

IN THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 1829

Amending the Rules of Civil Procedure, the District Court Rules of Civil Procedure, the Rules of Criminal Procedure, the Minor Offense Rules, the Rules of Evidence, the Rules of Appellate Procedure, the Adoption Rules, the Child in Need of Aid Rules, the Delinquency Rules, the Rules of Probate Procedure, the Alaska Bar Rules, the Alaska Code of Judicial Conduct and the Rules of Administration to change the title “Magistrate” to “Magistrate Judge.”

IT IS ORDERED:

The Rules of Civil Procedure, the District Court Rules of Civil Procedure, the Rules of Criminal Procedure, the Minor Offense Rules, the Rules of Evidence, the Rules of Appellate Procedure, the Adoption Rules, the Child in Need of Aid Rules, the Delinquency Rules, the Rules of Probate Procedure, the Alaska Bar Rules, the Alaska Code of Judicial Conduct and the Rules of Administration are amended as shown in the attachment to change the term “Magistrate” to “Magistrate Judge.” These are technical changes that are not intended to affect the meaning of any rule.

Supreme Court Order No. 1829
Effective Date: October 15, 2014

DATED: June 25, 2014

EFFECTIVE DATE: October 15, 2014

/s/
Chief Justice Fabe

/s/
Justice Winfree

/s/
Justice Stowers

/s/
Justice Maassen

/s/
Justice Bolger

CIVIL RULES

Rule 53. Masters.

(a) **Appointment and Compensation.** The presiding judge of the superior court for each judicial district with the approval of the chief justice of the Supreme Court may appoint one or more standing masters for such district, and the court in which any action is pending may appoint a special master therein. As used in these rules the word "master" includes a referee, an auditor and an examiner, and a magistrate judge or a deputy magistrate. The compensation, if any, to be allowed to a master shall be fixed by the court, and shall be charged upon such of the parties or paid out of any fund or subject matter of the action which is in the custody and control of the court, as the court may direct. The master shall not retain the master's report as security for compensation; but when the party ordered to pay the compensation allowed by the court does not pay it after notice and within the time prescribed by the court, the master is entitled to a writ of execution against the delinquent party.

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(d) **Report.**

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(6) *Report of Magistrate Judge or Deputy Magistrate.* Where a magistrate judge or a deputy magistrate has been appointed a standing or special master for any purpose, the master's report shall include such findings of fact, transcript of evidence or proceedings and recommendations as may have been requested by the superior court in its order of reference.

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Rule 74. Books and Records Kept by Clerk and Entries Therein.

(f) **Use of Records by Court Officers.** If it is necessary for a judge, master, examiner, magistrate judge, or court reporter to use pleadings or other papers for purposes of the action or proceeding, at places other than the clerk's office, courtroom or judge's chambers, the same may be taken from the office of the clerk upon the delivery to the clerk of a receipt signed by the officer who desires the use of said papers.

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Rule 80. Bonds and Undertakings.

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(d) Justification of Sureties.

(1) *Information to Be Furnished.* Sureties on any bond or undertaking shall furnish such information as may be required by the judge or magistrate judge approving the same, upon forms provided by the clerk of court for such purpose.

(2) *Examination as to Sureties Qualifications.* Upon three days' notice to a party, an adverse party may require an individual surety or the agent of a corporate surety to be examined under oath concerning the surety's qualifications. Evidence as to such qualifications shall be taken before any judge or magistrate judge who shall have the authority to approve or reject the bond or undertaking.

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Rule 86. Habeas Corpus.

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(c) Writ – Order to Show Cause – Warrant.

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(2) *Issuance Without Application.* Any judicial officer may issue a writ of habeas corpus, or an order to show cause, sua sponte whenever it appears that any person is illegally restrained. A writ issued by a district court judge or magistrate judge is returnable before a judge of the superior court.

DISTRICT COURT CIVIL RULES

PART I. PROCEEDINGS BEFORE DISTRICT JUDGES AND MAGISTRATE JUDGES

Rule 1. Scope of Rules–Construction.

(a) Scope of Rules.

(1) **[Applicable to cases filed before August 7, 1997.]** The procedure in civil actions and proceedings before district judges and magistrate judges shall be governed by the rules governing the procedure in the superior court to the extent that such rules are applicable.

(1) **[Applicable to cases filed on or after August 7, 1997.]** The procedure in civil actions and proceedings before district judges and magistrate judges shall be governed by the rules governing the procedure in the superior court to the extent such rules are applicable. However, in a civil action for personal injury or property damage, unless otherwise agreed by all parties or permitted by order of the court in exceptional cases and for good cause shown, discovery shall be limited to the disclosures required under Civil Rule 26(a) and to the taking by each party of the deposition of one or more opposing parties and of one additional person who is not a party.

