

THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 90

Amending Rules 1, 6, 9, 24, 37, 41 and 48, Rules Governing the Administration of All Courts; Deleting Rule 2, Rules of the Supreme Court of Alaska, and Re-promulgating it as Rule 18, Rules Governing the Administration of All Courts; Amending Rules 9, 20 and 43, Rules of the Supreme Court of Alaska; Amending Rules 4, 27, 45, 72 and 80, Rules of Civil Procedure; Rules 9, 17, 22, 39 and 41, Rules of Criminal Procedure; Rule 2, District Court Rules of Criminal Procedure.

IT IS ORDERED:

That Rules Governing the Administration of All Courts, Rules of the Supreme Court of Alaska, Rules of Civil Procedure, Rules of Criminal Procedure and District Court Rules of Criminal Procedure are amended as set out below:

Rule 1, Rules Governing the Administration of All Courts: Is amended by renumbering subdivision (m) of said rule now to read (n) and further amended by adding in the place of Rule 1(m), now renumbered Rule 1(n), the following new subdivision to be numbered Rule 1(m):

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

- (1) Preparation of memoranda on statutes which may affect the judiciary,
- (2) Drafting of rules of practice and procedure,
- (3) Conducting and supervising research on procedure and court administration,
- (4) Instruction of court personnel concerning rules or statutes governing ministerial and other non-adjudicatory duties,

JUL 24 1967

State of Alaska

(5) Preparation of syllabus for the basic legal instruction of magistrates and other lay personnel,

(6) Annotation and editing of revisions and supplements to the Alaska Rules of Court Procedure, and

(7) Rendering legal opinions in any non-adjudicatory matters as he may be directed from time to time by the chief justice."

Rule 6(a), Rules Governing the Administration of All Courts: Is amended to read as follows:

"(a) Bank Accounts. The administrative director of courts shall designate the banking institutions to serve as depositories for all monies paid to, or deposited with, the courts. Certain of the designated banks shall be the depositories for trust funds held by the various courts. Monies may be withdrawn from the trust fund account by checks bearing the signature of the presiding superior court judge of the judicial district, or his designee. Certain other of the designated banks shall be depositories for all other monies (except trust funds) received by the courts. Monies shall be withdrawn from these accounts by checks bearing the signatures of the administrative director, or his designee, and the commissioner of revenue for the state of Alaska, or his designee."

Rule 9(a), Rules Governing the Administration of All Courts: Is amended to read as follows:

"(a) Amount. A witness attending before any court, referee, master, grand jury or coroner's jury or upon a deposition in a discovery proceeding, when necessarily subpoenaed to attend or whose testimony is necessary and material to the action, shall receive a witness fee of \$7.50 if such attendance, including the time necessarily occupied in traveling from his residence to the place of his attendance and returning from that place, requires not more than three consecutive hours. If such attendance requires more than three consecutive hours, the witness shall receive a witness fee of \$15 for each day of attendance. Any witness who attends at a point so far removed from his residence

as to necessarily prohibit return thereto from day to day shall receive an additional \$21 per day for expenses of subsistence for each day of attendance and for each day necessarily occupied in traveling to and from such attendance."

Rule 18, Rules Governing the Administration of All Courts which was previously deleted, is now repromulgated to read as follows:

"Rule 18. Terms and Sessions of the Supreme Court -- Headquarters and Offices.

(a) Terms and Sessions of the Supreme Court. Terms of the supreme court shall be held annually in the cities of Juneau, Anchorage and Fairbanks, and at such other places as may be required, as ordered by the court.

(b) Headquarters -- Offices. The headquarters of the supreme court shall be at Juneau, Alaska. The chief justice or an associate justice may maintain his office at a place other than the court headquarters as designated by order of the court or of the chief justice."

Rule 24, Rules Governing the Administration of All Courts: Is amended by adding to the title of said rule the following:

"- Appointment of Retired Justices or Judges Pro Tempore - Compensation - Expenses."

and, further, by adding new subdivisions to said Rule 24 as follows:

"(c) Appointment Pro Tempore. The chief justice may by special assignment appoint a retired justice to sit as justice of the supreme court pro tempore and a retired judge of the superior court to sit as judge of the superior court pro tempore or as justice of the supreme court pro tempore, where such assignment is deemed necessary for the efficient administration of justice.

