

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-18-0035
RULE 15.3(a), RULES OF CRIMINAL)
PROCEDURE)
)
) **FILED 08/27/2019**
)
)
_____)

**ORDER
ADOPTING EMERGENCY AMENDMENT OF RULE 15.3(a), RULES OF CRIMINAL
PROCEDURE, ON A PERMANENT BASIS**

A petition having been filed on October 18, 2018 proposing to amend Rule 15.3(a) and requesting expedited consideration, and the Court having adopted the petition on an emergency basis by order dated October 24, 2018 with a public comment period to follow, and the Court having received two comments, upon consideration,

IT IS ORDERED adopting on a permanent basis the amendment to Rule 15.3(a), Rules of Criminal Procedure, in accordance with the Court's October 24, 2018 order, as shown in the attachment hereto.

DATED this 27th day of August, 2019.

_____/s/_____
ROBERT BRUTINEL
Chief Justice

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TO:
Rule 28 Distribution
Elizabeth B Ortiz
Hon Richard Weiss (ret.)
Michael R McVey

ATTACHMENT*

Rule 15.3. Depositions

(a) Availability. A party or a witness may file a motion requesting the court to order the examination of any person, except the defendant and ~~a victim~~ those excluded by Rule 39(b), by oral deposition under the following circumstances:

- (1) a party shows that the person's testimony is material to the case and that there is substantial likelihood that the person will not be available at trial; or
- (2) a party shows that the person's testimony is material to the case or necessary to adequately prepare a defense or investigate the offense, that the person was not a witness at the preliminary hearing or at the probable cause phase of the juvenile transfer hearing, and that the person will not cooperate in granting a personal interview; or
- (3) a witness is incarcerated for failing to give satisfactory security that the witness will appear and testify as a trial or hearing.

*Additions to text are indicated by underscoring; deletions by strikeouts.