

Hon. Ronald Reinstein, Ret.
Chair, Supreme Court Commission on Victims in the Courts
1501 W. Washington, Phoenix, AZ 85007
602-452-3965

**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of:)	
AMENDED PETITION TO)	
AMEND RULES 2.3, 13.2, 16.1,)	Supreme Court Rule No.
26.4, 31.13, 31.8 & 35.1,)	R-12-004
RULES OF CRIMINAL)	
PROCEDURE; RULE 111 & 125)	
RULES OF THE SUPREME COURT,)	
AND RULES 15, 24, 34, 106, & 107,)	
RULES OF PROCEDURE FOR)	
<u>THE JUVENILE COURT</u>)	

Pursuant to Arizona Supreme Court Rule 28, Ronald Reinstein, Chair of the Supreme Court Commission on Victims in the Courts (COVIC), respectfully petitions this Court to adopt the revised proposal to amend Arizona Rules of Criminal Procedure, the Rules of the Supreme Court and the Rules of Procedure for the Juvenile Court.

As previously stated in the original petition, the amendments to the aforementioned rules will encourage a heightened awareness of and respect for the needs of vulnerable victims and reduce unnecessary exposure to re-victimization.

COVIC created an ad-hoc workgroup, comprised of judges, attorneys and other justice professionals to address the comments received to date. As a result of their work, and with a unanimous vote of support from COVIC members at the May 11, 2012 meeting, the following amended petition is respectfully submitted.

During the first public comment period, two written comments were submitted- one in favor and one opposed. The workgroup believes the concerns expressed in the drafter's comments have been adequately addressed in the rule amendment or associated comments. In particular, COVIC believes that victims should have the right to decide if their names or those of their deceased loved ones will be used in publically accessible documents. Should victims want their names used, they can submit a written waiver; but it is the workgroup's belief that in the interest of victim privacy, the information will remain private unless the victim petitions the court otherwise. Furthermore, if these amendments are adopted, the impact will be on those cases filed after the effective date and not retroactive.

Therefore, Petitioner requests this court accept the proposed amendments as revised. The amended petition also expands the victim protections to include transcripts and minute entries.

RESPECTFULLY SUBMITTED this 21st day of May, 2012.

By s/s Ronald Reinstein_____

Hon. Ronald Reinstein, Chair,
Commission on Victims in the Courts
1501 W. Washington, Phoenix, AZ 85007
602-452-3965

APPENDIX A

(proposed new language is underlined)

1. ARIZONA RULES OF CRIMINAL PROCEDURE

Rule 2. Commencement of Criminal Proceedings

Rule 2.3. Content of Complaint

a. A complaint is a written statement of the essential facts constituting a public offense, that is either signed by a prosecutor, or made upon oath before a magistrate, or made in accordance with A.R.S. § 13-3903.

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 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).

C. SUBSTITUTE VICTIM INFORMATION.1. IN ANY CASE IN WHICH THE DEFENDANT IS CHARGED WITH AN OFFENSE LISTED IN A.R.S. TITLE 13, CHAPTER 14, 32, 35 OR 35.1 AND IN A CASE IN WHICH THE VICTIM WAS A JUVENILE AT THE TIME OF THE OFFENSE, THE FILING PARTY SHALL SUBSTITUTE THE VICTIM'S TRUE FULL NAME WITH A VICTIM IDENTIFIER DESIGNATED BY THE PROSECUTING AGENCY. THE PROSECUTING AGENCY SHALL RECORD THE TRUE FULL NAME AND THE VICTIM IDENTIFIER ON A SEPARATE CONFIDENTIAL VICTIM INFORMATION FORM WHICH SHALL BE FILED WITH THE CHARGING DOCUMENT AND MAINTAINED BY THE CLERK AS A CONFIDENTIAL RECORD. THE CONFIDENTIAL VICTIM INFORMATION FORM SHALL ONLY BE AVAILABLE TO THE STATE, VICTIM, DEFENDANT, COURT PERSONNEL, PROBATION DEPARTMENT, AND ANY PERSON OR AGENCY AUTHORIZED BY COURT ORDER. IN THE DISCRETION OF THE CLERK, THE CONFIDENTIAL VICTIM INFORMATION FORM MAY BE MAINTAINED EITHER IN PAPER OR ELECTRONIC FORMAT. IF THE FORM IS MAINTAINED ELECTRONICALLY, THE CLERK IS AUTHORIZED TO DESTROY ANY PAPER VERSION. UNLESS THE COURT ORDERS OTHERWISE, ANY DOCUMENT FILED WITH THE COURT SHALL REFER TO THE VICTIM BY VICTIM IDENTIFIER AND NOT REFER TO THE VICTIM BY THE VICTIM'S FULL TRUE FULL NAME.

2. WHENEVER A VICTIM'S TRUE FULL NAME OR OTHER IDENTIFYING INFORMATION HAS CHANGED, THE PROSECUTOR SHALL FILE AN UPDATED CONFIDENTIAL VICTIM INFORMATION FORM.

3. IF A DOCUMENT CONTAINING THE VICTIM'S TRUE FULL NAME IS FILED WITH A COURT, ANY PARTY, THE VICTIM OR THE VICTIM'S ATTORNEY MAY MOVE FOR AN ORDER SEALING THE DOCUMENT OR REPLACING IT WITH A MATERIALLY IDENTICAL DOCUMENT SUBSTITUTING THE VICTIM IDENTIFIER FOR THE VICTIM'S TRUE FULL NAME.