(d) Compensation. The retired justice or judge shall as compensation for judicial service pro tempore be paid an amount equal to the salary of a justice or a judge of the court to which he was assigned pro tempore for the period of such service diminished by the amount of retirement pay received by him for such period.

(e) Expenses. Each justice or judge assigned for judicial service pro tempore shall, upon his certificate, be paid all necessary traveling expenses and per diem as provided by law while attending court or transacting official business under such assignment at a place other than the place of his residence."

Rule 37, Rules Governing the Administration of All Courts: Is amended to read as follows:

"Rule 37. Superior Court - Presiding Judge - Family Court Division.

(a) The chief justice shall designate a superior court judge from each district to be presiding superior court judge of that district. The presiding superior court judge shall perform the duties required of him by law and shall serve at the pleasure of the chief justice.

(b) Family Court Division. There shall be a division of the superior court in the third judicial district designated as the family court division. The presiding judge shall assign as judge of the family court division that superior court judge appointed by the governor from the nominees submitted by the judicial council for the office of family court judge. The presiding judge may assign another superior court judge to sit as judge of the family court division when the family court judge is unable to act. The presiding judge shall cause to be calendared for hearing in the family court division all juvenile and contested domestic relations matters and a normal workload of other matters related to the family."

Rule 41(a), Rules Governing the Administration of All Courts: Is amended to read as follows:

"(a) Where a district judge is stationed near a court of a political subdivision, the district judge shall preside over the court of the political subdivision. The district judge shall hold such sessions of court as are required by the laws of the political subdivision and shall cooperate in every reasonable manner with the officials and enforcement officers

of the political subdivision to the end that judicial services of a superior quality are rendered."

Rule 41(b), Rules Governing the Administration of All Courts: Is amended to read as follows:

"(b) If no district judge is stationed near a court of a political subdivision, a magistrate shall preside in such court. The magistrate shall hold such sessions of court as are required by the laws of the political subdivision and shall cooperate in every manner with the officials and enforcement officers of the political subdivision to the end that judicial services of a superior quality are rendered."

Rule 48, Rules Governing the Administration of All Courts: Is hereby deleted.

Rule 2, Rules of the Supreme Court of Alaska: Has been deleted and has been re-promulgated as set forth hereinabove as Rule 18, Rules Governing the Administration of All Courts.

Rule 9(e), Rules of the Supreme Court of Alaska: Is amended to read as follows:

"(e) Statement of Points. The appellant shall serve and file with his designation a concise statement of the points on which he intends to rely on the appeal. The court will consider nothing but the points so stated. On motion, and for cause, the statement of points may be supplemented subsequent to the filing of the designation of record."

Rule 20(a)(1), Rules of the Supreme Court of Alaska: Is amended by deleting in line 2 of said paragraph (1), after the word "defendant", the following words:

"elects not to commence service of the sentence or"

Rule 43, Rules of the Supreme Court of Alaska: Is amended to read as follows:

"Rule 43. Appeals at Public Expense.

(a) Civil Matters. Where the merits of the appeal or petition and the interests of justice require, the superior court may authorize an appeal or petition for review in a civil matter, without the prepayment of fees and costs or the giving

of security therefor by a person who has been determined to be financially unable to pay such fees or costs or to give security. The costs of preparing a transcript and printing briefs shall also be borne by the state when specifically authorized by the superior court. The provisions of Criminal Rule 39(c) shall be followed in making the determination of financial inability. Where costs and attorney's fees are awarded to the appellant or petitioner as a prevailing party they shall accrue to the state to reimburse it for expenses of litigation incurred by the appellant or petitioner.