(2) If in any action or proceeding a magistrate judge finds it impracticable to proceed or is at a disadvantage because of the application of any of such rules, the magistrate judge may hold the action or proceeding in abeyance, without prejudice to the rights of the parties, for further action by a district judge.

(3) The following rules are inapplicable in their entirety to proceedings before district judges and magistrate judges:

CIVIL RULE TITLE

- Rule 18(b) Joinder of Remedies – Fraudulent Conveyances.
- Rule 27 Deposition Before Actions or Pending Appeal.
- Rule 40(c) Visiting Judges.
- Rule 40(d) Applications for Orders.
- Rule 48(b) Instructions; Argument; Retirement of Jury.
- Rule 57(a) Declaratory Judgments.
- Rule 65 Injunctions.
- Rule 66 Receivers.

- Rule 70 Judgment for Specific Acts – Vesting Title.
- Rule 72 Eminent Domain.
- Rule 84 Change of Name.

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(b) **Construction.** Where the words “court” or “judge” are used in these rules, they shall be construed to include a district judge or a magistrate judge, and where functions and duties are prescribed for the clerk, they shall be performed by a magistrate judge or a clerk.

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Rule 10. Pleadings.

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(b) A party defending against a claim shall file an answer on the form provided by the Alaska court system. The answer is a short, plain statement showing the nature of the defense and any claim that the defendant has against the plaintiff arising from the same transaction or occurrence and shall conform with Rule 12 of these rules. The answer must be filed with or mailed to the court where the action was commenced and be signed by the defendant. When the answer or counterclaim is based upon a written document, the document or a copy of it shall be attached to the answer. The defendant’s mailing address shall be shown on the answer. The clerk or magistrate judge shall mail a copy of the answer to the plaintiff, and shall maintain a record of the mailing.

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Rule 12. Venue.

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(c) The plaintiff shall have twenty days from the date of mailing receipt of the answer by the clerk or magistrate judge to file a statement opposing an application for change of place of trial. The court shall consider the application upon the statements of the parties, and shall issue an order granting or denying the application. A copy of the order shall be sent to the parties by first class mail at the addresses shown on their pleadings. When the application is granted, the file shall be transferred. When the application is denied, the court shall set the action for trial.

Rule 21. Assistance to Litigants—Handbook.

Magistrate judges and clerks of any district court are authorized, where necessary, to assist litigants in the preparation of complaints and answers. First recourse should be had to the Alaska Small Claim Handbook, which shall be available for distribution to prospective litigants at all locations of any court empowered to handle small claims actions, and shall be served upon the defendant with the summons and complaint. When a party is illiterate or otherwise unable to write his pleading, and is unable to obtain assistance from a friend or relative, the clerk or magistrate judge shall write it on the appropriate form. A form written by the clerk or magistrate judge shall be signed by the party or bear the party's witnessed mark. The clerk shall note upon its face the method of preparing the pleading under this rule.

Rule 32. Presumption of Death.

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(c) **Hearing.** The jury shall inquire into the facts set forth in the petition. The testimony of witnesses under oath shall be heard and other evidence presented as upon the trial of an action. Depositions may be accepted where the magistrate judge believes that travel time and costs do not warrant a personal appearance.

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(e) **Presumptive Death Certificate.** After the order of approval referred to in subdivision (d) has become effective or upon receiving a copy of an order or decree of the superior court that a person has not been heard of for a period of five continuous years and is presumed to be dead, the magistrate judge shall make out, sign, and file with the Bureau of Vital Statistics a presumptive death certificate containing such information as may be required by the bureau. On the effective date of the order of presumptive death, the missing person shall be presumed to be dead, and the person's estate may be administered in accordance with the then existing provisions of law applicable to the administration of the estates of deceased persons.

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CRIMINAL RULES

Rule 4. Warrant or Summons Upon Complaint.

(a) Issuance.

(1) *Probable Cause.* A warrant or summons shall be issued by a judge or magistrate judge only if it appears from the complaint, or from an affidavit or affidavits filed with the complaint, that there is probable cause to believe that an offense has been committed and that the defendant has committed it.

(2) *Summons.* A summons shall be issued in all cases unless the judge or magistrate judge has reason to believe that the defendant will not appear in response to a summons or that the defendant poses a danger to other persons and the community.

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(b) Form and Contents.

