

AMENDED APPENDIX A

Rules of the Supreme Court of Arizona

Rule 123. ~~Public~~ Access to the Judicial Records of the State of Arizona¹

(a) **Authority and Scope of Rule.** Pursuant to the administrative powers vested in the supreme court by Article VI, Section 3, of the Arizona Constitution, and the court's inherent power to administer and supervise court operations, this rule is adopted to govern public access to the records of all courts and administrative offices of the judicial department of the State of Arizona.

(b) Definitions.

(1) – (9) [No change]

(10) *Information.* “Information” is any recognizable alpha/numerical data ~~which~~ that constitutes a record or any part thereof.

(11) – (13) [No change]

(14) *Private Organization Serving a Public Purpose.* “Private Organization Serving a Public Purpose” means a private organization, the objective of which is to serve a public purpose, such as criminal justice, child welfare, licensing, mental health treatment, or research for scholarly or governmental purposes.

(14) *Public.* “Public” means all users of court records, including Arizona judicial officers and employees, employees of government agencies and private organizations.

~~(15) *Public Purpose Organization.* “Public Purpose Organization” means a private organization that serves a public purpose, such as criminal justice, child welfare, licensing, mental health treatment, or that engages in research for scholarly, journalistic, or governmental purpose.~~

(16) – (18) [No change]

(c) General Provisions.

(1) – (5) [No change]

(6) *Employees of Government Agencies and Private Organizations Serving a Public Purpose.* Employees of federal, state, tribal, and local government agencies and political subdivisions, and private organizations, ~~the objective of which is to serve a public purpose, such as criminal justice, child welfare, licensing, mental health treatment, or research for scholarly, journalistic, or governmental purposes,~~ servicing a public purpose may be granted such access to court records as required to serve that purpose according to this rule or as provided by any supplemental supreme

¹ Additions to text are indicated by underscoring; deletions by ~~striking through~~.

court policies or court order.

(7) [No change]

(d) [No change]

(e) Access to Administrative Records.

All administrative records are open to the public except as provided herein:

(1) *Employee Records.* Records maintained concerning individuals who are employees or who perform volunteer services are closed except for the following information:

(A)– (E) [No change]

(F) Name of current or last known supervisor; ~~and~~

(G) Information authorized to be released by the individual to the public unless prohibited by law; and

(H) After a disciplinary action is final, the notice of intent to discipline and the final disciplinary action that resulted in a written reprimand or warning, suspension, loss of pay, demotion, or termination and the employee's response to the disciplinary action. Supporting documentation, investigation files, and any other disciplinary records are closed. Employee access to the records identified in this subsection shall be governed by applicable provisions of the Arizona Code of Judicial Administration and local personnel policies.

(2) – (14) [No change]

(f) Access to Records in Paper Medium.

(1) *Filing a Request.* A request to inspect or obtain copies of records that are open to the public shall be made orally or in a written format acceptable to the custodian. The request shall specify any commercial use intended for the records. All requests for copies must include sufficient information to ~~reasonable~~ reasonably identify what is being sought. The applicant shall not be required to have detailed knowledge of the court's filing system or procedures.

(2) *Timely Response.* Upon receiving a request to inspect or obtain copies of records, the custodian shall promptly respond orally or in writing concerning the availability of the records, and provide the records in a reasonable time based upon the following factors:

(A)– (C) [No change]

(D) Whether the requested records are located at the court or in off-site storage.

(3) – (5) [No change]

(g) Remote Electronic Access to Case Records.

(1) A court may provide remote electronic access to case records as follows:

(A) [No change]

(B) *Governmental Entities and ~~Public Purpose~~ Private Organizations Serving a Public Purpose*. Any federal, state, tribal, or local governmental entity or ~~public purpose~~ private organization serving a public purpose may be provided remote electronic access to any case records necessary to carry out a particular governmental or public purpose responsibility. The terms of such access shall be set forth in a memorandum of understanding between the entity or organization and the custodian that includes provisions for safeguarding the confidentiality of any closed records.

(C) *General Public, Registered Users.*

(i) [No change]

(ii) The following documents shall not be accessible by remote electronic access to users registered under paragraph (g)(1)(C) due to the inability to protect sensitive data that is likely to be contained within these documents:

(a) – (g) [No change]

(h) all documents in criminal cases in which a juvenile is alleged to be the victim of any offense listed in ARS Title 13, chapters 14, 32, 35, or 35.1. The prosecuting agency, upon filing a charging document described in this paragraph, shall advise the clerk that the case is subject to this provision.

Upon motion by a party, by any person, or upon the court's own motion, and for good cause shown, the court in which such action is pending may issue an order to allow remote electronic access to members of the public, as provided in paragraph (g)(1)(C), to any case in which a juvenile is alleged to be the victim under paragraph (g)(1)(C)(ii)(h). The order may include any appropriate provision required to protect the juvenile from embarrassment or oppression. The burden of showing good cause for an order shall remain with the person seeking remote electronic access to the case record. Irrespective of an order limiting electronic access under this paragraph, the clerk shall provide non-registered users remote electronic access as set forth in paragraph (D)(ii) herein when the court generally provides such non-registered user access in other cases.

(D) *General Public, Non-Registered Users.* Unless otherwise provided by rule or law, members of the public may be provided remote electronic access, without registering, to:

(i) – (ii) [No change]

(iii) court of appeals and supreme court opinions ~~and~~, decisions, and orders in all case types,

except that any appendix in criminal cases in which a juvenile is alleged to be the victim, as identified in paragraph (g)(1)(C)(ii)(h) above, shall not be provided by remote electronic access.

(2) [No change]

(3) Courts and clerks of court shall not display case records online except as provided herein, as provided by ARS § 12-283(I) and (J), ~~or as ordered by the court in a particular case, or as ordered by the presiding judge of the court, the chief judge of the court of appeals, or the chief justice of the supreme court.~~ Any remote electronic access shall be conditioned upon the user's agreement to access the information only as instructed by the court, not to attempt any unauthorized access, and to consent to monitoring by the court of all use of the system. The court will also notify users that it will not be liable for inaccurate or untimely information, or for misinterpretation or misuse of the data. Such agreement and notices shall be provided to the users in any manner the court deems appropriate. The court may deny access to users for failure to comply with such requirements. The court or clerk of court that establishes remote electronic access to case records may also establish limitations on remote electronic access based on the needs of the court, limitations on technology and equipment, staff resources and funding.

(4) – (7) [No change]

(8) This paragraph (g) shall not limit the public's right of access to records, whether in paper or electronic format, at a court-designated facility, ~~whether in paper or electronic format.~~

(h)-(j) [No change]

Rules of Criminal Procedure

Rule 2.3. Content of Complaint²

a. [No change]

b. Upon filing a charging document in a criminal case in which a juvenile is alleged to be the victim of any offense listed in A.R.S. Title 13, chapters 14, 32, 35, or 35.1, the prosecuting agency shall advise the clerk that the case is subject to the provisions of Supreme Court Rule 123(g)(1)(C)(ii)(h).

² Additions to text are indicated by underscoring; deletions by ~~striking through~~.