

1 Honorable Barbara Rodriguez Mundell
2 Presiding Judge
3 Superior Court in Maricopa County
4 125 W. Washington St.
5 Phoenix, AZ 85003
6 (602) 506-6130

7 In the Matter of PETITION TO AMEND
8 RULE 8.4, ARIZONA RULES OF
9 CRIMINAL PROCEDURE, ADD RULE
10 27.12 AND 40, ARIZONA RULES OF
11 CRIMINAL PROCEDURE

12 Supreme Court No. R-07-0006
13 COMMENT OF THE MARICOPA
14 COUNTY SUPERIOR COURT ON THE
15 PETITION TO AMEND RULE 40 –
16 OPPOSITION TO SUBSECTION (f).

17 The Presiding Judge of the Superior Court in Maricopa County files the following
18 comment pursuant to Rule 28, Arizona Rules of the Supreme Court, regarding Petition
19 R-07-0006, specifically concerning adding Rule 40, subsection (f), Ariz.R.Crim.Proc.,
20 relating to mandating the court to order the adult or juvenile probation department to
21 conduct a transfer investigation and make a written report not less than five days prior
22 to the transfer hearing.

23 The Rule is intended to implement the requirements of SB 1628. Subsection (f)
24 of proposed Rule 40 is designed to assist the court in following the requirements of
25 A.R.S. § 13-501.01(D), which requires the court to consider 10 factors in “determining
26 whether the public safety and the juvenile’s rehabilitation, if adjudicated delinquent,
27 would be served by the transfer.” The proposed rule requires either the adult or juvenile
28 probation department to conduct a pre-transfer hearing investigation and submit a
report to the court.

The SB 1628 Implementation Committee for Maricopa County, which included
representation of the various stakeholders, reached consensus and made
recommendations on implementation of the new law. The committee did not
recommend requiring the probation department to conduct a pre-hearing investigation
and make a report. Both the Maricopa County Attorney’s Office and Public Defender’s
Office have filed objections to the provisions of proposed subsection (f).

