

SUPREME COURT OF ARIZONA

In the Matter of	)	Arizona Supreme Court
	)	No. R-17-0002
ARIZONA RULES OF CRIMINAL	)	
PROCEDURE	)	
	)	
	)	FILED 12/13/2017
	)	
_____	)	

**FIFTH ORDER
AMENDING 8/31/17 ORDER**

On August 31, 2017, this Court entered an order adopting, effective January 1, 2018, an amended and restyled revision of the Arizona Rules of Criminal Procedure. Having discovered that certain provisions of current Rule 26.12(c) were inadvertently omitted in the amended and restyled version of the rule appearing in Attachment A to the order,

IT IS ORDERED that, effective January 1, 2018, the amended and restyled Rule 26.12 shown in Attachment A is hereby amended in accord with the attachment to this order.

DATED this 13th day of December, 2017.

_____/s/_____
SCOTT BALES
Chief Justice

TO:

Hon. Joseph C. Welty
Hon. David L. Mackey
Elizabeth B. Ortiz
Dominic Emil Draye
David K. Byers
Hon Ronald S. Reinstein
Hon Juan Pablo Guzman
Mark C. Faull
Jon M. Sands
Jennifer Y. Garcia
Alexandra LeClair
Ellen Hoecker
Charlotte G Merrill
Amy Armstrong
Emily Skinner
Colleen Clase
Jessica Gattuso
Eric Aiken
Bill V. Amato
Beverly J Rudnick

ATTACHMENT

**(Amendments to Attachment A of the 8/31/17 Order for R-17-0002
are shown by underscoring and deletions by ~~strikeouts~~)**

Rule 26.12. Defendant's Compliance with Monetary and Non-Monetary Terms of a Sentence.

* * *

(c) Failure to Pay a Monetary Obligation or to Comply with Court Orders.

- (1) *Defendants Not on Supervised Probation.*** If a defendant who is not on supervised probation fails to pay a fine, restitution, or other monetary obligation, or fails to comply with any other term or condition of sentence within the prescribed time, the court must promptly notify the State.
- (2) *Defendants on Supervised Probation.*** If a defendant who is on supervised probation fails to pay a fine, restitution, or other monetary obligation, or fails to comply with any other term or condition of probation within the prescribed time, the court must promptly notify the defendant's probation officer.
- (3) *Court Action upon Failure of a Defendant to Pay a Fine, Restitution, or Other Monetary Obligation or to Comply with Court Orders.*** If the defendant fails to timely pay a fine, restitution, or other monetary obligation, or otherwise fails to comply with a court order, and fails to respond to a court notice informing the defendant of the consequences and resolution options, the court may issue an arrest warrant or a summons and require the defendant to show cause why he or she should not be held in contempt ~~for nonpayment~~. The court must issue a summons unless there is reason to believe a warrant is required to secure the defendant's appearance. A prosecutor who requests a warrant, or a judge who orders a warrant, must state the reasons for the issuance of a warrant rather than a summons.
- (4) *Incarceration for Contempt.*** If the court finds the defendant in contempt for failure to pay a monetary obligation or failure to comply with a court order, before ordering the defendant incarcerated for contempt, the court must determine that no reasonable measures other than incarceration are adequate to meet the State's interests and permit the defendant a reasonable period of time to pay the obligation in full or make other payment arrangements.