(1) *Warrant.* The warrant shall be signed by the judge or magistrate judge, or by a clerk directed to do so on the record. The warrant shall contain the name of the defendant or, if the defendant's name is unknown, any name or description by which the defendant can be identified with reasonable certainty, and shall describe the offense charged in the complaint. The warrant shall be directed to any peace officer or other person authorized by law to execute the warrant and shall command that the defendant be arrested and brought before the nearest available judge or magistrate judge without unnecessary delay. The judge or magistrate judge shall endorse the amount of bail upon the warrant.

(2) *Summons.* The summons shall be signed by the judge or magistrate judge or by a clerk directed to do so on the record. The summons shall be in the same form as the warrant, except that it shall summon the defendant to appear before a judge or magistrate judge at the time and place stated therein, and shall inform the defendant that if the defendant fails to appear a warrant will issue for the defendant's arrest.

(c) Execution or Service and Return.

(4) *Return.* The officer executing the warrant shall make return thereof to the judge or magistrate judge before whom the defendant is brought pursuant to Rule 5. At the request of the prosecuting attorney any unexecuted warrant shall be returned to the judge or magistrate judge by whom it was issued and shall be canceled by the judge or magistrate judge. On or before the return day, the person who served the summons shall make return thereof to the judge or magistrate judge before whom

the summons is returnable. At any time while the complaint is pending and upon the request of the prosecuting attorney, any unexecuted and uncanceled warrant or unserved original or duplicate summons shall be re-executed or re-served.

Rule 5. Proceedings Before the Judge or Magistrate Judge.

(a) Appearance Before Judge or Magistrate Judge After Arrest.

(1) Except when the person arrested is issued a citation for a misdemeanor or a violation and immediately thereafter released, the arrested person shall be taken before the nearest available judge or magistrate judge without unnecessary delay and in any event within 48 hours after arrest, including Sundays and holidays. This appearance may be accomplished by the use of telephonic or television equipment pursuant to Criminal Rules 38.1 and 38.2.

(2) If

(A) The judge or magistrate judge commits the arrested person to jail for a purpose other than to serve a sentence, and

(B) The jail is situated in a different community from the place where the judge or magistrate judge committed the arrested person to jail, and

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then the arrested person shall be taken before a judge or magistrate judge in the community where the jail is located within forty-eight hours of the person's detention in that jail

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(3) The responsibility for ensuring that the arrested person is taken before a judge or magistrate judge as specified in subsections (1) and (2) of this section (a) shall be borne equally by

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(4) Whenever the person arrested is taken for examination before a judge or magistrate judge other than the one who issued the warrant, the complaint and any other statement or deposition on which the warrant was granted must be furnished to the defendant and must be communicated to the judge or magistrate judge before whom the person arrested appears.

(5) Whenever a person arrested without a warrant is brought before a judge or magistrate judge, a complaint shall be filed forthwith.

(6) Judges and magistrate judges shall be available at all times to receive bail, and each judge and magistrate judge individually shall have authority to delegate this duty to the person admitting the defendant to jail, or to such other person as shall in the determination of a judge or magistrate judge be qualified for this purpose.

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(c) **Misdemeanor Arraignment or Felony First Appearance.** The judge or magistrate judge

(1) shall inform the defendant of the complaint and of any affidavit filed therewith, and

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(f) **Misdemeanors—Other Requirements at Arraignment.**

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(4) The judicial officer shall inform the defendant that the case may not be tried before a magistrate judge without the defendant's written consent.

(5) The judicial officer shall inform the defendant that the defendant may peremptorily disqualify the district judge or magistrate judge to whom the case is assigned pursuant to AS 22.20.022.

Rule 5.1. Preliminary Examination in Felony Cases.

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(g) **Exclusion of Witnesses.** At the request of either party, the judge or magistrate judge shall exclude from the courtroom any witness of an adverse party, if at the time of the request the witness is not under examination.

(h) **Discharge of the Defendant.** If from the evidence, it appears that

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(2) if there is probable cause to believe that an offense has been committed, but no probable cause to believe that defendant committed the offense, then the judge or magistrate judge shall dismiss the complaint and discharge the defendant. The

discharge of the defendant shall not preclude the state from instituting a subsequent prosecution for the same offense.

(i) **Commitment of Defendant.** If from the evidence it appears that there is probable cause to believe that an offense has been committed and that the defendant committed it, the judge or magistrate judge shall enter an order holding the defendant to answer to the charge and committing the defendant to proper custody. The judge or magistrate judge shall admit the defendant to bail as provided by law and by these rules.