4. IF A PROCEEDING IS ELECTRONICALLY RECORDED AND CONTAINS A VICTIM'S NAME, A PARTY, THE VICTIM OR THE VICTIM'S ATTORNEY MAY FOR GOOD CAUSE MOVE FOR AN ORDER SEALING THE ELECTRONIC RECORD OR A PORTION THEREOF. ANY ELECTRONIC RECORDING SEALED PURSUANT TO THIS PROVISION SHALL REMAIN AVAILABLE TO THE ATTORNEYS OF RECORD IN THE CASE. THE ELECTRONIC RECORDING MAY BE USED IN ANY FURTHER COURT PROCEEDINGS INCLUDING AN APPEAL, BUT SHALL NOT BE FURTHER DISSEMINATED WITHOUT A COURT ORDER. **

5. THE VICTIM MAY WAIVE THE REQUIREMENTS OF THIS RULE BY NOTIFYING THE COURT AND THE PROSECUTOR'S OFFICE IN WRITING, IN WHICH THE VICTIM CONSENTS TO THE USE OR

RELEASE OF THE VICTIM'S TRUE FULL NAME IN COURT RECORDS.

6. FOR PURPOSES OF THIS RULE, "VICTIM IDENTIFIER" MEANS A VICTIM'S INITIALS, A PSEUDONYM, OR OTHER SUBSTITUTE FOR THE VICTIM'S TRUE FULL NAME.

7. A CONFIDENTIAL VICTIM INFORMATION FORM SUBSTANTIALLY SIMILAR TO FORM (ATTACHED SAMPLE FORM) SHALL BE USED.

****COMMENT**

1. Rule 2.3(C)(4). Pursuant to case law, to seal any court records, the court must make specific findings that sealing the record is justified by identified compelling interests that outweigh the public interest in access to the court record. The findings should include the following:

- (A) There exists a compelling interest that overcomes the right of public access to the record;
- (B) The compelling interest supports sealing the record;
- (C) A substantial probability exists that the compelling interest will be prejudiced if the record is not sealed;
- (D) The proposed sealing is narrowly tailored; and
- (E) No less restrictive means exist to achieve the compelling interest.

2. Nothing in this rule prevents the court from acting on a motion, to seal, unseal or redact records in the case which may identify the victim, such as a victim impact statement or a letter from the victim submitted for sentencing purposes.

Rule 13. Indictment and Information

Rule 13.2 Nature and contents

a. In General. The indictment or information shall be a plain, concise statement of the facts sufficiently definite to inform the defendant of the offense charged.

b. Charging the Offense. The indictment or information shall state for each count the official or customary citation of the statute, rule, regulation or other provision of law which the defendant is alleged to have violated.

c. Notice of Necessarily Included Offenses. Specification of an offense in an indictment, information, or complaint shall constitute a charge of that offense and of all offenses necessarily included therein.

d. SUBSTITUTE VICTIM INFORMATION

1. IN ANY CASE IN WHICH THE DEFENDANT IS CHARGED WITH AN OFFENSE LISTED IN A.R.S. TITLE 13, CHAPTER 14, 32, 35 OR 35.1 AND IN A CASE IN WHICH THE VICTIM WAS A JUVENILE AT THE TIME OF THE OFFENSE, THE FILING PARTY SHALL SUBSTITUTE THE VICTIM'S TRUE FULL NAME WITH A VICTIM IDENTIFIER DESIGNATED BY THE PROSECUTING AGENCY. THE PROSECUTING AGENCY SHALL RECORD THE TRUE FULL NAME AND THE VICTIM IDENTIFIER ON A SEPARATE CONFIDENTIAL VICTIM INFORMATION FORM WHICH SHALL BE FILED WITH THE CHARGING DOCUMENT AND MAINTAINED BY THE CLERK AS A CONFIDENTIAL RECORD. THE CONFIDENTIAL VICTIM INFORMATION FORM SHALL ONLY BE AVAILABLE TO THE STATE, VICTIM, DEFENDANT, COURT PERSONNEL, PROBATION DEPARTMENT, AND ANY PERSON OR AGENCY AUTHORIZED BY COURT ORDER. IN THE DISCRETION OF THE CLERK, THE CONFIDENTIAL VICTIM INFORMATION FORM MAY BE MAINTAINED EITHER IN PAPER OR ELECTRONIC FORMAT. IF THE FORM IS MAINTAINED ELECTRONICALLY, THE CLERK IS AUTHORIZED TO DESTROY ANY PAPER VERSION. UNLESS THE COURT ORDERS OTHERWISE, ANY DOCUMENT FILED WITH THE COURT SHALL REFER TO THE VICTIM BY VICTIM IDENTIFIER AND NOT REFER TO THE VICTIM BY THE VICTIM'S TRUE FULL NAME.

2. WHENEVER A VICTIM'S TRUE FULL NAME OR OTHER IDENTIFYING INFORMATION HAS CHANGED, THE PROSECUTOR SHALL FILE AN UPDATED CONFIDENTIAL VICTIM INFORMATION FORM.

