 3.1. Issuance of Summons or Warrant

(a) [No change in text]

(1) [No change]

(2) *Finding of Probable Cause Under Rule 2.4(a).* 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 finding of probable cause under Rule 2.4(e), the court must promptly issue a warrant~~

(3) [No change]

(4) Finding of Probable Cause on Affidavit Under Rule 2.4(c). If a magistrate makes a finding of probable cause under Rule 2.4(c), the court must issue a warrant and not a summons.

(b) [No additional changes – Adopt as amended in August 27, 2025 Order]

(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(A), the court must issue a warrant ~~and not a summons~~. In all other cases, the court may issue an initial arrest warrant if:

(1) through (3) [No change]

(d) and (e) [No change]

~~**(f) Expiration.** Any warrant a magistrate issues after making a probable cause finding under rule 2.4(c) expires 90 days after it is issue, unless the magistrate orders otherwise.~~

Rule 3.2. Content of a Warrant or Summons

(a) Warrant.

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

(A) be signed with an electronic or other signature by the issuing magistrate or by a deputy clerk of the superior court, except that pre-charge arrest warrants may only be signed by a magistrate;

(B) [No change]

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

(D) command that:

(i) the defendant be arrested and brought before the nearest or most accessible magistrate in the same county where the arrest occurs if the offense was committed in that 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 unable or unable to act, the person must be taken to the nearest or most accessible magistrate in the county where the warrant issued.

(ii) If-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 in the county of arrest or to a magistrate in the county where the offense was committed.

(iii) Notwithstanding Rule 3.2(a)(1)(D)(i) and (ii), if the defendant is not eligible for release on bond under Rule 7.2(b)(1) or (2), 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 originated.

(2) *Bond for Felony Warrants.* Except for pre-charge arrest warrants, If if the defendant is eligible for release at the initial appearance, the issuing magistrate may include on the felony warrant a recommended deposit, cash, unsecured, or secured appearance bond and a recommended bond amount. However, when the warrant is issued for a felony offense, the defendant must not be released on bond without having an initial appearance before a magistrate.

(3) [No change]

(b) [No change]

Rule 3.3. Execution and Return of Warrant; Defective Warrants

(a) [No change]

(b) **Manner of Execution.** A warrant is executed by arresting the defendant named in the warrant. The officer does not need to possess the warrant when the arrest is made, but the officer must show the warrant to the defendant as soon as possible if the defendant asks to see it. If the officer does not have the warrant when the arrest is made, the officer must inform the defendant of the charged or alleged offense and the fact that a warrant has been issued.

(c) **Return.** Except for pre-charge arrest warrants, ~~The~~ the warrant must be returned either to the magistrate who issued it or to the magistrate at the initial appearance. Pre-charge arrest warrants must be returned to the issuing court as provided in Rule 2.7.

(d) [No change]

Rule 4.1. Procedure upon Arrest

(a) [No change]

(b) **On Arrest Without a Warrant or an Arrest With a Warrant Issued Under A.R.S. § 13-3897(A).** A person arrested without a warrant or arrested with a warrant issued under A.R.S. § 13-3897(A) must be taken before the nearest or most accessible magistrate either in the county of arrest or in the county where the offense was committed. A complaint, if not already filed, must be promptly prepared and filed. If a complaint is not filed within 48 hours after the initial appearance before the magistrate, the arrested person must be immediately released from custody and any pending preliminary hearing dates must be vacated.