(j) **Records.** When a judge or magistrate judge has held a defendant to answer, the judge or magistrate judge shall transmit to the clerk of the superior court of the judicial district in which the offense is triable all papers in the proceedings, any bail taken by the judge or magistrate judge, and all exhibits introduced at the examination.

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Rule 17. Subpoena.

(a) For Attendance of Witnesses—Form—Issuance.

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(3) Magistrate judges may issue subpoenas in any proceeding before them.

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(f) For Taking Deposition – Place of Examination.

(1) *Issuance.* An order to take a deposition authorizes the issuance by the clerk of the court or by a magistrate judge of subpoenas for the persons named or described therein.

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Rule 32. Sentence and Judgment.

(a) **Sentence.** Sentence shall be imposed without unreasonable delay. Sentencing in felony cases shall follow the procedures established in this rule and Rules 32.1 through 32.6. Sentencing in misdemeanor cases shall follow the procedures established in this rule and Rules 32.2, 32.3, 32.5, and 32.6. When imposing sentence, the judge or magistrate judge shall explain on the record the reasons for the sentence.

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(c) Judgment

(1) *Conviction.* A judgment of conviction must, for each count, set forth the offense, including the statute or regulation violated, the defendant's plea, the verdicts or findings, and the sentence imposed. The judge or magistrate judge must sign the judgment.

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Rule 32.5. Appeal From Conviction or Sentence—Notification of Right to Appeal.

A person convicted of a crime after trial shall be advised by the judge or magistrate judge:

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In addition, at the time of imposition of any sentence of imprisonment, the judge or magistrate judge shall advise the defendant as required by Appellate Rule 215(b).

Rule 37. Search and Seizure.

(a) Search Warrant Issuance and Contents.

(1) A search warrant authorized by law shall issue only on affidavit sworn to before a judge or magistrate judge or any person authorized to take oaths under the law of the state, or sworn testimony taken on the record and establishing the grounds for issuing the warrant.

(2) If the judge or magistrate judge is satisfied that grounds for the application exist or that there is probable cause to believe that they exist, the judge or magistrate judge shall issue a warrant identifying the property and naming or describing the person or place to be searched.

(3) The warrant shall be directed to a peace officer of the state authorized to enforce or assist in enforcing any law thereof; and

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(D) shall designate the court, judge, or magistrate judge to whom it shall be returned.

(b) **Execution and Return with Inventory.** The warrant shall be executed and returned within 30 days after its date of issuance. However, upon sworn application made before the expiration of the initial 30 day period or any subsequent extension, the court may for good cause extend the execution period for a reasonable time not to exceed 30 days. Good cause includes protecting the confidentiality of an ongoing investigation and protecting a person working with law enforcement authorities on an investigation. The officer taking property under the warrant

(1) shall give to the person from whom or from whose premises the property was taken a copy of the warrant, a copy of the supporting affidavits, and receipt for the property taken, or

(2) shall leave the copies and the receipt at the place from which the property was taken.

The return shall be made promptly and shall be accompanied by a written inventory of any property taken as a result of the search pursuant to or in conjunction with the warrant. The inventory shall be made in the presence of the applicant for the warrant and the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the applicant for the warrant or the person from whose possession or premises the property was taken, and shall be signed by the officer under the penalty of perjury pursuant to AS 09.63.020 or sworn to in front of a magistrate judge or magistrate judge, or a notary public. The magistrate judge, or magistrate judge, or the court to which the return is made shall upon request deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

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Rule 41. Bail.

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(f) **Prosecuting Attorney – Appearance and Notice.** The prosecuting attorney may appear and be heard in all proceedings relating to bail. The judge or magistrate judge may require that notice of such proceedings be given the prosecuting attorney.

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(h) **Appearance and Bail Bonds.**

(1) *Judgment of Forfeiture*. If the person released on bail on the giving or pledging of security fails to appear before a court or a judicial officer as required, the judge or magistrate judge before whom the person released was to appear shall forfeit the security. The clerk may sign the judgment of forfeiture if directed to do so on the record in the particular proceeding by the judge. However, the judgment of forfeiture may not be enforced until a hearing is held pursuant to subparagraph (h)(3) or, if no hearing is requested, until 30 days after the date of notice of the judgment of forfeiture. Nothing in this subparagraph shall interfere with the issuance of a summons or bench warrant for a person who fails to appear as required before a court or judicial officer.

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Rule 56. Definitions.

As used in these rules, unless the content otherwise requires:

(a) "Prosecuting Attorney" includes the attorney general, assistant attorneys general, deputy attorneys general and any other attorneys, legal officers and assistants charged by law with the duty of prosecuting the violation of any law, statute or ordinance.