3. IF A DOCUMENT CONTAINING THE VICTIM'S TRUE FULL NAME IS FILED WITH A COURT, ANY PARTY, THE VICTIM OR THEIR ATTORNEY MAY MOVE FOR AN ORDER SEALING THE DOCUMENT OR REPLACING IT WITH A MATERIALLY IDENTICAL DOCUMENT SUBSTITUTING THE VICTIM IDENTIFIER FOR THE VICTIM'S TRUE FULL NAME.

4. THE VICTIM MAY WAIVE THE REQUIREMENTS OF THIS RULE BY NOTIFYING THE COURT AND THE PROSECUTOR'S OFFICE IN WRITING, IN WHICH THE VICTIM CONSENTS TO THE USE OR RELEASE OF THE VICTIM'S TRUE FULL NAME IN COURT RECORDS.

5. A CONFIDENTIAL VICTIM INFORMATION FORM SUBSTANTIALLY SIMILAR TO FORM _____, (ATTACHED SAMPLE FORM) SHALL BE USED.

6. FOR PURPOSES OF THIS RULE, "VICTIM IDENTIFIER" MEANS A VICTIM'S INITIALS, A PSEUDONYM, OR OTHER SUBSTITUTE FOR THE VICTIM'S TRUE FULL NAME.

Rule 16 Pretrial Motion Practice; Omnibus Hearing

Rule 16.1. General provisions

a. through d. [No changes]

e. SUBSTITUTE VICTIM INFORMATION. ALL WRITTEN MOTIONS, DEFENSES, OBJECTIONS AND REQUESTS SHALL USE A VICTIM IDENTIFIER, IN PLACE OF THE VICTIM'S NAME IN ANY CASE IN WHICH THE DEFENDANT IS CHARGED WITH AN OFFENSE LISTED IN A.R.S. TITLE 13, CHAPTER 14, 32, 35 OR 35.1 AND IN ANY CASE IN WHICH THE VICTIM WAS A JUVENILE AT THE TIME OF THE OFFENSE. FOR PURPOSES OF THIS RULE, "VICTIM IDENTIFIER" MEANS A VICTIM'S INITIALS, A PSEUDONYM, OR OTHER SUBSTITUTE FOR THE VICTIM'S TRUE FULL NAME.

Rule 26. Judgment, Pre-Sentence Report, Pre-Sentencing Hearing, Sentence

Rule 26.4. Pre-sentence report

a. When Prepared. The court shall require a pre-sentence report in all cases in which it has discretion over the penalty to be imposed, except that requiring such a report is discretionary in those cases in which the defendant can only be sentenced to imprisonment for less than one year, in which a request under Rule 26.3(a) is granted, or in which a pre-sentence report concerning the defendant is already available. A pre-sentence report shall not be prepared until after the determination of guilt has been made or the defendant has entered a plea of guilty or no contest.

b. When Due. Except when a request under Rule 26.3(a) has been granted, the pre-sentence report shall be delivered to the sentencing judge at least 2 days before the date set for sentencing.

C. SUBSTITUTE VICTIM INFORMATION. THE PRE-SENTENCE REPORT SHALL USE THE VICTIM IDENTIFIER, USED ON THE CASE'S CONFIDENTIAL VICTIM INFORMATION FORM FILED WITH THE CLERK'S OFFICE, IN PLACE OF THE VICTIM'S NAME IN ANY CASE IN WHICH THE DEFENDANT IS CHARGED WITH AN OFFENSE LISTED IN A.R.S. TITLE 13, CHAPTER 14, 32, 35 OR 35.1 AND IN ANY CASE IN WHICH THE VICTIM WAS A JUVENILE AT THE TIME OF THE OFFENSE.

Rule 31. Appeal from Superior Court

Rule 31.13. Appellate briefs

a. and b. [no changes]

c. Contents.

(1) *Appellant*. The appellant's brief shall include:

(i) A table of contents with page references.

(ii) A table of citations, which shall alphabetically arrange and index the cases, statutes, and other authorities cited, with references to the pages of the brief on which they are cited.

(iii) A statement of the case, indicating briefly the basis of the appellate court's jurisdiction, the nature of the case, the course of the proceedings and the disposition in the court below.

(iv) A statement of facts relevant to the issues presented for review, with appropriate references to the record. The statement shall not contain evidentiary matter unless material to a proper consideration of the issues presented, in which instance a reference shall be made to the record or page of the transcript where such evidence appears. The statement of facts may be combined with the statement of the case.

(v) A statement of the issues presented for review. The statement of an issue presented for review will be deemed to include every subsidiary issue fairly comprised therein.

(vi) An argument which shall contain the contentions of the appellant with respect to the issues presented, and the reasons therefore, with citations to the authorities, statutes and parts of the record relied on. The argument may include a summary. With respect to each contention raised on appeal, the proper standard of review on appeal shall be identified, with citations to relevant authority, at the outset of the discussion of that contention. Citation of authorities shall be to the volume and page number of the official reports and also when possible to the unofficial reports.

(vii) A short conclusion stating the precise relief sought.

(viii) An appendix if desired.

(2) *Appellee*. The appellee's brief shall be of like character and arrangement as that of the appellant except that no statement of the case is required unless the appellee finds the statement presented by the appellant to be insufficient or incorrect.

