

SUPREME COURT OF ARIZONA

In the Matter of

PETITION TO AMEND RULE 28,) Arizona Supreme Court
RULES OF PROCEDURE FOR THE) No. R-08-0019
JUVENILE COURT; AND TO AMEND)
RULE 7.3, ARIZONA RULES OF)
CRIMINAL PROCEDURE)
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ORDER

**Rules 23 and 28, Rules of Procedure for the Juvenile Court
Rule 7.3 and 7.5, Rules of Criminal Procedure**

IT IS ORDERED that Rules 23 and 28, Rules of Procedure for Juvenile Court, and Rules 7.3 and 7.5, Rules of Criminal Procedure, be amended in accordance with the attachment hereto, on an emergency basis pursuant to Rule 28(G), Rules of the Supreme Court, effective September 26, 2008.

IT IS FURTHER ORDERED that this matter shall be opened for comment in accordance with Rule 28(G)(2), Rules of the Supreme Court, until May 20, 2009.

DATED this ____ day of September, 2008.

Rebecca White Berch
Vice Chief Justice

TO:
Rule 28 Distribution

ATTACHMENT*

Rule 23. Detention and Probable Cause Hearing.

A. – F. [No change]

G. Revocation of Release; DNA Testing. Upon a verified petition by a juvenile probation officer supervising the juvenile, or by the prosecutor, stating facts or circumstances constituting probable cause to believe that a juvenile who has been ordered as a condition of release to provide a DNA sample pursuant to A.R.S. section 8-238 has not complied with that order, the court having jurisdiction over the juvenile shall issue a warrant or summons to secure the juvenile's presence in court. The court shall proceed in accordance with the requirements of this rule and A.R.S. section 8-238.

~~G.~~ H. Release to County Jail. [No change.]

~~H.~~ I. Review of Detention. [No change.]

Rule 28. Advisory Hearing.

A. – B. [No change]

B. Procedure. At the advisory hearing the court shall:

1 through 7. [No change.]

* Changes or additions in text are indicated by underlining and deletions from text are indicated by ~~strikeouts~~.

8. Set conditions of release, if any, and advise the juvenile that any violation of the terms and conditions of release may result in the issuance of a warrant for the arrest and detention of the juvenile. If the juvenile has been arrested for an offense listed in A.R.S. section 8-238 and the juvenile has been summoned to appear at an advisory hearing, the judicial officer shall order as a condition of release that the juvenile report within five days to the law enforcement agency that arrested the juvenile, or to the agency's designee, and submit to DNA testing. The judicial officer shall advise the juvenile that failure to comply with this order may result in arrest and detention for violation of a condition of release, as provided in Rule 23F.

9. [No change.]

C. Findings and orders. [No change.]

D. Disposition. [No change.]

Rule 7.3. Conditions of release.

a. Mandatory Conditions. Every order of release under this rule shall contain the following conditions:

(1) - (4) [No change]

(5) If a person charged with an offense listed in A.R.S. section 13-610(O)(3) has been summoned to appear in court, that the person report within five

days after release to the arresting law enforcement agency or its designee and submit biological substances for DNA testing as directed. The judicial officer shall advise the person that failure to comply with this order may result in arrest and confinement for violation of a condition of release, as provided in Rule 7.5 and A.R.S. 13-3967.

b. Additional conditions. [No change.]

Rule 7.5. Review of conditions; revocation of release.

a. – c. [No change]

d. Revocation of Release; DNA Testing. Upon a verified petition by the prosecutor stating facts or circumstances constituting probable cause to believe that a defendant who has been ordered as a condition of release to provide a DNA sample pursuant to A.R.S. section 13-3967(F)(4) has not complied with that order, the court having jurisdiction over the defendant shall issue a warrant or summons under Rule 3.2 to secure the defendant's presence in court. A copy of the petition shall be served with the warrant or summons. The court shall proceed in accordance with the requirements of this rule and A.R.S. section 13-3967(F)(4).