(c) **On Arrest with a Warrant Other Than a Warrant Issued Under A.R.S. § 13-3897(A).**

(1) *Arrest in the County of Offense.* A person arrested in the county where the ~~alleged~~ offense was committed must be taken to the nearest or most accessible

magistrate in the county of arrest, except that if ~~the warrant provides that the~~ person is not eligible for release on bond under Rule 7.2(b)(1) or (2), 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 offense was committed, the person must be taken ~~either before~~ the nearest or most accessible magistrate in the county of arrest or to a magistrate 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 initial appearance, a magistrate must:

(1) through (7) [No change]

(8) if the court determines that the defendant is not eligible for bail based on a determination under (a)(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

Arizona courts are required to use Form 2(a) (Felony Arrest Warrant), Form 2(b) (Misdemeanor Arrest Warrant) and Form 2(c) (Pre-Charge Arrest Warrant (A.R.S. § 13-3897(A)), and are required to use Form 2(d) (Affidavit in Support of Pre-Charge Arrest Warrant (A.R.S. § 13-3897(A)) and Form 4(a) (Release Questionnaire/Law Enforcement), or ~~its~~ their substantial equivalent, except that courts may make non-substantive and formatting modifications needed to implement electronic versions of these forms. The other forms in the following Appendix are recommended for use in Arizona courts and are sufficient to meet the requirements of these rules.

Form 2(a) [No additional changes – Adopt as amended in August 27, 2025 Order]

Form 2(b) [No additional changes – Adopt as amended in August 27, 2025 Order]

Form 2(c) [New as set forth below]

Form 2(d) [New as set forth below]

Form 2(c). Pre-Charge Arrest Warrant (A.R.S. § 13-3897(A))

_____ COURT _____ County, Arizona

IN RE: _____ Name (First, Middle, Last) ☐ DV [check if applicable]	PRE-CHARGE ARREST WARRANT (A.R.S. § 13-3897(A)) Court Record No. Warrant No. (OCA) (Required) [Must be provided by law enforcement] 01 Fingerprints required upon arrest	For Court Use
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TO: ANY AUTHORIZED LAW ENFORCEMENT OFFICER

PROBABLE CAUSE HAVING BEEN FOUND that the person named above has committed the felony offense(s) listed below,

YOU ARE COMMANDED to arrest and bring the named person to the nearest or most accessible magistrate in this county unless the arrest is made in another county. In such case, you must take the named person before the nearest or most accessible magistrate in that county or a magistrate in the county where the alleged offense was committed.

Offense Date	Statute/Rule & Literal Description	Class
_____	_____ [To be completed by person requesting warrant]	_____
_____	_____	_____

To be completed by the magistrate:

The named person must **NOT** be released on bond or own recognizance without having an initial appearance before a magistrate.

This warrant is void if it is not executed within 90 days from the issuance date, unless a different date is specified here ____ / ____ /20 ____ (not to exceed 90 days from issuance).

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

_____ Issued date	_____ Magistrate Signature	_____ Magistrate Printed Name
----------------------	-------------------------------	----------------------------------

Person requesting warrant to complete all known information below:

SEX:	RACE:	DOB:	HGT:	WGT:	EYES:	HAIR:
ADDRESS: [TYPE:]						
COURT ORI:		EXTRADITION:		LE AGENCY:		
DR#:						
DL#:		STATE:		SSN (LAST 4):		
VIN:		YEAR:	MAKE:	MODEL:		
LICENSE PLATE:		COLOR:		STYLE:		
Upon service, immediately contact (<i>name</i>) at (<i>phone number</i>).						
Other (e.g., special instructions, etc.):						

WARRANT RETURN AND DISPOSITION

[] **CERTIFICATE OF EXECUTION**

IMPORTANT: THIS WARRANT MUST BE RETURNED TO ISSUING COURT WITHIN 72 HOURS OF EXECUTION.

I certify that the named person was arrested at _____ a.m./p.m. on _____, 20_____,
(month) (day) (year)

and presented the named person before Judge _____ at _____.

Date

Agency

Deputy Sheriff / Officer

Badge #

OR

☐ **REQUEST TO QUASH.** I hereby request that the warrant in this matter be quashed. I certify that I will provide a copy of the warrant with the request to quash to the law enforcement agency that entered the warrant into a local or national database with a request to remove the warrant.