(b) "Magistrate judge" includes magistrate judges, district judges, superior court judges and any other judicial officer authorized by law to conduct a preliminary examination of a person accused of a crime.

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MINOR OFFENSE RULES

Rule 4. Minor Offenses Not Charged on a Citation.

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(d) A summons shall be issued by a judge or magistrate judge only if probable cause has been established as provided in Criminal Rule 4(a)(1). The summons must be on a form approved by the administrative director. The prosecuting authority shall furnish the court with a copy of the summons and charging document to be served on the defendant.

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EVIDENCE RULES

Rule 101. Scope and Applicability.

(a) **General Applicability.** These rules apply in all proceedings in the courts of the State of Alaska except as otherwise required by the Constitution of the United States or this state or as otherwise provided for by enactment of the Alaska Legislature, by the provisions of this rule, or by other rules promulgated by the Alaska Supreme Court. The word “judge” in these rules includes magistrate judges and masters.

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APPELLATE RULES

Rule 220. Judicial Bypass Appeals.

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(c) Notice of Appeal.

(1) A minor may appeal an order denying or dismissing a petition to bypass parental notice or consent by filing a notice of appeal in any district or superior court, or directly with the clerk of the appellate courts. The notice of appeal may be filed in person, by mail, by email, or by fax, and must be accompanied by a copy of the order from which the appeal is taken. No filing fee will be charged. If the notice of appeal is filed in a district or superior court, the clerk or magistrate judge shall immediately notify the clerk of the appellate courts that the appeal has been filed.

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Rule 603. Stays.

(a) Civil Appeals.

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(4) *Proceedings on Stay.* When an appeal is taken, the district court judge or magistrate judge shall enter a written order indicating whether or not the proceedings to enforce a judgment have been stayed. If the proceedings are stayed, and process has been issued to enforce the judgment, the judge or magistrate judge must recall the process by written notice to the officer holding the process. Thereupon the process must be returned to the court, and all property seized or levied upon by virtue of such process must be released if it has not been sold, and in cases of civil arrest, the person arrested must be released from custody. This subdivision of this rule will not be construed as making any stay retroactive or as invalidating any proceedings or levies prior to the time the stay becomes effective.

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(b) **Criminal Appeals.** If a sentence of imprisonment is imposed, the court may admit the defendant to bail and stay the sentence as provided by law and by these rules, pending appeal. A sentence to pay a fine or a fine and costs may be stayed, if an appeal is taken, by the district judge or magistrate judge or by the superior court upon such terms as the court deems proper. During appeal the court may require the defendant to deposit the whole or any part of the fine and costs in the registry of the superior court, or to give bond for the payment thereof, or to submit to an

examination of assets, and it may make an appropriate order to restrain the defendant from dissipating his or her assets. An order placing the defendant on probation will be stayed if an appeal is taken.

ADOPTION RULES

Rule 2. Definitions.

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(k) "Judge" means a superior court judge, a standing master, or a district court judge or magistrate judge appointed as a special master pursuant to Adoption Rule 3.

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Rule 4. Authority of District Court Judges and Magistrate Judges.

A district court judge or magistrate judge may not preside over adoption proceedings in the absence of appointment as a master pursuant to Adoption Rule 3 or, in the case of a district court judge, appointment by the chief justice as a superior court judge pro tempore.

CHILD IN NEED OF AID RULES

PART II. MASTERS, MAGISTRATE JUDGES, DISTRICT COURT JUDGES

Rule 4. Appointment and Authority of Masters.

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Rule 5. Authority of District Court Judges and Magistrate Judges.

(a) **Emergency Situations.** When a child is in a condition or surrounding dangerous to the welfare of the child which requires immediate action, and no superior court judge or authorized master is available, a district court judge or magistrate judge may take the least restrictive action necessary to protect the minor which a superior court judge is authorized by law to take. The district court judge or magistrate judge must immediately notify the superior court of the facts concerning the child and expeditiously transfer the case file to the superior court.

(b) **Review.** A party may request a hearing before the superior court or master to review any action taken by a district court judge or magistrate judge under this rule.

DELINQUENCY RULES

PART II. MASTERS, MAGISTRATE JUDGES, DISTRICT COURT JUDGES

Rule 4. Appointment and Authority of Masters.

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Rule 5. Authority of District Court Judges and Magistrate Judges.