(b) Criminal Matters. In criminal matters the superior court shall authorize appeals at public expense on behalf of persons financially unable to pay the costs of appeal in accordance with the rules and decisions of the supreme court of Alaska and where such appeals are required to be provided by state courts by decisions of the Supreme Court of the United States. Where such appeals are authorized by the superior court the costs which shall be borne by the state shall include those of providing counsel and of preparing a transcript and briefs. Criminal Rule 39(c) shall be followed in making the determination of financial inability.

(c) Costs. Costs, attorney's fees, damages, and interest may be allowed as in other cases, but the state shall not be liable for any of the same."

Rule 4(c), Rules of Civil Procedure: Is amended to read as follows:

"(c) Methods of Service - Appointments to Serve Process - Definition of Peace Officer.

(1) Service of all process shall be made by a peace officer, by a person specially appointed by the court for that purpose or, where a rule so provides, by registered or certified mail.

(2) A subpoena may be served as provided in Rule 45.

(3) Special appointments for the service of all process relating to remedies for the seizure of persons or property pursuant to Rule 64 or for the service of process to enforce a judgment by writ of execution shall only be made by the presiding judge of the superior court in each

district after a thorough investigation of each applicant, and such appointment may be made subject to such conditions as appear proper in the discretion of the presiding judge for the protection of the public. A person so appointed must secure the assistance of a peace officer for the completion of process in each case in which he may encounter physical resistance or obstruction to the service of process.

(4) Special appointments for the service of all process other than the process as provided under paragraph (3) of this subdivision shall be made freely when substantial savings in travel fees and costs will result. The court in its discretion may by order authorize the clerk or the deputy clerk to make such special appointment.

(5) The term "peace officer" as used in these rules shall include any officer of the state police, members of the police force of any incorporated city, village or borough, United States Marshals and their deputies, and other officers whose duty is to enforce and preserve the public peace."

Rule 4, Rules of Civil Procedure: Is further amended by adding a new subdivision to be numbered 4(h) and reading as follows:

"(h) Service of Summons by Mail. In addition to other methods of service provided by this rule, summons may also be served within the state by registered or certified mail upon an individual other than an infant or an incompetent person and upon a corporation, partnership, and unincorporated association. In such case, copies of the summons and complaint shall be mailed by the clerk for delivery only to the party to whom the summons is directed. All returned delivery receipts shall be attached to the copy of the summons retained by the court."

Rule 27(a)(2), Rules of Civil Procedure: Is amended by adding to the end of said paragraph (2) the following sentence:

"Upon a person other than an infant or an incompetent person, the notice may also be served in the manner provided by Civil Rule 4(h)."

Rule 45(c), Rules of Civil Procedure: Is amended by adding to the end of said subdivision (c) the following:

"A subpoena may also be served by registered or certified mail. In such case the clerk shall mail the subpoena for delivery only to the person subpoenaed and, unless not required under this rule, shall enclose a warrant or postal money order in the amount of the fees for one day's attendance and of the mileage prescribed by rule. The returned delivery receipt shall be attached to the copy of the subpoena retained by the clerk."

Rule 72(d)(3)[a], Rules of Civil Procedure: Is amended by adding at the end of said sub-paragraph [a] the following sentence:

"Notice may also be served upon a person residing in the state other than an infant or incompetent in accordance with Civil Rule 4(h)."

Rule 80(d), Rules of Civil Procedure: Is amended by adding to said subdivision (d) a new paragraph to be numbered (3) reading as follows:

"(3) The requirements set forth in paragraphs (1) and (2) of this subdivision shall not apply to individual sureties for a national banking association or for a state bank or other financial institution regulated under Title 6 Alaska Statutes."

Rule 9(c), Rules of Criminal Procedure: Is amended by adding to the said subdivision (c) a new paragraph to be numbered (3) reading as follows:

"(3) Service of Summons by Mail. In addition to other methods of service provided by this rule, summons instead of a warrant as issued under the provisions of subdivision (a) of this rule may also be served upon a defendant of known residence within the jurisdiction of the State of Alaska by registered or certified mail. In such case a copy or copies of the summons shall be mailed by the clerk to each defendant named in the indictment or the information for delivery only to each such named defendant. The returned delivery receipts shall be attached to the copies of summons retained by the clerk. If a delivery receipt is returned unsigned by the defendant named in the indictment or information to whom the summons was addressed, at the request of the prosecuting attorney made at any time while the indictment or information is pending the summons or duplicate thereof may be delivered by the clerk to a peace officer or other authorized person for service."

