

Arizona Supreme Court

Rule 28 Petition

R-25-0045

RULES 2.4,3.1,3.2,4.1,4.2,41, CRIMINAL PROCEDURE

Appellate Case Information

Case Filed: 18-Jul-2025

Case Closed:

Dept/Composition

Side 1. RULES 2.4, 3.1, 3.2, 4.1, 4.2, AND 41, RULES OF CRIMINAL PROCEDURE, Other

(Litigant Group) PETITIONER: DAVID K. BYERS

• David K Byers, Administrative Office of the Courts, Petitioner

(Litigant Group) COMMENTOR: MARICOPA COUNTY SUPERIOR COURT

• Maricopa County Superior Court, Commentor

Attorneys for: Other

Dennis D Carpenter, Jr, Esq. (AZ Bar No. 19422)

CASE STATUS

Aug 28, 2025...Continued

Jul 18, 2025.....Pending

11 PROCEEDING ENTRIES

1. 18-Jul-2025 FILED: Petition to Amend Rules 2.4, 3.1, 3.2, 4.1, 4.2, and 41, Forms 29a) and (b) of the Rules of Criminal Procedure (Petitioner David K. Byers, Administrative Office of the Courts, Administrative Director)

2. 21-Jul-2025 On July 18, 2025, David K. Byers, Administrative Director of the Administrative Office of the Courts ("AOC"), filed a rule petition on AOC's behalf to amend Rules 2.4, 3.1, 3.2, 4.1, 4.2, and 41 (Forms 2(a) and (b)) of the Rules of Criminal Procedure. The proposed amendments are mainly intended to implement recent legislation amending A.R.S. § 13-3897, which relates to arrest warrants. The petition also proposes two minor amendments to Rule 4.2 to correct inaccurate cross-references in two subparts of the rule.

To ensure that the Court considers and acts on the proposed amendments before the recent legislation goes into effect in late September 2025, Petitioner further requests that the petition be given expedited consideration under Rule 28(h)(1), Rules of the Supreme Court of Arizona, and be adopted on an emergency basis under Rule 28(h)(2) of the same rules. Upon consideration,

IT IS ORDERED granting the request to consider this petition on an expedited basis.

IT IS FURTHER ORDERED that during its August 2025 Rules Agenda, the Court will consider whether to adopt on an emergency basis the proposed amendments to Rules 2.4, 3.1, 3.2, 4.1, 4.2, and 41 (Forms 2(a) and (b)) of the Rules of Criminal Procedure. If it does, the Court will consider whether to adopt the rule amendments on a permanent basis during its November 2025 Rules Agenda. If it decides not to adopt the proposed rule amendments on an emergency basis, the Court will decide whether to adopt them on a non-emergency basis during its November 2025 Rules Agenda.

IT IS FURTHER ORDERED that this petition is opened for public comment under Rule 28(c), Rules of the Supreme Court of Arizona, with all comments due no later than October 1, 2025, and any reply due no later than October 15, 2025.

The petition may be viewed by going to: http://www.azcourts.gov/Rules-Forum. This opens the "Welcome" page. Petitions are posted under the appropriate body of rules (such as the "Rules of Criminal Procedure," which applies here), which can be found by scrolling down the page.

For instructions on how to post comments electronically, click on https://www.azcourts.gov/rules/Forum-FAQ at the top of the "Forum FAQ" page and then "How do I file a comment on a Rule 28 petition?"

Alternatively, commenters may submit comments by filing an original and one paper copy of the comment and one electronic copy of the written comments and supporting documents in Microsoft Word format on a CD or other compatible electronic medium with the Clerk of the Supreme Court, 1501 West Washington St., Room 402, Phoenix, AZ 85007 in an envelope marked "Rule Comment."

