

Michael K. Jeanes, Clerk of Court
Superior Court in Maricopa County
601 W. Jackson St.
Phoenix, AZ 85003
(602) 506-7772

IN THE SUPREME COURT STATE OF ARIZONA

In the Matter of **AMENDED** PETITION)
TO AMEND RULE 123, RULES OF THE)
SUPREME COURT OF ARIZONA, RULE 2.3)
ARIZONA RULES OF CRIMINAL)
PROCEDURE and RULE 5, ARIZONA)
RULES OF CIVIL PROCEDURE)
_____)

Supreme Court No. R-08-0039

**AMENDED PETITION TO AMEND VARIOUS RULES
RELATING TO ACCESS TO JUDICIAL RECORDS**

Pursuant to this court’s order of January 16, 2009, Petitioner Michael K. Jeanes, Chair of the Supreme Court Rule 123 and Data Dissemination Advisory Committee (“committee”), respectfully submits this Amended Petition and requests this court adopt the revised, proposed amendments to Rule 123, Rules of the Supreme Court of Arizona, Rule 2.3 of the Arizona Rules of Criminal Procedure, and Rule 5 of the Arizona Rules of Civil Procedure attached as Appendix A.

BACKGROUND AND SUMMARY OF THE AMENDED, PROPOSED AMENDMENTS TO RULES

In January 2009, Petitioner filed a Petition to Amend Rule 123, Rules of the Supreme Court of Arizona, Rule 2.3 of the Arizona Rules of Criminal Procedure, and Rule 5 of the Arizona Rules of Civil Procedure and asked that the deadline for comment set forth in Rule 28(D), Rules of the Supreme Court of Arizona, be modified. This court granted Petitioner's request for a modified comment period, ordering initial comments to the petition to be filed by April 1, 2009 and further authorizing Petitioner to submit an Amended Petition by May 8, 2009 to address the comments, as necessary. The committee met in April to review all comments filed in this matter and elected to revise its originally proposed amendments to the rules at issue. The attached Appendix A incorporates the committee's responses to those comments.

The revisions set forth in Appendix A are generally made for improved clarity and consistency of the originally proposed rule amendments. More specifically, the amendments define the terms "Public Purpose Organization," "Remote Electronic Access," and "Remote Electronic Access User Records;" remove vague language from the definition of "Sensitive Data" which could have proved difficult to interpret; clarify the procedure for review of a denial of access to records, bulk data, or compiled data; authorize remote electronic access to case records by federal, state, tribal, and local governmental entities necessary to carry out a particular governmental or public purpose responsibility as set forth in a memorandum of understanding between the entity or organization and the custodian; broaden the categories of case records available by remote electronic access by including petty offenses and certain actions instituted by a county to enforce an ordinance; clarify the method by which fees for access shall be

established; expand and clarify the process by which data errors or omissions can be corrected; clarify that a custodian may contract with a private company or public organization to provide specialized bulk or compiled data reports to those who request them; and authorize the release of a complete date of birth in bulk data (instead of month and year of birth, only).

With regard to the amended, proposed changes to Rule 5(f), Arizona Rules of Civil Procedure, the committee expressed particular interest in the comment filed by the State Bar of Arizona regarding the ambiguity of certain terms in the originally proposed changes to Rule 5(f). Specifically, the State Bar expressed concern with the committee's original proposal that counsel, the parties, or any other filer must refrain from including a juvenile victim's name and a victim's address, telephone number and other locating information in civil pleadings. The State Bar argued that the terms "victim" and "other locating information" were ambiguous and were not defined in the Arizona Rules of Civil Procedure, thus making compliance with this requirement difficult. The State Bar also argued that a potential victim's address may be required in routine civil filings, again making compliance with a requirement that this information not be included in civil filings difficult. The committee agreed that requiring this information to be kept out of civil filings would be difficult to implement and further reasoned that the proposed amendments to Rule 123(g)(1)(C)(ii)(h) and Criminal Rule 2.3(B) adequately address the committee's primary concern of keeping documents out of the remote electronic access to case records system when a juvenile is alleged to be the victim of a sexual assault crime. Therefore, the committee elected to remove the proposed requirement that a filer refrain from including a juvenile victim's name and a victim's address, telephone number and other locating information in civil pleadings. For the same reasons, the committee also removed these terms from the definition of "sensitive data" appearing in the amendment to Rule 123(b)(18).

Petitioner requests this court adopt the attached, proposed amendments to Rule 123 of the Rules of the Supreme Court of Arizona, Rule 2.3 of the Arizona Rules of Criminal Procedure, and Rule 5 of the Arizona Rules of Civil Procedure.

RESPECTFULLY SUBMITTED this _____ of April, 2009:

By _____
Michael K. Jeanes, Clerk of Court