Rule 17(d), Rules of Criminal Procedure: Is amended by adding to said subdivision (d) an unnumbered paragraph reading as follows:

"A subpoena may also be served upon a person of known residence within the state by registered or certified mail. In such case the clerk shall mail the subpoena for delivery only to the person subpoenaed and, unless not required under this rule, shall enclose a warrant or postal money order in the amount of the fees of one day's attendance and of the mileage allowed by law or rule. The returned delivery receipt shall be attached to the copy of the subpoena retained by the clerk. If the subpoena was returned unsigned by the person subpoenaed to whom it was addressed, the clerk shall deliver the subpoena or a duplicate thereof to a peace officer or other authorized person for service."

Rule 22(a), Rules of Criminal Procedure: Is amended by adding in line 2 of said subdivision (a), after the word "court" the following words:

"upon motion of any party or upon its own motion"

Rule 39, Rules of Criminal Procedure: Is amended to read as follows:

"Rule 39. Appointment of Counsel.

(a) Informing Defendant of Right to Counsel.

If the defendant appears for arraignment or trial without counsel, the court shall advise him of his right to have counsel, and he must be asked if he desires the aid of counsel.

(b) Appointment of Counsel for Persons Financially Unable to Employ Counsel. If the defendant states that he desires the aid of counsel and that he is financially unable to employ counsel, the court shall conduct the examination and make the determination provided for in (c) of this rule. If the court determines that the defendant is in fact financially unable to employ counsel and that he is entitled to have counsel provided at public expense, the court shall appoint counsel to represent him. Counsel so appointed shall be allowed such fees for their services as are provided for pursuant to Rule 15, Rules Governing Administration of All Courts. In the absence of a request by the defendant, the court in its discretion may appoint counsel when it deems it in the best interests of justice to do so.

(c) Determining Financial Inability to Employ Counsel - Examination - Criteria.

(1) Examination as to Assets and Liabilities. For the purpose of determining whether a party is financially unable to employ counsel the court shall examine him under oath and on the record with respect to his real and personal assets and liabilities, including cash, accounts receivable, accounts payable, income from salary, wages and other sources, ability to convert assets into cash or credit which could be utilized directly or indirectly for the payment of counsel fees and as to any other relevant aspect of his economic status.

(2) Criteria for Making Determination. If it appears to the court that the party does not have the money to employ counsel, or does not have assets which could be liquidated or pledged to raise the money to employ counsel, or that the obtaining of money by the liquidation or pledge of assets or the use of income would result in depriving the party or his dependents of food, clothing, or shelter, then the party may be adjudged to be financially unable to employ counsel."

Rule 41(c), Rules of Criminal Procedure: Is amended by adding in said subdivision (c) a new paragraph to be numbered (5) and to read as follows:

"(5) Dispensing with Undertaking and Cash Deposit in Lieu of Undertaking. In proper cases no undertaking or cash deposit in lieu of undertaking need be required under this rule."

Rule 2(d), District Court Rules of Criminal Procedure: Is amended by deleting after the word "defendant", in line 2 of said subdivision (d), the following words:

"elects not to commence service of the sentence or"

EFFECTIVE DATE: July 24, 1967

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Buell A. Nesbett
 Chief Justice

John H. Small
 Associate Justice

Jay A. Kamin
 Associate Justice

RULES AMENDMENT

Supreme Court Order No. 90 effective July 24, 1967, provided rule changes affecting Administrative Rules 1, 6, 9, 18, 24, 37, 41 and 48, Supreme Court Rules 2, 9, 20 and 43, Civil Rules 4, 27, 45, 72 and 80, Criminal Rules 9, 17, 22, 39 and 41 and District Court Criminal Rule 2.

These amendment sheets are provided for temporary conformation of your copy of Alaska Rules of Court Procedure and Administration.