Any person filing a comment must send a copy of the comment to the Petitioner electronically or by ordinary mail. (Hon. Ann A. Scott Timmer)

3. 26-Aug-2025 FILED: Comment of the Superior Court in and for Maricopa County on the Petition to Amend the Rules of Criminal Procedure (Maricopa County Superior Court by Dennis D. Carpenter, Jr., General Counsel)

Arizona Supreme Court

Rule 28 Petition

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RULES 2.4,3.1,3.2,4.1,4.2,41, CRIMINAL PROCEDURE

11 PROCEEDING ENTRIES

4. 26-Aug-2025 WOULD AMEND RULES 2.4, 3.1, 3.2, 4.1, 4.2, AND 41 (FORMS 2(A) AND (B)) OF THE RULES OF CRIMINAL PROCEDURE TO IMPLEMENT RECENT LEGISLATION REGARDING ARREST WARRANTS AND TO CORRECT AN INACCURATE CROSS-REFERENCE
- ORDERED: Petition to Amend Rules 2.4, 3.1, 3.2, 4.1, 4.2, and 41, Forms 2(a) and (b) of the Rules of Criminal Procedure = ADOPTED as modified on an emergency basis, effective September 26, 2025.
- FURTHER ORDERED: The Court will decide whether to adopt the rule amendments on a permanent basis during its November 2025 Rules Agenda.
5. 28-Aug-2025 On July 18, 2025, David K. Byers, Administrative Director of the Administrative Office of the Courts ("AOC"), filed a rule petition on AOC's behalf to amend Rules 2.4, 3.1, 3.2, 4.1, 4.2, and 41 (Forms 2(a) and 2(b)) of the Rules of Criminal Procedure. Having considered the petition and one comment having been received,
- IT IS ORDERED that pursuant to Rule 28(h)(2) of the Rules of the Supreme Court of Arizona, Rules 2.4, 3.1, 3.2, 4.1, 4.2, and 41 (Forms 2(a) and 2(b)) of the Rules of Criminal Procedure are amended on an emergency basis in accordance with Attachments A and B to this order, effective September 26, 2025.
- IT IS FURTHER ORDERED that, consistent with the Court's July 21, 2025, order, the Court will consider whether to adopt the rule amendments on a permanent basis during its November 2025 Rules Agenda. (Hon. Ann A. Scott Timmer)
6. 1-Oct-2025 FILED: Amended Petition and Request to Extend Comment and Reply Period (Petitioner David K. Byers, Administrative Director, Administrative Office of the Courts)
7. 2-Oct-2025 On August 28, 2025, this Court entered an order amending on an emergency basis Rules 2.4, 3.1, 3.2, 4.1, 4.2 and 41 (Forms 2(a) and 2(b)) of the Rules of Criminal Procedure. In an earlier order entered on July 21, 2025, the Court opened the underlying petition for public comment until October 1, 2025.
- On October 1, 2025, Petitioner filed an Amended Petition and Request to Extend Comment and Reply Period. As the Amended Petition acknowledges, the proposed amendments set forth in the Amended Petition differ substantially from those proposed in Petitioner's initial petition. They include not only additional changes to the Rules of Criminal Procedure but also a proposed amendment to the Rule 123 of the Rules of the Supreme Court of Arizona. Because of these changes, the Petitioner requests the Court to extend the comment period until October 14, 2025, with any reply due no later than October 20, 2025.
- The Court's July 21, 2025 order contemplated that if the Court adopted the initially proposed amendments on an emergency basis during the August 2025 Rules Agenda, it would consider whether to adopt the amendments on a permanent basis during the November 2025 Rules Agenda. The public, however, has not had a meaningful opportunity to review and comment on the Amended Petition's proposed amendments and a two-week extension of the comment period would not remedy that problem. To address that issue, the Court will not consider adopting the proposed amendments on a permanent basis during its November 2025 Rules Agenda and will instead adopt a different schedule to ensure the public has the full opportunity to comment on the proposed amendments before any of them are adopted permanently. Accordingly,
- IT IS ORDERED extending the comment period from October 1, 2025, to October 23, 2025, with any reply due no later than October 30, 2025.
- IT IS FURTHER ORDERED that during its November 2025 Rules Agenda, the Court will consider whether to adopt on an emergency basis the proposed rule amendments set forth in the Amended Petition. If it does, the Court will reopen the public comment period and consider whether to adopt the proposed rule amendments on a permanent basis during its August 2026 Rules Agenda. If it decides not to adopt the proposed rule amendments on an emergency basis, the Court will reopen the public comment period in January 2026 and decide whether to adopt the proposed rule amendments on a non-emergency basis during its August 2026 Rules Agenda.
- The petition and Amended Petition may be viewed by going to: <http://www.azcourts.gov/Rules-Forum>. This opens the "Welcome" page. Petitions are posted under the appropriate body of rules (such as the "Rules of Criminal Procedure"), which can be found by scrolling down the page.
- For instructions on how to post comments electronically, click on <https://www.azcourts.gov/rules/Forum-FAQ> at the top of the "Forum FAQ" page and then "How do I file a comment on a Rule 28 petition?"
- Alternatively, commenters may submit comments by filing an original and one paper copy of the comment and one electronic copy of the written comments and supporting documents in Microsoft Word format on a CD or other compatible electronic medium with the Clerk of the Supreme Court, 1501 West Washington St., Room 402, Phoenix, AZ 85007 in an envelope marked "Rule Comment."
- Any person filing a comment must send a copy of the comment to the Petitioner electronically or by ordinary mail. (Hon. Ann A. Scott Timmer)
8. 23-Oct-2025 FILED: Comment of the Superior Court in and for Maricopa County on the Amended Petition to Amend the Rules of Criminal Procedure (Maricopa County Superior Court by Dennis D. Carpenter, Jr., General Counsel)