(a) **Emergency Situations.** When a minor is in a condition or surrounding dangerous to the welfare of the minor or others which requires immediate action, and no superior court judge or authorized master is available, a district court judge or magistrate judge may order temporary detention of the minor or take other action which a superior court judge is authorized by law to take. The district court judge or magistrate judge must immediately notify the superior court of the facts concerning the child and expeditiously transfer the case file to the superior court.

(b) **Review.** A party may request a hearing before the superior court or authorized master to review any action taken by a district court judge or magistrate judge under this rule.

PROBATE RULES

Rule 20. Judicial Bypass Procedure to Authorize Minor to Consent to an Abortion.

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(b) **Filing.** The petition may be filed in any district or superior court location in person, by mail, by email, or by fax. No filing fee will be charged. If a petition is filed in a district court location, the clerk or magistrate judge shall immediately notify the clerk of the nearest superior court and fax the petition to that court.

(h) **Appeal.** A petitioner may appeal an order denying or dismissing a petition to bypass parental consent by filing a notice of appeal in any district or superior court, or directly with the clerk of the appellate courts. If the notice of appeal is filed in a district or superior court, the clerk or magistrate judge shall immediately notify the clerk of the appellate courts that the notice of appeal has been filed. The procedure for appeals is governed by Appellate Rule 220. This rule supersedes the appeal procedure established by AS 18.16.030(j).

ALASKA BAR RULES

Rule 15. Grounds For Discipline.

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(b) Unauthorized Practice of Law.

(1) For purposes of the practice of law prohibition for disbarred and suspended attorneys in subparagraph (a)(6) of this rule, except for attorneys suspended solely for non-payment of bar fees, "practice of law" is defined as:

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(C) appearing on behalf of a client in any hearing or proceeding or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate judge, commissioner, hearing officer, or governmental body which is operating in its adjudicative capacity, including the submission of pleadings;

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(c) Employment of Disbarred, Suspended, or Resigned Attorney.

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(2) A member shall not employ, associate professionally with, or aid a person the member knows or reasonably should know is a disbarred, suspended, resigned, or involuntarily inactive attorney to perform the following on behalf of the member's client:

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(B) appear on behalf of a client in any hearing or proceeding or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate judge, commissioner, or hearing officer;

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Rule 44. Legal Interns.

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Section 5. Act Authorized by Permit.

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(b) A legal intern may also appear and participate before any district court in small claims matters, arraignments, pleas, bail hearings, sentencings and recorded in-chambers conferences without an attorney being personally present to supervise the intern under the following conditions:

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(3) If the judge or magistrate judge agrees to permit the legal intern to participate in the proceedings.

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Rule 44.1. Foreign Law Consultants.

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(e) **Scope of Practice.** A person licensed as a foreign law consultant under this rule may provide legal services in the State of Alaska, subject to the limitations that the person shall not:

(1) appear for another person as attorney in any court or before any magistrate judge or other judicial officer in the State of Alaska, or prepare pleadings or any other papers in any action or proceeding brought in any such court or before any such judicial officer, except as authorized by Civil Rule 81(a)(2);

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ALASKA CODE OF JUDICIAL CONDUCT

CANONS

Key to Symbols on Special or Limited Applicability of Sections

+ means that Section does not apply to senior judges or applies to them only during periods of active judicial service.

means that Section does not apply or has limited application to part-time magistrate judges or deputy magistrates.

% means that Section applies to special masters.

Full-time judicial officers must comply with all provisions of this Code.

Terms marked with asterisk (*) are defined in Terminology Section.

APPLICATION OF THE CODE OF JUDICIAL CONDUCT

A. Full-Time Judicial Officers. The following judicial officers shall comply with all provisions of this Code:

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(2) full-time magistrate judges;

(3) committing magistrate judges; and

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C. Part-Time Magistrate Judges and Deputy Magistrates. Part-time magistrate judges and deputy magistrates shall comply with all provisions of this Code except:

(1) Section 4C(1) (appearance before or consultation with executive or legislative bodies) if the magistrate judge or deputy magistrate holds an office or position of profit under the United States, the state, or its political subdivisions and must engage in Section 4C(1) activities in order to perform the duties of this office or position;

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(7) Section 5A(1)(d) (attendance at political gatherings) if the magistrate judge or deputy magistrate holds or is seeking non-judicial public office;

(8) Section 5A(1)(e) (solicitation and contribution of campaign funds) to the extent that the magistrate judge or deputy magistrate is soliciting funds for or contributing funds to the magistrate judge's own campaign for non-judicial public office;

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D. Special Masters.

(1) A special master who is not an active judge, magistrate judge, or standing master shall comply with the following provisions of this Code:

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RULES OF ADMINISTRATION

Rule 1. Administrative Director of Courts -- Duties.