(3) *Reply Brief*. The reply brief shall be confined to a response to questions of law or fact raised by the appellee's brief.

(4) *Appendix.*

(i) The appellate brief for either party may include an appendix of pertinent statutes, treaties, regulations, rules, and instructions.

(ii) In addition, the appendix to an appellate brief may include extended quotations from cases and authorities where such quotations are required for proper presentation of the issues.

(5) SUBSTITUTE VICTIM INFORMATION. APPELLATE BRIEFS SHALL USE A VICTIM IDENTIFIER, IN PLACE OF THE VICTIM'S NAME IN ANY CASE IN WHICH THE DEFENDANT WAS CHARGED WITH AN OFFENSE LISTED IN A.R.S. TITLE 13, CHAPTER 14, 32, 35 OR 35.1 AND IN ANY CASE IN WHICH THE VICTIM WAS A JUVENILE AT THE TIME OF THE OFFENSE. FOR PURPOSES OF THIS RULE, "VICTIM IDENTIFIER" MEANS A VICTIM'S INITIALS, A PSEUDONYM, OR OTHER SUBSTITUTE FOR THE VICTIM'S TRUE FULL NAME.

d. through f. [no changes]

Rule 31.8. The record on appeal; transcript; duty of the authorized transcriber

a. Composition of the Record on Appeal; Additions; Deletions.

(1) *Composition.* The record on appeal to the appellate court shall be a certified transcript, all documents, papers, books and photographs introduced into evidence, and all pleadings and documents in the file-- (other than subpoenas and praecipes not specifically designated), and if authorized by the appellate court, an electronic recording of the proceeding.

2. SUBSTITUTE VICTIM INFORMATION. TRANSCRIPTS SHALL USE A VICTIM IDENTIFIER, IN PLACE OF THE VICTIM'S NAME IN ANY CASE IN WHICH THE DEFENDANT WAS CHARGED WITH AN OFFENSE LISTED IN A.R.S. TITLE 13, CHAPTER 14, 32, 35 OR 35.1 AND IN ANY CASE IN WHICH THE VICTIM WAS A JUVENILE AT THE TIME OF THE OFFENSE. FOR PURPOSES OF THIS RULE, "VICTIM IDENTIFIER" MEANS A VICTIM'S INITIALS, A PSEUDONYM, OR OTHER SUBSTITUTE FOR THE VICTIM'S TRUE FULL NAME.

(2-3) Additions and deletions.

(i) By the Appellant. Within 5 days after the filing of the notice of appeal the appellant may file with the clerk of the trial court a designation to include in the record the subpoenas and praecipes appellant deems necessary, and to delete from the record all the documents, papers, books and photographs he or she deems unnecessary.

(ii) By the Appellee. Within 12 days after the filing of the notice of appeal the appellee may file with the clerk of the trial court a designation to include in the record those subpoenas and praecipes appellee deems necessary, and any document, paper, book or photograph deleted by the appellant.

(iii) By the Appellate Court. An exhibit other than those listed in Section (a)(1) including the excised portion, if any, of a pre-sentence, diagnostic or mental health report may be added to the record on appeal only by order of the appellate court. Such an order may be made at any time.

b. through h. [No changes]

Rule 35. Form, Content and Service of Motions and Requests

Rule 35.1 Motions: form, content and rights of reply

a. Unless otherwise specified in these rules, all motions shall be typewritten, double-spaced on 8.5 x 11 inch paper and shall contain a short, concise statement of the precise nature of the relief requested, shall be accompanied by a brief memorandum stating the specific factual grounds therefore and indicating the precise legal points, statutes, and authorities relied upon, and shall be served to all other parties.

Each party may within 10 days file and serve a response, and the moving party may within 3 additional days file and serve a reply, which shall be directed only to matters raised in a response. Responses and replies shall be in the form required for motions. If no response is filed, the motion shall be deemed submitted on the record before the court

b. Unless otherwise permitted by the court, a motion, including its supporting memorandum, and the response, including its supporting memorandum, shall not exceed 10 pages, exclusive of attachments. Unless otherwise permitted by the court, a reply, including its supporting memorandum, shall not exceed 5 pages, exclusive of attachments.

C. ALL MOTIONS, REQUESTS AND PROPOSED ORDERS SHALL USE A VICTIM IDENTIFIER, IN PLACE OF THE VICTIM'S NAME IN ANY CASE IN WHICH THE DEFENDANT WAS CHARGED WITH AN OFFENSE LISTED IN A.R.S. TITLE 13, CHAPTER 14, 32, 35 OR 35.1 AND IN ANY CASE IN WHICH THE VICTIM WAS A JUVENILE AT THE TIME OF THE OFFENSE. FOR PURPOSES OF THIS RULE, "VICTIM IDENTIFIER" MEANS A VICTIM'S INITIALS, A PSEUDONYM, OR OTHER SUBSTITUTE FOR THE VICTIM'S TRUE FULL NAME.

