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IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the matter of:	)	
	)	
PETITION TO AMEND CRIMINAL	)	Supreme Court No. 26-_____
RULES 6.4, 26.11, 31.5, 31.8, 31.9, 31.13,	)	(expedited consideration
41, FORMS 5(a) AND 5(c), AND	)	and emergency adoption
SCRAP—CRIMINAL RULES 1, 3, 7,	)	requested)
AND 16, FORMS 1 AND 2	)	
_____	)	

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 and the Superior Court Rules of Appellate Procedure—Criminal as proposed in Appendix B. The proposed amendments are prompted by the enactment of [HB 2265](#), Courts; Fees; Assessments, during the Second Regular Session of the Fifty-seventh Legislature, as more particularly described below.

HB 2265 has a general effective date and will become effective on September 12, 2026. Accordingly, Petitioner seeks expedited consideration of this petition and

emergency adoption of the proposed amendments as set forth in Appendices A and B.

I. Purpose and Contents of Proposed Rule Amendments

HB 2265, Courts; Fees; Assessments (Laws 2026, Ch. 195)

A. Court-Appointed Counsel

HB 2265 amends A.R.S. § 11-584(C) to prohibit courts from imposing financial assessments related to the appointment or services of a public defender, including indigent administrative assessments and reimbursement to the county for the cost of the person's legal representation. Petitioner proposes amendments to Rule 6.4(c)(1) and Forms 5(a) and (c) to implement this provision as further described below. However, Petitioner recognizes that HB 2265's financial assessment prohibition applies only when a public defender is appointed, creating an inequity among similarly situated defendants. Specifically, many counties do not have a public defender's office, and many courts appoint counsel other than a public defender. As a result, defendants who receive court-appointed counsel other than a public defender are subject to reimbursement of attorney-related costs and administrative assessments, while defendants similarly situated who are appointed a public defender are not.

Criminal Rule 6.4(c)(1) currently states: "If a court finds that a defendant can afford to pay part of the cost of appointed counsel without incurring substantial

hardship, the court may order the defendant to pay that amount to the clerk.” To align this rule with the prohibition in A.R.S. § 11-584(C) when a public defender is appointed—and to account for situations in which the court appoints counsel other than a public defender—the Petitioner proposes adding the phrase “unless prohibited by law” to the beginning of the rule.

Additionally, the financial questionnaires (Forms 5(a) and 5(c)) courts must use under Criminal Rule 6.4(a) to evaluate indigence include questions asking how much the defendant can contribute toward court-appointed attorney costs. Petitioner proposes inserting a clarifying sentence before the questions on each form to reflect that contribution or reimbursement may not always be permitted. The proposed sentence is: “In some circumstances, the court may require you to contribute to the cost of a court-appointed attorney.”

B. The Record and Transcripts on Appeal

a. Criminal Rules

HB 2265 also amends A.R.S. § 13-4034 to provide that, in a criminal appeal, a copy of the record or reporter’s transcripts is always a county expense, rather than a county expense only when the defendant is indigent. The statute includes no exception for appeals arising from municipal courts, which means that records and transcripts produced in those cases are likewise a county cost. Petitioner recognizes that this arrangement is somewhat unusual.

Accordingly, Petitioner proposes striking Criminal Rule 26.11(a)(2)(B), which currently requires the court to advise defendants that if they are unable to pay for certified copies of the record on appeal and a certified transcript, the county will provide them. Because copies of the record and transcripts are now always provided at a county cost, regardless of ability to pay, subpart (B) is no longer necessary. Text in Rules 31.5(a)(1), 31.8(c)(6), and 31.13(e)(1)(A)(i) is similarly stricken.

Criminal Rule 31.5(d) requires that an order authorizing a defendant to proceed as indigent be sent to certified reporters and transcript coordinators, presumably so they can determine whether to prepare transcripts immediately or arrange payment with non-indigent defendants. Now that A.R.S. § 13-4034 exempts all defendants from paying for transcripts, Petitioner proposes striking Rule 31.5(d)(3) to remove these individuals from the distribution list.

