

IN THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 1587

Amending Criminal Rule 3
concerning minor offense
citations.

Adopting District Court Criminal
Rule 8.2 concerning electronic
citations in minor offense cases.

IT IS ORDERED:

Criminal Rule 3 is amended as follows:

Criminal Rule 3. The Complaint.

(a) The complaint is a written statement of the essential facts constituting the offense charged. A citation issued for the commission of a misdemeanor or a violation shall have the same force and effect as a complaint and shall be filed as a complaint; provided, that the citation satisfies the requirements of a valid complaint as provided by these rules. A complaint or citation shall be made upon oath or affirmation before any judge or magistrate, except that the following complaints and citations may be signed before any person authorized by law to administer oaths or affirmations, or signed with a certification under penalty of perjury that the complaint or citation is true:

(1) A citation for an minor offense as defined in District Court Criminal Rule 8(b)~~for which a bail forfeiture amount has been established by supreme court order or for which a fine amount has been established in a fine~~

~~schedule adopted by municipal ordinance under AS 28.05.151 or AS 29.25.070(a).~~

(2) A complaint or citation for a misdemeanor where arrest has been made without a warrant.

(3) A citation which the defendant has signed thereby promising to appear.

(b) A copy of the complaint shall be served upon the defendant at the time of service of the summons, and whenever practicable, upon execution of the warrant.

(c) The complaint shall include either the defendant's date of birth or driver's license number when such information is available prior to the filing of the complaint. Failure to include this information shall not be grounds for dismissal.

(d) **Crimes Involving Domestic Violence.** If a defendant is charged with an offense listed in AS 18.66.990, the complaint should indicate whether the prosecuting authority intends to claim that the alleged offense is a crime involving domestic violence as defined in AS 18.66.990(3) and (5).

2. The District Court Criminal Rules are amended to add new Rule 8.2 as follows:

Rule 8.2. Electronic Citations in Minor Offense Cases.

(a) Authorization for Filing Citations Electronically.

The administrative director may enter into an agreement with a law enforcement agency to allow the law enforcement agency to file citations charging minor offenses, as defined in District Court Criminal Rule 8(b), by transmitting data electronically rather than by filing paper citations. The administrative director may enter into an agreement if the law enforcement agency's systems and procedures assure that:

(1) the charging officer will issue a paper citation to the defendant in accordance with AS 12.25.190;

(2) a paper citation issued from an electronic device will contain the charging officer's electronic or digital signature as defined in AS 09.80.190;

(3) the court will have the ability to view an electronic version of the paper citation that the charging officer issued to the defendant, including the charging officer's electronic, digital, or handwritten signature;

(4) the agency has a written acknowledgement from each peace officer authorized to issue electronic

citations certifying that the officer understands that affixing an electronic or digital signature to a citation is the legally binding equivalent of signing a citation by hand, and that by affixing an electronic or digital signature, the officer intends to be bound by the signature;

(5) the agency employs policies that hold individual officers accountable and responsible for actions initiated under their electronic or digital signatures; and

(6) the agency employs adequate security procedures to verify that an electronic signature, record, or performance is that of a specific person and to detect changes or errors in the electronic records related to the citation.

(b) **Electronic Signature.** A charging officer's electronic or digital signature on a citation is the legally binding equivalent of the officer's handwritten signature and satisfies the requirement of Criminal Rule 3(a) that a citation for a minor offense must be signed with a certification under penalty of perjury that the citation is true.

DATED: November 29, 2005

EFFECTIVE DATE: December 15, 2005

/s/
Chief Justice Bryner

/s/
Justice Matthews

/s/
Justice Eastaugh

/s/
Justice Fabe

/s/
Justice Carpeneti