2. Rules of the Supreme Court of Arizona

Rule 111. Publication of Opinions of the Supreme Court and Court of Appeals; Depublication

a. through h. [No changes]

(i) SUBSTITUTE VICTIM INFORMATION. ALL OPINIONS, MEMORANDUM DECISIONS, AND ORDERS SHALL USE A VICTIM IDENTIFIER, AS DEEMED APPROPRIATE BY THE COURT, IN PLACE OF THE VICTIM'S NAME IN ANY CASE CONCERNING A DEFENDANT OR JUVENILE CHARGED WITH ANY OFFENSE LISTED IN A.R.S. TITLE 13, CHAPTERS 14, 32, 35.1 AND IN ANY CASE CONCERNING A CRIME VICTIM WHO WAS A JUVENILE AT THE TIME OF THE OFFENSE.

(j) THE VICTIM MAY WAIVE THE REQUIREMENTS OF THIS RULE BY NOTIFYING THE COURT IN WRITING, IN WHICH THE VICTIM CONSENTS TO THE USE OR RELEASE OF THEIR TRUE FULL NAME IN COURT RECORDS.

Rule 125. Defining Minute Entry, Order, Ruling, and Notice; Party Responsibility

a. through e. [No changes]

(f) SUBSTITUTE VICTIM INFORMATION. MINUTE ENTRIES AND COURT ORDERS SHALL USE A VICTIM IDENTIFIER, IN PLACE OF THE VICTIM'S NAME IN ANY CASE IN WHICH THE DEFENDANT WAS CHANGED WITH AN OFFENSE LISTED IN A.R.S. Title 13, Chapter 14, 32, 35 or 35.1 AND IN ANY CASE IN WHICH THE VICTIM WAS A JUVENILE AT THE TIME OF THE OFFENSE. FOR PURPOSES OF THIS RULE, "VICTIM IDENTIFIER" MEANS A VICTIM'S INITIALS, A PSEUDONYM, OR OTHER SUBSTITUTE FOR THE VICTIM'S TRUE FULL NAME. THE VICTIM MAY WAIVE THE REQUIREMENTS OF THIS RULE BY NOTIFYING THE COURT IN WRITING, IN WHICH THE VICTIM CONSENTS TO THE USE OR RELEASE OF THEIR TRUE FULL NAME IN COURT RECORDS.

3. Rules of Procedure for the Juvenile Court

Rule 15. Motions

A. Form. All motions shall be in writing, unless otherwise authorized by the court, and shall set forth the basis for the relief sought.

B. Filing. All motions shall be filed with the clerk of the court and copies provided to the assigned judge at the time of filing. All parties and the assigned probation officer shall be served copies by mail, hand delivery, fax or by electronic means.

C. Motion to Continue. Any motion to continue shall advise the court of impending expiration of time limits and shall be granted only upon a showing that good cause exists and that delay is indispensable to the interests of justice. A continuance may be granted only for so long as is necessary to the interests of justice. The court shall consider the victim's views and the victim's right to a timely adjudication of the juvenile in determining whether to grant a continuance. If a continuance is granted, the court shall state on the record the reason for the continuance.

D. SUBSTITUTE VICTIM INFORMATION. ALL WRITTEN MOTIONS AND REQUESTS SHALL USE A VICTIM IDENTIFIER, IN PLACE OF THE VICTIM'S NAME IN ANY CASE IN WHICH THE JUVENILE IS CHARGED WITH ANY OFFENSE LISTED IN A.R.S. TITLE 13, CHAPTER 14, 32, 35 OR 35.1 AND IN ANY CASE IN WHICH THE VICTIM WAS A JUVENILE AT THE TIME OF THE OFFENSE. FOR PURPOSES OF THIS RULE, "VICTIM IDENTIFIER" MEANS A VICTIM'S INITIALS, A PSEUDONYM, OR OTHER SUBSTITUTE FOR THE VICTIM'S TRUE FULL NAME.

Rule 24. Content of Petition

A. Content. A petition alleging delinquent or incorrigible acts shall be in writing, under oath, captioned: "In the Matter of___, a person under the age of 18 years," and may be upon information and belief and filed by the prosecutor. It shall set forth:

1. The facts, in concise language with reasonable particularity as to the time, date, place and manner of the alleged acts of the juvenile and the law or standard of conduct allegedly violated by such acts, which bring the juvenile within the jurisdiction of the court;
2. The name, age, gender and address of the juvenile named in the petition;

3. The names and addresses, if known, of the parent, guardian or custodian of the juvenile or of the juvenile's spouse, if any; and
4. The place of detention and the date and time the juvenile was taken into custody, if the juvenile in custody.

B. Amendment to Petition. A petition may be amended by order of the court in response to the motion of any party at any time before adjudication, provided the parties are granted sufficient time to meet the new allegations. A copy of the motion shall be provided to the parties pursuant to Rule 15.