Rule 31.8(c)(5) is amended to eliminate language requiring non-indigents to pay for transcripts. Additional language clarifies that transcripts for an appeal—whether produced by a certified reporter who created the official verbatim record or other authorized transcriber preparing a transcript from an electronic recording—are provided at no cost to the defendant.

Several provisions in Rule 31 use the term “authorized transcriber,” presumably to refer both to certified reporters who produce transcripts from their notes and to individuals who transcribe electronic recordings. Because the

clarification to Rule 31.8(c)(5) requires distinguishing between these roles, Petitioner proposes amending Rule 31.8(c)(4) and (6), 31.8(d) and (f), and 31.9(a) to replace “authorized transcriber” with “certified reporter or authorized transcriber.” This makes the terminology consistent throughout Rule 31, and aligns these rules with other rules that make the same distinction. See Criminal Rules 5.6(b), 31.2(b), 31.3(b)(2), and 31.13(e)(1)(A); ARCAP Rules 10(f)(2)(A) and (C), 11.1(d), and 15(e).

The amendments to Rule 31.8(c)(1) provide additional clarity, by providing that an authorized transcriber is any person or entity authorized under Supreme Court Rule 30 to transcribe electronic recordings of court proceedings. The amendment refers generally to Supreme Court Rule 30 rather than Supreme Court Rule 30(a)(2), because although Supreme Court Rule 30(a)(2) defines “authorized transcriber” and includes certified reporters, Supreme Court Rule 30(f) imposes additional limits on which certified reporters may transcribe electronic recordings.

b. SCRAP—Criminal

Petitioner also proposes amendments to SCRAP—Criminal Rules 1(f), 3(c), 7(a) and (b), and 16, Forms 1 and 2, consistent with the proposed amendments to Criminal Rules 31.8, 31.9, and 31.13, and for the same reasons.

II. Preliminary Comments

This petition has not been circulated 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.

III. Similar Petitions Filed in Last Five Years

[Petition R-26-0022](#), filed January 12, 2026, concerns SCRAP—Criminal. The amendments proposed in that petition do not substantively impact the rule amendments in this petition, but any changes adopted in R-26-0022 and this petition will have to be merged.

IV. Request for Expedited Consideration and Emergency Adoption

HB 2265 becomes effective on September 12, 2026. Therefore, as permitted by Supreme Court Rule 28(h), Petitioner respectfully requests that this Court expedite its consideration of this petition for inclusion on the August 2026 Rules Agenda, consider adoption of the proposed amendments as set forth in Appendices A and B on an emergency basis at that Agenda with an effective date of September 12, 2026, open the petition for comment, and consider adopting the proposed amendments on a permanent basis at this Court's December 2026 Rules Agenda.

Respectfully submitted this 16th day of July, 2026.

By /s/ David K. Byers
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APPENDIX A

Rules of Criminal Procedure

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

Rule 6.4. Determining Whether a Person is Indigent

(a) and (b) [No change]

(c) Payment by the Defendant.

(1) *Generally.* ~~If~~ Unless prohibited by law, if a court finds that a defendant can afford to pay part of the cost of appointed counsel without incurring substantial hardship, the court may order the defendant to pay that amount to the clerk.

(2) and (3) [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(g), the court will appoint counsel to represent the defendant on appeal; and

~~(B) if the defendant is unable to pay for certified copies of the record on appeal and a certified transcript, the county will provide them; and~~

~~(C-B)~~ the defendant may waive the right to appellate counsel by filing a written notice no later than 30 days after filing the notice of appeal.

(b) and (c) [No change]

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

(a) Determination that the Defendant is Indigent.