Arizona Supreme Court

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RULES 2.4,3.1,3.2,4.1,4.2,41, CRIMINAL PROCEDURE

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| 9. | 30-Oct-2025 | FILED: Reply (Petitioner David K. Byers, Administrative Director, Administrative Office of the Courts) |
| 10. | 26-Nov-2025 | WOULD AMEND RULES 2.4, 3.1, 3.2, 4.1, 4.2, AND 41 (FORMS 2(A) AND (B)) OF THE RULES OF CRIMINAL PROCEDURE TO IMPLEMENT RECENT LEGISLATION REGARDING ARREST WARRANTS AND TO CORRECT AN INACCURATE CROSS-REFERENCE |

ORDERED: Amended Petition and Request to Extend Comment and Reply Period = Amendments to Rule 4.2 and Forms 2(a) and 2(b) of the Rules of Criminal Procedure ADOPTED on a permanent basis, effective immediately upon the order's filing.

FURTHER ORDERED: Proposed new Rule 2.7 of the Rules of Criminal Procedure, new Forms 2(c) and 2(d) of the same rules, amendments to Rules 2.4, 3.1, 3.2, 3.3, 4.1, and 41, of the same rules and amendments to Rule 123 of the Rules of the Supreme Court of Arizona ADOPTED as modified on an emergency basis, effective December 1, 2025.

FURTHER ORDERED: The emergency-adopted rules, amendments, and forms are opened for public comment on whether they should be adopted on a permanent basis, with all comments due no later than May 1, 2026, and any reply due no later than June 1, 2026.

FURTHER ORDERED: The Court will decide whether to adopt the emergency-adopted rules, amendments, and forms on a permanent basis during the August 2026 Rules Agenda.