C. SUBSTITUTE VICTIM INFORMATION.

1. IN ANY CASE IN WHICH THE DEFENDANT IS CHARGED WITH AN OFFENSE LISTED IN A.R.S. TITLE 13, CHAPTER 14, 32, 35 OR 35.1 AND IN A CASE IN WHICH THE VICTIM WAS A JUVENILE AT THE TIME OF THE OFFENSE, THE FILING PARTY SHALL SUBSTITUTE THE VICTIM'S TRUE FULL NAME WITH A VICTIM IDENTIFIER DESIGNATED BY THE PROSECUTING AGENCY. THE PROSECUTING AGENCY SHALL RECORD THE TRUE FULL NAME AND THE VICTIM IDENTIFIER ON A SEPARATE CONFIDENTIAL VICTIM INFORMATION FORM WHICH SHALL BE FILED WITH THE CHARGING DOCUMENT AND MAINTAINED BY THE CLERK AS A CONFIDENTIAL RECORD. THE CONFIDENTIAL VICTIM INFORMATION FORM SHALL ONLY BE AVAILABLE TO THE STATE, VICTIM, DEFENDANT, COURT PERSONNEL, PROBATION DEPARTMENT, AND ANY PERSON OR AGENCY AUTHORIZED BY COURT ORDER. IN THE DISCRETION OF THE CLERK, THE CONFIDENTIAL VICTIM INFORMATION FORM MAY BE MAINTAINED EITHER IN PAPER OR ELECTRONIC FORMAT. IF THE FORM IS MAINTAINED ELECTRONICALLY, THE CLERK IS AUTHORIZED TO DESTROY ANY PAPER VERSION. UNLESS THE COURT ORDERS OTHERWISE, ANY DOCUMENT FILED WITH THE COURT SHALL REFER TO THE VICTIM BY VICTIM IDENTIFIER AND NOT REFER TO THE VICTIM BY THE VICTIM'S FULL TRUE FULL NAME.

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3. IF A DOCUMENT CONTAINING THE VICTIM'S TRUE FULL NAME IS FILED WITH A COURT, ANY PARTY, THE VICTIM OR THEIR ATTORNEY MAY MOVE FOR AN ORDER SEALING THE DOCUMENT OR REPLACING IT WITH AN MATERIALLY IDENTICAL DOCUMENT SUBSTITUTING THE VICTIM IDENTIFIER FOR THE VICTIM'S TRUE FULL NAME.

4. IF A PROCEEDING IS ELECTRONICALLY RECORDED AND CONTAINS A VICTIM'S NAME, ANY PARTY, THE VICTIM OR THEIR ATTORNEY MAY MOVE FOR AN ORDER SEALING THE ELECTRONIC RECORD. ANY ELECTROINIC RECORDING SEALED PURSUANT TO THIS PROVISION SHALL REMAIN AVAILABLE TO THE ATTORNEYS OF RECORD IN THE CASE BUT SHALL REMAIN CONFIDENTIAL. THE ATTORNEYS MAY USE THE ELECTRONIC RECORDING IN ANY FURTHER COURT PROCEEDINGS INCLUDING AN APPEAL, BUT SHALL NOT FURTHER DISSEMINATE ANY RECORDING SEALED PURSUANT TO THIS PROVISION ABSENT A COURT ORDER ALLOWING FOR THE FURTHER DISSEMINATION. **

5. FOR PURPOSES OF THIS RULE, "VICTIM IDENTIFIER" MEANS A VICTIM'S INITIALS, A PSEUDONYM, OR OTHER SUBSTITUTE FOR THE VICTIM'S TRUE FULL NAME.

6. A CONFIDENTIAL VICTIM INFORMATION FORM SUBSTANTIALLY SIMILAR TO FORM _____, (ATTACHED SAMPLE FORM) SHALL BE USED.

7. THE VICTIM MAY WAIVE THE REQUIREMENTS OF THIS RULE BY NOTIFYING THE COURT AND PROSECUTOR'S OFFICE IN WRITING, IN WHICH THE VICTIM CONSENTS TO THE USE OR RELEASE OF THEIR TRUE FULL NAME IN COURT RECORDS.

****COMMENT**

1. Rule 2.3(C)(4). Pursuant to case law, to seal any court records, the court must make specific findings that sealing the record is justified by identified compelling interests that outweigh the public interest in access to the court record. The findings should include the following:

- (A) There exists a compelling interest that overcomes the right of public access to the record;
- (B) The compelling interest supports sealing the record;
- (C) A substantial probability exists that the compelling interest will be prejudiced if the record is not sealed;
- (D) The proposed sealing is narrowly tailored; and
- (E) No less restrictive means exist to achieve the compelling interest.

2. Nothing in this rule prevents the court from acting on a motion, to seal, unseal or redact records in the case which may identify the victim, such as a victim impact statement or a letter from the victim submitted for sentencing purposes.

Rule 34. Transfer for Criminal Prosecution

A. Initiation. If, in the opinion of the prosecutor, the juvenile is not a proper person over whom the juvenile court should retain jurisdiction, the prosecutor may file a motion with the clerk of the court requesting that the juvenile court waive jurisdiction and order the transfer of the juvenile to the appropriate court for criminal prosecution.

B. Motion and Complaint. A copy of the motion for transfer shall be accompanied by a criminal complaint which clearly designates the offense or offenses for which transfer is sought. The motion and complaint shall be filed with the clerk of the court.

1. Amendment to Complaint. Upon motion by the prosecutor, the court may amend the petition at any time before the transfer decision is made to conform to the evidence, but the juvenile shall not be transferred or held to answer for an offense different from the offense for which probable cause was found at the transfer hearing.