Date

Agency

Deputy Sheriff / Officer

Badge #

OR

☐ **EXPIRED.** The warrant in this matter has expired and I am therefore returning the warrant as unserved.

County, Arizona

IN RE:	AFFIDAVIT IN SUPPORT OF PRE- CHARGE ARREST WARRANT (A.R.S. § 13-3897(A))	For Court Use
NAME (First, Middle, Last)		

A. SUSPECT INFORMATION

DR#:	DOB:	Sex:	Race:
Height:	Weight	Eye Color	Hair Color
Address:			

B. OFFENSE INFORMATION

Statutes & Descriptions:	
Offense Date:	Offense Location:

C. PROBABLE CAUSE STATEMENT

Provide a summary and include the facts which establish probable cause for the crime(s) for which the warrant is being requested. Use additional pages or an attachment if necessary.

The following establishes probable cause that the named individual committed the listed felony offense(s):

D. AFFIRMATION- I certify (declare) under penalty of perjury that the foregoing is true and correct.

Officer Name:		Agency:	
Date:	Signature:		Serial Number:

Appendix B

Proposed Amendments Shown Against Rules Before August 27, 2025 Order

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

Rules of Criminal Procedure

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

(a) and (b) [No change]

(c) Affidavit Under A.R.S. § 13-3897(A). If an affidavit is presented under A.R.S. § 13-3897(A), the magistrate must determine whether there is probable cause to believe a felony offense has been committed and whether the person named in the affidavit committed it. If the magistrate finds probable cause, the magistrate must proceed under Rules 2.7 and 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 Under Rule 2.4(a).* If a magistrate makes a finding of probable cause under Rule 2.4(a), the court must promptly issue a warrant or summons.

(3) [No change]

(4) *Finding of Probable Cause on Affidavit Under Rule 2.4(c).* If a magistrate makes a finding of probable cause under Rule 2.4(c), the court must promptly issue a warrant and not a summons.

(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(A), the court must issue a warrant. 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) be signed with an electronic or other signature by the issuing magistrate or by a deputy clerk of the superior court, except that pre-charge arrest warrants may only be signed by a magistrate;

(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:

(i) 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 or in the county of arrest where the arrest occurs if the offense was committed in that county.

(ii) if the defendant is arrested outside the county where the warrant was issued offense was committed, the person must be taken to the nearest or most accessible magistrate in the county of arrest or to a magistrate in the county where the offense was committed.

(iii) Notwithstanding Rule 3.2(a)(1)(D)(i) and (ii), if the defendant is not eligible for release on bond under Rule 7.2(b)(1) or (2), 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 originated.

(2) *Bond for Felony Warrants.* Except for pre-charge arrest warrants, If if the defendant is eligible for release at the initial appearance, the issuing magistrate may include on the felony warrant a recommended deposit, cash, unsecured, or secured appearance bond and a recommended bond amount. However, when the warrant is issued for a felony offense, the defendant must not be released on bond without having an initial appearance before a magistrate.

(3) [No change]

(b) [No change]

Rule 4.1. Procedure upon Arrest

(a) [No change]

(b) On Arrest Without a Warrant or an Arrest With a Warrant Issued Under A.R.S. § 13-3897(A). A person arrested without a warrant or arrested with a warrant issued under A.R.S. § 13-3897(A) must be taken before the nearest or most accessible magistrate either in the county of arrest or in the county where the offense was committed. A complaint, if not already filed, must be promptly prepared and filed. If a complaint is not filed within 48 hours after the initial appearance before the magistrate, the arrested person must be immediately released from custody and any pending preliminary hearing dates must be vacated.

(c) On Arrest with a Warrant Other Than a Warrant Issued Under A.R.S. § 13-3897(A).

(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 person is not eligible for release on bond under Rule 7.2(b)(1) or (2), 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 to a magistrate 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

[No additional substantive amendments, but a technical correction as indicated in Appendix A]