At a future date to be announced Michie Publishing Company will publish a supplement reprinting the pages containing these amendments and include annotations noting new decisions as well as other rule changes which have occurred since publication of the 1966 supplement.

Rule 1(m), Rules of Administration: This is a new subdivision. Delete the number (m) by lining it through in ink and substitute (n) therefor. Cut along dotted lines and scotch tape to the page below (n).

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

- (1) Preparation of memoranda on statutes which may affect the judiciary,
- (2) Drafting of rules of practice and procedure,
- (3) Conducting and supervising research on procedure and court administration,
- (4) Instruction of court personnel concerning rules or statutes governing ministerial and other non-adjudicatory duties,
- (5) Preparation of syllabus for the basic legal instruction of magistrates and other lay personnel,
- (6) Annotation and editing of revisions and supplements to the Alaska Rules of Court Procedure, and
- (7) Rendering legal opinions in any non-adjudicatory matters as he may be directed from time to time by the chief justice.

Rule 6(a), Rules of Administration: Cut out along dotted lines and scotch tape over present subdivision (a).

(a) Bank Accounts. The administrative director of courts shall designate the banking institutions to serve as depositories for all monies paid to, or deposited with, the courts. Certain of the designated banks shall be the depositories for trust funds held by the various courts. Monies may be withdrawn from the trust fund account by checks bearing the signature of the presiding superior court judge of the judicial district, or his designee. Certain other of the designated banks shall be depositories for all other monies (except trust funds) received by the courts. Monies shall be withdrawn from these accounts by checks bearing the signatures of the administrative director, or his designee, and the commissioner of revenue for the state of Alaska, or his designee.

Rule 9(a), Rules of Administration: Cut out along dotted lines and scotch tape loose-leaf style on the left margin of the page opposite present subdivision (a) so as not to obscure subdivision (b).

(a) Amount. A witness attending before any court, referee, master, grand jury or coroner's jury or upon a deposition in a discovery proceeding, when necessarily subpoenaed to attend or whose testimony is necessary and material to the action, shall receive a witness fee of \$7.50 if such attendance, including the time necessarily occupied in traveling from his residence to the place of his attendance and returning from that place, requires not more than three consecutive hours. If such attendance requires more than three consecutive hours, the witness shall receive a witness fee of \$15 for each day of attendance. Any witness who attends at a point so far removed from his residence as to necessarily prohibit return thereto from day to day shall receive an additional \$21 per day for expenses of subsistence for each day of attendance and for each day necessarily occupied in traveling to and from such attendance.

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Rule 18, Rules of Administration: Line the word "Deleted" through with ink. Cut out along dotted lines and scotch tape over the page.

Rule 18. Terms and Sessions of the Supreme Court - Headquarters and Offices.

(a) Terms and Sessions of the Supreme Court. Terms of the supreme court shall be held annually in the cities of Juneau, Anchorage and Fairbanks, and at such other places as may be required, as ordered by the court.

(b) Headquarters - Offices. The headquarters of the supreme court shall be at Juneau, Alaska. The chief justice or an associate justice may maintain his office at a place other than the court headquarters as designated by order of the court or of the chief justice.

Rule 24, Rules of Administration: The title line was changed. Cut out below and scotch tape loose-leaf style on the left margin of the page opposite the title line so as not to obscure subdivision (a).

Rule 24. Sittings of Courts - Appointment of Retired Justices or Judges Pro Tempore - Compensation - Expenses.

New subdivisions were added to this Rule 24. Cut out below and scotch tape beneath (b).

(c) Appointment Pro Tempore. The chief justice may by special assignment appoint a retired justice to sit as justice of the supreme court pro tempore and a retired judge of the superior court to sit as judge of the superior court pro tempore or as justice of the supreme court pro tempore, where such assignment is deemed necessary for the efficient administration of justice.

(d) Compensation. The retired justice or judge shall as compensation for judicial service pro tempore be paid an amount equal to the salary of a justice or a judge of the court to which he was assigned pro tempore for the period of such service diminished by the amount of retirement pay received by him for such period.