C. SUBSTITUTE VICTIM INFORMATION.

1. IN ANY CASE IN WHICH THE DEFENDANT IS CHARGED WITH AN OFFENSE LISTED IN A.R.S. TITLE 13, CHAPTER 14, 32, 35 OR 35.1 AND IN A CASE IN WHICH THE VICTIM WAS A JUVENILE AT THE TIME OF THE OFFENSE, THE FILING PARTY SHALL SUBSTITUTE THE VICTIM'S TRUE FULL NAME WITH A VICTIM IDENTIFIER DESIGNATED BY THE PROSECUTING AGENCY. THE PROSECUTING AGENCY SHALL RECORD THE TRUE FULL NAME AND THE VICTIM IDENTIFIER ON A SEPARATE CONFIDENTIAL VICTIM INFORMATION FORM WHICH SHALL BE FILED WITH THE CHARGING DOCUMENT AND MAINTAINED BY THE CLERK AS A CONFIDENTIAL RECORD. THE CONFIDENTIAL VICTIM INFORMATION FORM SHALL ONLY BE AVAILABLE TO THE STATE, VICTIM, DEFENDANT, COURT PERSONNEL, PROBATION DEPARTMENT, AND ANY PERSON OR AGENCY AUTHORIZED BY COURT ORDER. IN THE DISCRETION OF THE CLERK, THE CONFIDENTIAL VICTIM INFORMATION FORM MAY BE MAINTAINED EITHER IN PAPER OR ELECTRONIC FORMAT. IF THE FORM IS MAINTAINED ELECTRONICALLY, THE CLERK IS AUTHORIZED TO DESTROY ANY PAPER VERSION. UNLESS THE COURT ORDERS OTHERWISE, ANY DOCUMENT FILED WITH THE COURT SHALL REFER TO THE VICTIM BY VICTIM IDENTIFIER AND NOT REFER TO THE VICTIM BY THE VICTIM'S FULL TRUE FULL NAME.

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CHANGED, THE PROSECUTOR SHALL FILE AN UPDATED CONFIDENTIAL VICTIM INFORMATION FORM.

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4. IF A PROCEEDING IS ELECTRONICALLY RECORDED AND CONTAINS A VICTIM'S NAME, A PARTY, THE VICTIM OR THE VICTIM'S ATTORNEY MAY FOR GOOD CAUSE MOVE FOR AN ORDER SEALING THE ELECTRONIC RECORD OR A PORTION THEREOF. ANY ELECTRONIC RECORDING SEALED PURSUANT TO THIS PROVISION SHALL REMAIN AVAILABLE TO THE ATTORNEYS OF RECORD IN THE CASE. THE ELECTRONIC RECORDING MAY BE USED IN ANY FURTHER COURT PROCEEDINGS INCLUDING AN APPEAL, BUT SHALL NOT BE FURTHER DISSEMINATED WITHOUT A COURT ORDER. **

5. FOR PURPOSES OF THIS RULE, "VICTIM IDENTIFIER" MEANS A VICTIM'S INITIALS, A PSEUDONYM, OR OTHER SUBSTITUTE FOR THE VICTIM'S TRUE FULL NAME.

6. A CONFIDENTIAL VICTIM INFORMATION FORM SUBSTANTIALLY SIMILAR TO FORM _____, (ATTACHED SAMPLE FORM) SHALL BE USED.

7. THE VICTIM MAY WAIVE THESE PROTECTIONS BY NOTIFYING THE COURT OR COUNTY ATTORNEY'S OFFICE IN WRITING, IN WHICH THE VICTIM CONSENTS TO THE USE OR RELEASE OF THEIR FULL NAME IN COURT RECORDS.

¶D. Service. Copies of the motion and complaint shall be served pursuant to Rule 15. An amended complaint shall be served upon the parties in the same manner as the original motion and complaint.

D. through F. [renumber]

Rule 106. Briefing, Consideration and Disposition in the Court of Appeals

(A) ARCAP 13 and 14 shall apply in appeals from final orders of the juvenile court, except that (1) briefs shall be stapled or otherwise securely fastened in the upper left corner and need not have covers;

(2) a principal brief prepared in a proportionately spaced typeface may not exceed 7,000 words, and a reply brief so prepared may not exceed 3,500 words; and

(3) a principal brief prepared in a monospaced typeface may not exceed 20 pages, and a reply brief so prepared may not exceed 10 pages.

The word and page limits specified in this subsection do not include the table of contents, table of citations, certificate of service, certificate of compliance, and any appendix. The appellate court may strike a brief that does not substantially conform to the requirements of this rule.

(B) ARCAP 15 shall apply in appeals from final orders of the juvenile court, except that

(1) appellant's opening brief shall be filed with the clerk of the court of appeals within 20 days after the mailing of the notice required by Rule 105(e);

(2) each appellee shall file an answering brief with the clerk of the court of appeals within 20 days after service of the appellant's opening brief;

(3) appellant may file a reply brief within 10 days after service of appellee's answering brief, or appellant may file a notice stating that no reply brief will be filed; and

(4) the appeal will be deemed “at issue” upon the filing of the reply brief, upon the filing of a notice that no reply brief will be filed, or 10 days after service of the answering brief, whichever first occurs.

(C) ARCAP 16 shall apply in appeals from final orders of the juvenile court, except that briefs amicus curiae shall be stapled or otherwise securely fastened in the upper left corner and need not have covers. A brief amicus curiae shall not exceed 6,000 words if prepared in a proportionately spaced typeface or 18 pages if prepared in a monospaced typeface, exclusive of pages containing the table of contents, the table of citations, certificate of service, certificate of compliance, and any appendix.