(1) *If Indigent in Superior Court.* A defendant who was indigent when sentenced may proceed on appeal as indigent without further authorization, unless after a notice of appeal is filed, the superior court finds that the defendant is financially able to employ counsel ~~and pay for a certified copy of the record on appeal, including a certified transcript.~~

(2) and (3) [No change]

(b) and (c) [No change]

(d) Notice of an Order to Proceed as Indigent. The clerk of the court that enters an order allowing a defendant to proceed as indigent on appeal must send a copy of that order to:

(1) the superior court clerk or the appellate clerk, as the case may be; and

(2) the parties; ~~and~~

~~(3) the appropriate certified reporters or, if the record was made by electronic or other means, the court's designated transcript coordinator.~~

(e) and (f) [No change]

Rule 31.8. The Record on Appeal

(a) and (b) [No change]

(c) Certified Reporter and Authorized Transcriber: Time to Prepare, and Payment Arrangements for, Certified Transcripts.

(1) *Generally.* Every transcript in the record on appeal must be prepared by a certified reporter or an authorized transcriber. An “authorized transcriber” as used in these rules ~~has the same meaning~~ means a person or entity authorized to transcribe electronic recordings of court proceedings as set forth in Supreme Court Rule 30(a)(2). ~~There may be multiple authorized transcribers for a single case.~~

(2) *Certified Reporter.* If a certified reporter attended a proceeding in the superior court, a party must order a certified transcript of proceedings directly from that certified reporter. There may be multiple certified reporters for a single case.

(3) *Audio or Video Recording.* If the superior court created only an audio or audio-video recording of the proceeding, a party must order a certified transcript of the proceeding directly from an authorized transcriber. Unless the ordering party is an indigent defendant, the superior court will furnish the authorized transcriber with a copy of the designated electronic recording upon receiving a notice from the authorized transcriber that the authorized transcriber has reached a satisfactory arrangement for payment. All parties to the appeal must cooperate with the authorized transcriber by providing information that is necessary to facilitate transcription.

(4) *Time to Prepare.* The certified reporter or authorized transcriber must prepare the certified transcript promptly upon receiving a notice of appeal either by the State or the defendant.:

~~(A) by the State; or~~

~~(B) by the defendant if the notice indicates that the defendant was represented by appointed counsel when found guilty or when sentenced.~~

~~(5) *Non-Indigent Defendant.* No later than 5 days after filing a notice of appeal or after the denial of a request during the appeal to proceed as indigent, a non-indigent defendant must make payment arrangements with the authorized transcriber for the certified transcript. The authorized transcriber then must promptly prepare the certified transcript. The authorized transcriber must notify the appellate court if the defendant fails to make satisfactory payment arrangements within the prescribed time.~~

(5) Payment. The defendant is not required to pay for certified transcripts for the appeal, whether produced by a certified reporter or authorized transcriber.

(6) Additions and Deletions. The certified reporter or authorized transcriber must promptly add or delete any portions requested by the parties. ~~Non-indigent defendants must pay for all portions of the record on appeal and certified transcripts that they have designated or requested.~~

(d) Certified Reporter and Authorized Transcriber: Manner of Delivering Transcripts.

(1) Delivery to the Appellate and Trial Courts. The certified reporter or authorized transcriber must file a certified electronic transcript of proceedings with the appellate and trial court clerks within the time allowed for the superior court clerk to transmit the record to the appellate court under Rule 31.9(c).

(2) Delivery to the State.

(A) If an Appellee. If the State is the appellee, the certified reporter or authorized transcriber must deliver an electronic copy of the certified transcript to the Attorney General and the appropriate county attorney's office, if any.

(B) If an Appellant. If the State is the appellant, the certified reporter or authorized transcriber must deliver an electronic copy of the certified transcript to the agency that prosecuted the case in the superior court.

(3) Delivery to the Defendant.

(A) Electronic. The certified reporter or authorized transcriber must submit the electronic transcript for the defendant to the superior court clerk, who will provide the electronic transcript to the defendant's appellate counsel or to the defendant, if self-represented.

(B) Paper. If defense counsel or a self-represented defendant requires or requests a paper transcript rather than an electronic transcript, the certified reporter or authorized transcriber must submit the defendant's paper copy to the superior court clerk, who will transmit the copy to the defendant's appellate counsel or to the defendant, if self-represented.