(e) Expenses. Each justice or judge assigned for judicial service pro tempore shall, upon his certificate, be paid all necessary traveling expenses and per diem as provided by law while attending court or transacting official business under such assignment at a place other than the place of his residence.

Rule 37, Rules of Administration: Cut out below and scotch tape over the page.

Rule 37. Superior Court - Presiding Judge - Family Court Division.

(a) The chief justice shall designate a superior court judge from each district to be presiding superior court judge of that district. The presiding superior court judge shall perform the duties required of him by law and shall serve at the pleasure of the chief justice.

(b) Family Court Division. There shall be a division of the superior court in the third judicial district designated as the family court division. The presiding judge shall assign as judge of the family court division that superior court judge appointed by the governor from the nominees submitted by the judicial council for the office of family court judge. The presiding judge may assign another superior court judge to sit as judge of the family court division when the family court judge is unable to act. The presiding judge shall cause to be calendared for hearing in the family court division all juvenile and contested domestic relations matters and a normal workload of other matters related to the family.

Rule 41, Rules of Administration: Cut out below and scotch tape over subdivisions (a) and (b), respectively.

(a) Where a district judge is stationed near a court of a political subdivision, the district judge shall preside over the court of the political subdivision. The district judge shall hold such sessions of court as are required by the laws of the political subdivision and shall co-operate in every reasonable manner with the officials and enforcement officers of the political subdivision to the end that judicial services of a superior quality are rendered.

(b) If no district judge is stationed near a court of a political subdivision, a magistrate shall preside in such court. The magistrate shall hold such sessions of court as are required by the laws of the political subdivision and shall co-operate in every manner with the officials and enforcement officers of the political subdivision to the end that judicial services of a superior quality are rendered.

Rule 48, Rules of Administration: Line through in ink and mark: deleted.

Rule 2, Supreme Court Rules: Line through in ink and mark: deleted. See Rule 18, Administrative Rules.

Rule 9(e), Supreme Court Rules: Cut out below and scotch tape over subdivision (e).

(e) Statement of Points. The appellant shall serve and file with his designation a concise statement of the points on which he intends to rely on the appeal. The court will consider nothing but the points so stated. On motion, and for cause, the statement of points may be supplemented subsequent to the filing of the designation of record.

Rule 20(a)(1), Supreme Court Rules: In lines 2 and 3 of said paragraph 1, line through in ink: "elects not to commence service of the sentence or".

Rule 43, Supreme Court Rules: Cut out below and scotch tape loose-leaf style on the left margin of the page so as not to obscure the Annotations.

Rule 43. Appeals at Public Expense.

(a) Civil Matters. Where the merits of the appeal or the interests of justice require, the superior court may authorize an appeal or petition for review in a civil matter, without the prepayment of fees and costs or the giving of security therefor by a person who has been determined to be financially unable to pay such fees or costs or to give security. The costs of preparing a transcript and printing briefs shall also be borne by the state when specifically authorized by the superior court. The provisions of Criminal Rule 39(c) shall be followed in making the determination of financial inability. Where costs and attorney's fees are awarded to the appellant or petitioner as a prevailing party they shall accrue to the state to reimburse it for expenses of litigation incurred by the appellant or petitioner.

(b) Criminal Matters. In criminal matters the superior court shall authorize appeals at public expense on behalf of persons financially unable to pay the costs of appeal in accordance with the rules and decisions of the supreme court of Alaska and where such appeals are required to be provided by state courts by decisions of the Supreme Court of the United States. Where such appeals are authorized by the superior court the costs which shall be borne by the state shall include those of providing counsel and of preparing a transcript and briefs. Criminal Rule 39(c) shall be followed in making the determination of financial inability.

(c) Costs. Costs, attorney's fees, damages, and interest may be allowed as in other cases, but the state shall not be liable for any of the same.

Rule 4(c), Civil Rules: Cut out below and scotch tape loose-leaf style over the left margin opposite (c) so as not to obscure (d).

(c) Methods of Service - Appointments to Serve Process - Definition of Peace Officer.