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11 PROCEEDING ENTRIES

11. 26-Nov-2025 In July 2025, David K. Byers, Administrative Director of the Administrative Office of the Courts ("AOC"), filed a rule petition on AOC's behalf proposing amendments to Rules 2.4, 3.1, 3.2, 4.1, 4.2, and 41 (Forms 2(a) and 2(b)) of the Rules of Criminal Procedure. The proposed amendments' intent was to conform the rules to a recent statutory enactment, Senate Bill 1232, which amended provisions in A.R.S. § 13-3897 to authorize magistrates to issue arrest warrants without prior criminal charges being formally filed. The petition also proposed minor changes in Rule 4.2 to correct inaccurate cross-references to another subpart of the rule.
- Also in July 2025, the Court entered an order granting Petitioner's request for expedited consideration and opened the petition for public comment until October 1, 2025. The order also provided that the Court would consider whether to adopt the proposed amendments on an emergency basis during the August 2025 Rules Agenda.
- On August 28, 2025, after receiving one comment, the Court entered an order ("the August 28 order") adopting the proposed rule and form amendments on an emergency basis under Rule 28(h) of the Rules of the Supreme Court of Arizona, effective September 26, 2025 (the effective date of the underlying legislation). The order also provided that during the November 2025 Rules Agenda, the Court would consider whether to adopt the rule and form amendments on a permanent basis.
- The Court did not receive any additional comments on the petition by the October 1 deadline. However, on that day, the Petitioner submitted an Amended Petition proposing additional changes that differed substantially from those proposed in AOC's initial petition. It not only included additional proposed changes the rules identified in the initial petition, but also proposed a new, lengthy Rule 2.7, amendments to Criminal Procedure Rules 3.3 and 41, two new forms, and a new subpart to Rule 123 of the Rules of the Supreme Court of Arizona.
- In response to the new filing, the Court entered an order on October 2 ("the October 2 order") further extending the comment period until October 23. Further, rather than consider whether to adopt all the new and previously proposed rule amendments on a permanent basis during the November 2025 Rules Agenda, the order said that the Court would merely consider whether to adopt them on an emergency basis during that rules agenda. It further provided that irrespective of whether the Court adopted the rules on an emergency basis, it would reopen the petition for public comment through May 1, 2026 and consider the new rule and amendments again during its August 2026 Rules Agenda.
- Having considered the petition, Amended Petition, comments on both, and a reply,
- IT IS ORDERED that Rule 4.2 of the Rules of Criminal Procedure is amended on a permanent basis in accordance with Attachment A to this order, effective immediately upon this order's filing. The amendments to the rule are the same as those adopted on an emergency basis in the August 28 order, except a minor change was made in Rule 4.2(a)(8) to correct a typographical error that was made in the August 28 order (changing "Rule 72(b)(4)" to "Rule 7.2(b)(4)").
- IT IS FURTHER ORDERED that Forms 2(a) and 2(b) of Rule 41 of the Rules of Criminal Procedure are amended on a permanent basis in accordance with Attachment B of the August 28 order, effective immediately upon this order's filing.
- IT IS FURTHER ORDERED that new Rule 2.7 of the Rules of Criminal Procedure is adopted on an emergency basis and Rules 2.4, 3.1, 3.2, 3.3, 4.1, and 41 are amended on an emergency basis in accordance with Attachment B to this order, effective December 1, 2025. Attachment C to this order shows the changes the Court made to the rules that were adopted on an emergency basis in the Court's August 28 order.
- IT IS FURTHER ORDERED that Rule 123 of the Rules of the Supreme Court of Arizona is amended on an emergency basis in accordance with Attachment B to this order, effective December 1, 2025.
- IT IS FURTHER ORDERED that new Forms 2(c) and 2(d) of Rule 41 of the Rules of Criminal Procedure are adopted on an emergency basis in accordance with Attachment D to this order, effective December 1, 2025.
- IT IS FURTHER ORDERED that, consistent with this Court's October 2 order, the Court will consider during its August 2026 Rules Agenda whether to adopt on a permanent basis new Rule 2.7 and the amendments and forms shown in Attachments B and D.
- IT IS FURTHER ORDERED that the petition, Amended Petition, and the emergency-adopted Rule 2.7, amendments, and forms shown in Attachments B and D are reopened for public comment as to whether they should be adopted and amended on a permanent basis, with all comments due no later than May 1, 2026, and any reply due no later than June 1, 2026.
- The petition, Amended Petition, and this order may be viewed by going to: <http://www.azcourts.gov/Rules-Forum>. This opens the "Welcome" page. Petitions are posted under the appropriate body of rules (such as the "Rules of Criminal Procedure"), which can be found by scrolling down the page.
- For instructions on how to post comments electronically, click on <https://www.azcourts.gov/rules/Forum-FAQ> at the top of the "Forum FAQ" page and then "How do I file a comment on a Rule 28 petition?"
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- Any person filing a comment must send a copy of the comment to the Petitioner electronically or by ordinary mail. (Hon. Ann A. Scott Timmer)