

1 John A. Furlong, Bar No. 018356  
2 General Counsel  
3 STATE BAR OF ARIZONA  
4 4201 N. 24th Street, Suite 100  
5 Phoenix, Arizona 85016-6266  
6 (602) 252-4804  
7 John.Furlong@staff.azbar.org

8 **IN THE SUPREME COURT**  
9 **STATE OF ARIZONA**

10 PETITION TO AMEND RULES 38.1  
11 AND 38.2, ARIZONA RULES OF  
12 CRIMINAL PROCEDURE

Supreme Court No. R-12-0016

**Comment of the State Bar of  
Arizona on Petition to Amend  
Rules 38.1 and 38.2, Ariz. R.  
Crim. P.**

14 Rule 38 was adopted to implement a Deferred Prosecution Program set forth in  
15 A.R.S. §§ 11-361 *et. seq.* When written, the rules required that certain actions be  
16 taken in superior court even if a deferred case was pending in a justice court.  
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18 The petition seeks to modify the rules and comments to delete references to the  
19 “superior” court and eliminate the superior court’s involvement when a deferred  
20 prosecution is sought in a criminal action pending in a justice court.

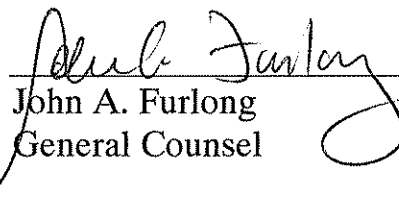
21 Where possible, the criminal justice process will be made more efficient by  
22 resolution of cases in justice court through deferred prosecution absent involvement  
23 of the superior court. Additionally, where a prosecution, once deferred in Justice  
24 Court, is resumed, the rule modification will allow the prosecution to be reinstated  
25 without the involvement of the superior court. The proposed modifications to the  
26 rules and comments (Rule 38.1 and Rule 38.2) will avoid unnecessary delay in  
criminal proceedings originating in Justice Court.

1 The State Bar of Arizona supports the Petition to Amend Rules 38.1 and  
2 38.2(a), as well as the comment to Rule 38.2 as set forth in the petition.

3 **Conclusion**

4 For the reasons discussed above, the State Bar of Arizona supports the  
5 petition and requests that the Court adopt the rule change on a permanent basis.

6 RESPECTFULLY SUBMITTED this 18<sup>th</sup> day of May, 2012.

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9 John A. Furlong  
10 General Counsel

11 Electronic copy filed with the Clerk  
12 of the Supreme Court of Arizona this  
13 18<sup>th</sup> day of May, 2012,

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15 By: Kathleen A. Lundgren  
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