(1) Service of all process shall be made by a peace officer, by a person specially appointed by the court for that purpose or, where a rule so provides, by registered or certified mail.

(2) A subpoena may be served as provided in Rule 45.

(3) Special appointments for the service of all process relating to remedies for the seizure of persons or property pursuant to Rule 64 or for the service of process to enforce a judgment by writ of execution shall only be made by the presiding judge of the superior court in each district after a thorough investigation of each applicant, and such appointment may be made subject to such conditions as appear proper in the discretion of the presiding judge for the protection of the public. A person so appointed must secure the assistance of a peace officer for the completion of process in each case in which he may encounter physical resistance or obstruction to the service of process.

(4) Special appointments for the service of all process other than the process as provided under paragraph (3) of this subdivision shall be made freely when substantial savings in travel fees and costs will result. The court in its discretion may by order authorize the clerk or the deputy clerk to make such special appointment.

(5) The term "peace officer" as used in these rules shall include any officer of the state police, members of the police force of any incorporated city, village or borough, United States Marshals and their deputies, and other officers whose duty is to enforce and preserve the public peace.

Rule 4(h), Civil Rules: Cut out below and scotch tape loose-leaf style over the left margin only opposite Annotations so as not to obscure the annotations.

(h) Service of Summons by Mail. In addition to other methods of service provided by this rule, summons may also be served within the state by registered or certified mail upon an individual other than an infant or an incompetent person and upon a corporation, partnership, and unincorporated association. In such case, copies of the summons and complaint shall be mailed by the clerk for delivery only to the party to whom the summons is directed. All returned delivery receipts shall be attached to the copy of the summons retained by the court.

Civil Rule 27(a)(2): Cut out below and scotch tape loose-leaf style on the left margin of the page below paragraph (2) so as not to obscure paragraph (3).

Upon a person other than an infant or an incompetent person, the notice may also be served in the manner provided by Civil Rule 4(h).

Civil Rule 45(c): Cut out below and scotch tape loose-leaf style on the left margin of the page below (c) so as not to obscure (d).

A subpoena may also be served by registered or certified mail. In such case the clerk shall mail the subpoena for delivery only to the person subpoenaed and, unless not required under this rule, shall enclose a warrant or postal money order in the amount of the fees for one day's attendance and of the mileage prescribed by rule. The returned delivery receipt shall be attached to the copy of the subpoena retained by the clerk.

Civil Rule 72(d)(3)[a]: Cut out below and scotch tape loose-leaf style over left margin below [a] so as not to obscure [b].

Notice may also be served upon a person residing in the state other than an infant or incompetent in accordance with Civil Rule 4(h).

Civil Rule 80(d)(3): Cut out below and scotch tape loose-leaf style over left margin below (2) so as not to obscure (e).

(3) The requirements set forth in paragraphs (1) and (2) of this subdivision shall not apply to individual sureties for a national banking association or for a state bank or other financial institution regulated under Title 6 Alaska Statutes.

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Criminal Rule 9(c): Cut out below and scotch tape below Annotations.

(3) Service of Summons by Mail. In addition to other methods of service provided by this rule, summons instead of a warrant as issued under the provisions of subdivision (a) of this rule may also be served upon a defendant of known residence within the jurisdiction of the State of Alaska by registered or certified mail. In such case a copy or copies of the summons shall be mailed by the clerk to each defendant named in the indictment or the information for delivery only to each such named defendant. The returned delivery receipts shall be attached to the copies of summons retained by the clerk. If a delivery receipt is returned unsigned by the defendant named in the indictment or information to whom the summons was addressed, at the request of the prosecuting attorney made at any time while the indictment or information is pending the summons or duplicate thereof may be delivered by the clerk to a peace officer or other authorized person for service.

Criminal Rule 17(d): Cut out below and scotch tape loose-leaf style on the left margin below (d) so as not to obscure the following subdivision.