There shall be an administrative director of courts who shall, under policy guidelines provided by the supreme court:

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(n) Be legal advisor for the chief justice and the supreme court in all legal matters not adjudicatory in nature, such as:

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(5) Preparing of syllabi for the basic legal instruction of magistrate judges and other lay personnel;

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Rule 3. Information and Data to Be Furnished to Administrative Director and Presiding Judges.

(a) Justices, judges, masters, magistrate judges, clerks of the courts, and all other officers and employees of the court system shall comply with all requests made by the administrative director for information and statistical data concerning cases of such courts and such other information as may reflect the business transacted by them.

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Rule 4. Seals of Court.

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(e) **Possession of Seals.** The clerk of the court, or if there is no clerk, the judge or magistrate judge, shall keep possession of the seal of the court.

Rule 9. Fee Schedule.

The fees specified in this rule shall be charged for the services designated herein:

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(f) **General Provisions:**

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(3) Before accepting any civil action or proceeding for filing, a filing fee in the amount prescribed in this rule shall be collected. Further or additional fees or charges shall be made by the clerk or magistrate judge with respect to such action or proceeding only for additional services as specified in this rule.

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Rule 10. Exemption from Payment of Fees – Determination of Indigency.

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(c) If a person files the documents required by subparagraph (b) of this rule, or is represented by an attorney furnished by the Alaska Legal Services Corporation, the Alaska Pro Bono Program, the Alaska Network on Domestic Violence and Sexual Assault Pro Bono Program, or the Alaska Native Justice Center, the clerk or magistrate judge shall accept the pleadings for filing without payment of the filing fee.

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Rule 15. Jurors -- Predetermination of Qualifications -- Service of Summons -- Selection of Jury Panel -- Periods of Jury Service.

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(b) Master Jury List.

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(3) Clerks and magistrate judges shall send a periodic listing of duplicate names, names of deceased persons or persons who are permanently excused from jury service to the administrative director. This list shall be used to update the annual master jury list to ensure that these names are not again selected for jury service.

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Rule 18. Superior and District Courts -- Time and Place of Sitting.

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(b) Magistrate Judges -- Time of Sitting -- Office Hours. Magistrate judges shall sit in the conduct of trials and hearings as the business of their courts and the status of their calendars require. Offices of full-time magistrate judges shall be open to the

public for the transaction of business during business hours from 8:00 a.m. until 4:30 p.m. on all days except judicial holidays and Saturdays. Offices of part-time magistrate judges shall be open to the public for the transaction of business as prescribed by the presiding judge.

In addition, magistrate judges shall be available at all times:

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Weekend and holiday duty must be equitably shared between magistrate judges and other judges except at court locations at which committing magistrates have been hired to perform weekend and holiday duty.

* * * *

Rule 19. Number and Location of District Judges and Magistrate Judges.

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(b) **Magistrate judges.** Each judicial district shall have no more than the number of magistrate judges set forth below:

First Judicial District -- 13

Second Judicial District -- 18

Third Judicial District -- 23

Fourth Judicial District -- 16

The number and location of magistrate judges may be changed from time to time by the supreme court as circumstances require.

Rule 19.1. Qualifications of Magistrate Judges Who Seek Appointment as District Judges Under AS 22.15.160(a)(2).

A magistrate judge is qualified for appointment to the office of district judge under AS 22.15.160(a)(2) if he or she is a citizen of the United States and of the state, is at least 21 years of age, has been a resident of the state for at least five years immediately preceding the appointment, has served for at least seven years in the state as a magistrate judge in the exempt service of the Alaska Court System, and is a graduate of a law school accredited or approved by the Council of Legal Education of the American Bar Association or the Association of American Law Schools.

Rule 20. Magistrate Judge Salaries.

Magistrate judge salaries shall be determined in accordance with the personnel rules.

Rule 21. Conduct of Proceedings.

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(b) **Judicial Robes.** All justices of the supreme court, all judges of the court of appeals, all judges of the superior court, all district court judges, and all magistrate judges, while presiding in a public session of court, shall wear a suitable black judicial robe.

Rule 24. Assignment of Judicial Officers.

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(h) **Definitions.** In this rule, "judicial officer" means a superior court judge, district court judge, or magistrate judge.

Rule 25. Traveling Expenses of Judicial Officers and Employees.

Each supreme court justice, court of appeals judge, superior court judge, district court judge and magistrate judge, and each employee of the court system is entitled to receive travel expenses and per diem as provided by law for state employees; provided, that the travel has been approved by the appropriate administrative supervisor of the justice, judge, magistrate judge or employee.