(C) Exception. If a local rule or administrative order prescribes a procedure different from (d)(3)(A) or (B), the certified reporter or authorized transcriber must distribute the defendant's copy as provided in that rule or order.

(4) Notice of Service. The certified reporter or authorized transcriber must file with the appellate court a notice of service of the certified transcript. The notice must state when and on whom service was made.

(e) [No change]

(f) Agreed Statement.

(1) [No change]

(2) *Notice*. The parties must notify the superior court clerk, certified reporters, and authorized transcribers at the earliest practical time of the parties' intent to submit an agreed statement.

(3) and (4) [No change]

(g) [No change]

Rule 31.9. Transmission of the Record to the Appellate Court

(a) **Transcripts**. The certified reporter or authorized transcriber provides transcripts of superior court proceedings to the appellate court as provided in Rule 31.8(d).

(b) through (e) [No change]

Rule 31.13. Due Dates; Filing and Service of Briefs

(a) through (d)

(e) **Extension of Time to File a Brief**.

(1) *Extension Due to Transcript Unavailability*.

(A) Generally. If a party moves to extend the time for filing a brief based on a transcript's unavailability, the motion must:

(i) certify that the party timely ordered ~~and, if applicable, made payment arrangements for the transcript under Rule 31.8(e);~~

(ii) and (iii) [No change]

(B) [No change]

(2) [No change]

Rule 41. Forms

Form 5(a). Defendant's Financial Statement

_____ COURT _____ County, Arizona

STATE OF ARIZONA Plaintiff
-vs-

[CASE/COMPLAINT NO.]

**DEFENDANT'S
FINANCIAL
STATEMENT
(Confidential)**

Defendant (FIRST, MI, LAST)

INSTRUCTIONS TO THE DEFENDANT: [No change]

1. through 12. [No change]

13. Do you want the Court to appoint an attorney (public defender) to help you with this case? [] Yes [] No

In some circumstances, the court may require you to contribute to the cost of a court-appointed attorney.

a. How much can you pay as a down payment for attorney fees? \$ _____

b. How much can you pay each month for attorney fees? \$ _____

14. [No change]

I hereby make these representations under **PENALTY OF PERJURY:**

Date: _____ Defendant Signature: _____

Witnessed by: _____ Social Security No.: _____

Form 5(c). Defendant's Financial Statement for Limited Jurisdiction Courts

_____ COURT

STATE OF ARIZONA, Plaintiff

Case Number: _____

vs.

**DEFENDANT'S FINANCIAL
STATEMENT AND REQUEST FOR A
COURT-APPOINTED ATTORNEY
(LIMITED JURISDICTION)**

Defendant

By answering the questions below, you are telling the Court you cannot afford an attorney and to consider your financial circumstances in determining whether you qualify for a court-appointed attorney in this case at a reduced cost or no cost to you. You are answering these questions under penalty of perjury and you may be held in contempt of court if you do not answer truthfully, or if you fail to notify the Court of any material improvement in your financial circumstances while your case is pending.

1. through 9. [No change]

10. In some circumstances, the court may require you to contribute to the cost of a court-appointed attorney. How much can you afford to contribute to the cost of an attorney to represent you:

Monthly attorney contribution: \$ _____

Total attorney contribution: \$ _____

11. [No change]

I declare under penalty of perjury that I have read the above statements and to the best of my knowledge and belief these statements are true and correct.

Date

Signature of Defendant

APPENDIX B

Superior Court Rules of Appellate Procedure— Criminal (deletions shown with ~~strikethrough~~, new language is underlined)

Rule 1. Scope; Definitions

a. through e. [No change]

f. For the purposes of these rules, an “authorized transcriber” ~~has the same meaning~~ means a person or entity authorized to transcribe electronic recordings of court proceedings as set forth in Supreme Court Rule 30(a)(2).