A subpoena may also be served upon a person of known residence within the state by registered or certified mail. In such case the clerk shall mail the subpoena for delivery only to the person subpoenaed and, unless not required under this rule, shall enclose a warrant or postal money order in the amount of the fees of one day's attendance and of the mileage allowed by law or rule. The returned delivery receipt shall be attached to the copy of the subpoena retained by the clerk. If the subpoena was returned unsigned by the person subpoenaed to whom it was addressed, the clerk shall deliver the subpoena or a duplicate thereof to a peace officer or other authorized person for service.

Criminal Rule 22(a): Insert in ink after the word "court" in line 2 the following:

"upon motion of any party or upon its own motion"

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Rule 39. Appointment of Counsel.

(a) Informing Defendant of Right to Counsel. If the defendant appears for arraignment or trial without counsel, the court shall advise him of his right to have counsel, and he must be asked if he desires the aid of counsel.

(b) Appointment of Counsel for Persons Financially Unable to Employ Counsel. If the defendant states that he desires the aid of counsel and that he is financially unable to employ counsel, the court shall conduct the examination and make the determination provided for in (c) of this rule. If the court determines that the defendant is in fact financially unable to employ counsel and that he is entitled to have counsel provided at public expense, the court shall appoint counsel to represent him. Counsel so appointed shall be allowed such fees for their services as are provided for pursuant to Rule 15, Rules Governing Administration of All Courts. In the absence of a request by the defendant, the court in its discretion may appoint counsel when it deems it in the best interests of justice to do so.

(c) Determining Financial Inability to Employ Counsel - Examination - Criteria.

(1) Examination as to Assets and Liabilities. For the purpose of determining whether a party is financially unable to employ counsel the court shall examine him under oath and on the record with respect to his real and personal assets and liabilities, including cash, accounts receivable, accounts payable, income from salary, wages and other sources, ability to convert assets into cash or credit which could be utilized directly or indirectly for the payment of counsel fees and as to any other relevant aspect of his economic status.

(2) Criteria for Making Determination. If it appears to the court that the party does not have the money to employ counsel, or does not have assets which could be liquidated or pledged to raise the money to employ counsel, or that the obtaining of money by the liquidation or pledge of assets or the use of income would result in depriving the party or his dependents of food, clothing, or shelter, then the party may be adjudged to be financially unable to employ counsel.

RULES AMENDMENT

Supreme Court Order No. 90, effective July 24, 1967, provided rule changes affecting Administrative Rules 1, 6, 9, 18, 24, 37, 41 and 48, Supreme Court Rules 2, 9, 20 and 43, Civil Rules 4, 27, 45, 72 and 80, Criminal Rules 9, 17, 22, 39 and 41 and District Court Criminal Rule 2.

These amendment sheets are provided for temporary conformation of your copy of Alaska Rules of Court Procedure and Administration.

At a future date to be announced Michie Publishing Company will publish a supplement reprinting the pages containing these amendments and include annotations noting new decisions as well as other rule changes which have occurred since publication of the 1966 supplement.

Rule 1(m), Rules of Administration: This is a new subdivision. Delete the number (m) by lining it through in ink and substitute (n) therefor. Cut along dotted lines and scotch tape to the page below (n).

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

- (1) Preparation of memoranda on statutes which may affect the judiciary,
- (2) Drafting of rules of practice and procedure,
- (3) Conducting and supervising research on procedure and court administration,
- (4) Instruction of court personnel concerning rules or statutes governing ministerial and other non-adjudicatory duties,
- (5) Preparation of syllabus for the basic legal instruction of magistrates and other lay personnel,
- (6) Annotation and editing of revisions and supplements to the Alaska Rules of Court Procedure, and
- (7) Rendering legal opinions in any non-adjudicatory matters as he may be directed from time to time by the chief justice.

Criminal Rule 41(c)(5): Cut out below and scotch tape loose-leaf style on the left margin below (4) so as not to obscure subdivision (d).

(5) Dispensing with Undertaking and Cash Deposit in Lieu of Undertaking. In proper cases no undertaking or cash deposit in lieu of undertaking need be required under this rule.

District Court Criminal Rules 2(d): In lines 2 and 3 of said subdivision (d) line out in ink the words:

"elects not to commence service of the sentence or"

Additional copies of this amendment may be obtained from clerks of the superior court.

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