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Rule 27. Presiding Judge.

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(c) A presiding judge may:

(1) Assign judges and magistrate judges to locations within their district of residence as necessary to maintain balanced workloads or to expedite the business of those courts;

* * * *

Rule 28. Judicial Vacations and Judicial Leave.

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(d) **District Judges and Magistrate Judges.** Each district court judge and magistrate judge shall be entitled to personal leave in accordance with and limited by the provisions of AS 39.20.200 -- 39.20.330 and the personnel rules. Such leave shall be taken at the time or times prescribed by the presiding judge of the judicial district.

* * * *

(f) **Administrative Leave.** The chief justice of the supreme court may assign one or more justices, judges, or magistrate judges to attend conferences, seminars, or schools to further legal education or professional qualifications. Such assignment shall be made in consultation with the justice, judge, or magistrate judge concerned and with the chief judge of the court of appeals for judges of that court or with the presiding judge of the appropriate judicial district for superior or district court judges and magistrate judges. Travel expenses and per diem may be provided. Administrative leave authorized for such purpose shall not be counted as vacation leave. Nothing in this rule shall prevent a justice, judge, or magistrate judge not so assigned from attending conferences, seminars, or schools for this purpose at his or her own expense during his or her annual vacation. In addition, a justice, judge, or magistrate judge not so assigned during a calendar year may receive administrative leave during that year not to exceed five working days to attend conferences, seminars or schools when authorized by the administrative director. The administrative director may authorize such administrative leave in excess of five working days upon a delegation of authority from the chief justice. Administrative leave may not be accrued.

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Rule 30. Powers and Duties of Magistrate Judges in Cases Beyond Their Jurisdiction.

(a) A magistrate judge may accept for filing a civil or criminal case beyond a magistrate judge's jurisdiction but within the jurisdiction of a district court judge. Such cases will be tried by a superior or district court judge on periodic visits to the area.

(b) A magistrate judge shall immediately notify the presiding judge in writing as soon as any case beyond magistrate judge jurisdiction becomes at issue. Such notification shall contain a brief description of the case, whether jury or non-jury, and an estimate of the length of time required for trial.

(c) If in the course of any preliminary proceedings connected with a case, or during the trial, or after judgment, a magistrate judge determines that he or she is for any reason unqualified to proceed further, he or she shall, without prejudicing the rights of the parties, postpone the proceedings and proceed under (a) and (b) of this rule as if the case were one beyond his or her jurisdiction.

Rule 31. Additional Duties of Judicial Officers and Employees.

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(b) A judge or magistrate judge may, with the approval of the presiding judge of the district and the chief justice, serve as a part-time United States Magistrate, when so designated by a United States District Judge for District of Alaska. A judge or magistrate judge may retain any compensation paid to him or her by the United States for such services and shall submit to the administrative director such reports concerning this additional activity as may be required by the administrative director. When acting in the capacity of a United States Magistrate, the judge or magistrate judge shall be governed in all respects by the United States law and instructions from federal officials or agencies.

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(d) Upon approval of the administrative director, a magistrate judge may accept appointment as a passport agent by the United States Department of State. The execution fee collected by a magistrate judge or other court employee when executing a passport application must be deposited in the court revenue account.

Rule 33. Magistrate Judge Training Judges.

The chief justice shall appoint one or more judges in each judicial district to be a training judge in that district. The training judges shall keep themselves and the presiding judge of their districts regularly informed as to the status of the calendars in the magistrate judge locations in the district assigned to them and shall visit these magistrate judge locations in the district as often as required by the presiding judge or the chief justice for the purpose of providing such training and assistance to the magistrate judges as may be necessary. The training judge shall make such examinations, inspections and reports on the functions performed by the magistrate judges as may be required by the presiding judge or the administrative director.

Rule 34. Bonding of All Justices, Judges, Magistrate Judges, and Judicial Employees.

The administrative director shall ensure that the blanket position bond covering all state employees also covers all justices, judges, magistrate judges and all

employees of the state judicial system. Such bond shall protect the state as to the honesty and faithful performance of duty of all court system positions covered and shall extend coverage to protect the state from loss by reason of the illegal act of any person not an employee of the state judicial system.

Rule 39. Vital Statistics.

The presiding judge shall designate district judges, magistrate judges, or judicial employees to perform all of the functions and duties with respect to the preparation, filing and recording of vital statistics, and the maintaining of records incident thereto, as provided by law and in accordance with the regulations and instructions of the Bureau of Vital Statistics.