Rule 3. Notice of Appeal

a. and b. [No change]

c. When a party appeals, the trial court shall send a copy of the notice of appeal to the opposing side and to any certified reporter or authorized transcribers responsible for preparing the transcript, and shall note such fact in the court records.

d. [No change]

Rule 7. Record on Appeal

~~a. Within 14 calendar days after the filing of the notice of appeal, when the defendant is the appellant, a defendant who is not proceeding as an indigent on appeal shall make arrangements with all authorized transcribers to pay any record or transcript preparation fees. Thereupon, each authorized transcriber shall promptly prepare the transcript.~~

a. The defendant is not required to pay for a copy of the proceedings for the appeal, whether provided as transcripts, a recording on a disc, or otherwise.

b. In lieu of the record of proceedings or transcript in the trial court, the parties may submit a joint statement of the record on appeal, prepare and sign an agreed statement as to the record on appeal, setting forth the issues and pertinent facts presented by the appeal. Notice that a joint statement will be used shall be given to the trial court, and any certified reporter or authorized transcriber.

c. through g. [No change]

Rule 16. Forms

Form 1. Defendant's Notice of Right to Appeal (Criminal)

[CAPTION]

STATE OF ARIZONA	)	No. ____
	)	
vs.	)	DEFENDANT'S NOTICE
	)	OF RIGHT TO APPEAL
	)	(CRIMINAL)
_____	)	

This notice explains your rights and responsibilities to file an appeal to Superior Court from an order or final judgment and your right to an attorney to represent you.

YOUR RIGHT TO A LAWYER DURING THE APPEAL STAGE.

[No change in text]

THE APPEAL PROCESS IN GENERAL

[No change in text]

STAGE ONE--THE TRIAL COURT

1. [No change]

2. **THE RECORD.** ~~Within 14 calendar days after you file your notice of appeal, you must also arrange to pay for a~~ A copy of the proceedings at the hearing must be produced. The copy may be a recording or a certified transcript. The clerk will explain which type of record is required. You are not required to pay for the record. After the recording or transcript is prepared, the court will contact you to pick up your record. Payment must be in cash or other method explained by the clerk. If you cannot afford to pay for the record, ask the clerk for information about a possible waiver or extension ("deferral") to make payment later. If you fail to pay for the record or certified transcript, your appeal may be dismissed. Additional copies of the trial or proceeding record or certified transcript may be obtained for an additional charge.

3. [No change]

4. **THE WRITTEN APPELLANT'S MEMORANDUM.** If you appeal, you are called the "Appellant." ~~After the record or transcript is prepared, the court will contact you to pick up your record. You will need the record from step two for this next step--the "Appellant's Memorandum."~~ The Appellant's Memorandum is your written "brief" or explanation why the trial court ruling was legally wrong. Normally, the Memorandum will refer to specific portions of the record of the hearing to point out where there was error by the court. ~~(That is why a party who appeals pays for a copy of the record.)~~ The Memorandum should be typed or printed on letter-sized white paper, double spaced, and not exceed 15 pages in length, not counting any exhibits from the trial or proceeding you want to attach to the Memorandum.

5. and 6. [No change]

STAGE TWO--THE SUPERIOR COURT

7. and 8. [No change]

Dated: _____ Copy of this Notice received

Defendant

Form 2. Defendant's Notice of Appeal (Criminal)

[CAPTION]

STATE OF ARIZONA	)	No. ____
	)	
vs.	)	DEFENDANT'S NOTICE
	)	OF APPEAL
	)	(CRIMINAL)
_____	)	

The undersigned appeals from the final order or final judgment in the above case as follows:
_____.

Appellant understands: (1) the instructions set forth in the "Notice of Right to Appeal," ~~including payment for a copy of the record or certified transcript~~; (2) the need to post bond to stay enforcement of the judgment unless released on "own recognizance"; (3) filing an original and copy of the Appellant's Memorandum with the trial court; and (4) that failure to complete all stages in the appeal may result in the dismissal of the appeal and reinstatement of the trial court judgment.

The following address may be used for all court notices. The court will be notified IN WRITING of any change of address. Defendant's current mailing address must be PRINTED here, even if defendant is represented by counsel:

Street _____ Apt./Unit No. ____

City, State _____ ZIP _____

(Daytime Phone) () ____

Dated: _____
Defendant