(D) ARCAP 19 shall apply in appeals from final orders of the juvenile court, except that a party's petition for transfer of the appeal to the supreme court shall be filed on or before the earlier of the date the reply brief is due or filed.

(E) APPELLATE BRIEFS SHALL USE A VICTIM IDENTIFIER, AS DEEMED APPROPRIATE BY THE COURT, IN PLACE OF THE VICTIM'S NAME IN ANY CASE IN WHICH THE JUVENILE IS CHARGED WITH AN OFFENSE LISTED IN A.R.S. TITLE 13, CHAPTER 14, 32, 35 OR 35.1 AND IN ANY CASE IN WHICH THE VICTIM WAS A JUVENILE AT THE TIME OF THE OFFENSE. FOR PURPOSES OF THIS RULE, “VICTIM IDENTIFIER” MEANS A VICTIM'S INITIALS, A PSEUDONYM, OR OTHER SUBSTITUTE FOR THE VICTIM'S TRUE FULL NAME.

(E) through (G) [renumber]

Rule 107. Petition for Review

(A) Any party may, within 30 days after the clerk of the court of appeals has given notice that a decision or final order disposing of the appeal has been rendered, file with the clerk of the court of appeals a petition for review of the case by the supreme court. No motion for reconsideration in the court of appeals shall be permitted. A cross-petition for review may be filed with the clerk of the supreme court within 15 days after service of a petition for review.

(B) The petition for review and cross-petition for review shall be bound or fastened and shall comply with ARCAP 6(c). The parties shall be designated as in the court of appeals.

A copy of the decision of the court of appeals shall be attached to the petition. Except by permission of the court, (1) a petition for review or cross-petition prepared in a proportionately spaced typeface may not exceed 3,500 words, including footnotes and quotations; (2) a petition for review or cross-petition prepared in a monospaced typeface may not exceed 10 pages and may not exceed an average of 350 words per page, including footnotes and quotations; and (3) a handwritten petition for review or cross-petition may not exceed 12 pages. The petition or cross-petition shall be accompanied by a certificate of compliance that states either (1) that the petition or cross-petition uses a proportionately spaced typeface of 14 points or more, is double spaced using a roman font, and contains [blank] words, or (2) that the petition or cross-petition uses a monospaced typeface of no more than 10.5 characters per inch and does not exceed 10 pages, or (3) that the petition or cross-petition was handwritten and does not exceed 12 pages.

The petition for review or cross-petition shall contain concise statements of the following:

1. The issues that were decided by the court of appeals and that the petitioner wishes to present to the supreme court for review. The petitioner shall also list, separately and without argument, any

additional issues that were presented to but not decided by the court of appeals and may need to be decided if review is granted.

2. The facts material to a consideration of the issues presented to the supreme court for review with appropriate references to the record on appeal. No evidentiary matter shall be included unless material to a proper consideration of the issues presented, in which instance a reference shall be made to the record or page of the certified transcript where such evidence appears.

3. The reasons why the petition should be granted, which may include, among others, the fact that no Arizona decision controls the point of law in question, that a decision of the supreme court should be overruled or qualified, that conflicting decisions have been rendered by the court of appeals, or that important issues of law have been incorrectly decided.

4. PETITIONS FOR REVIEW SHALL USE A VICTIM IDENTIFIER IN PLACE OF THE VICTIM'S NAME IN ANY CASE IN WHICH THE JUVENILE WAS CHARGED WITH AN OFFENSE LISTED IN A.R.S. TITLE 13, CHAPTER 14, 32, 35 OR 35.1 AND IN ANY CASE IN WHICH THE VICTIM WAS A JUVENILE AT THE TIME OF THE OFFENSE. FOR PURPOSES OF THIS RULE, "VICTIM IDENTIFIER" MEANS A VICTIM'S INITIALS, A PSEUDONYM, OR OTHER SUBSTITUTE FOR THE VICTIM'S TRUE FULL NAME.

~~4.~~ 5. If the record on appeal contains documents that are necessary for a determination of the issues raised by the petition or cross-petition, the petitioner or cross-petitioner shall file, simultaneously with a copy of the petition or cross-petition, an appendix that contains only those documents. If the appendices exceed 15 pages in length, they shall be bound or fastened together separately from the petition and attached the copy of the decision of the court of appeals or from the cross-petition. An original and two copies of any separately bound or fastened appendices shall be filed with the petition or cross-petition.

The clerk of the appellate court may in his or her discretion return to the petitioner or cross-petitioner any petition for review or cross-petition for review presented for filing that does not substantially comply with this rule. The clerk of the appellate court shall include with the returned petition written instructions to the petitioner or cross-petitioner to file a proper petition or cross-petition within 30 days from the date on which the clerk of the appellate court mails the written instructions to the petitioner or cross-petitioner.

(C) through (J) [no changes]

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

COUNTY OF _____

THE STATE OF ARIZONA,)
)
 Plaintiff,)
)
 vs.)
)
 _____,)
)
 Defendant)
 _____)

Case No. _____

CONFIDENTIAL VICTIM INFORMATION FORM

Victim True Full Name: _____

Victim Identifier: (initials, minor relative, minor relative #2, pseudonym)

Victim's Attorney, if any:

This confidential information form will not be made part of the Court's public record.