

IN THE SUPREME COURT FOR THE STATE OF ALASKA

ORDER NO. 1092

Amending Criminal Rule 32(g),  
Criminal Rule 32 (h),  
Delinquency Rule 3(c),  
Delinquency Rule 22(a), Civil  
Rule 82, Criminal Rule 16, Civil  
Rule 54(b), Criminal Rule 8(b),  
Criminal Rule 14, Evidence Rule  
404(b), Adoption Rule 8(b),  
Administrative Rule 12(d),  
Adoption Rule 7(b), Criminal  
Rule 16(d) and Appellate Rule  
403(a).

IT IS ORDERED:

1. Criminal Rule 32(g) is amended to provide:

(g) Matters [WRITTEN STATEMENT]  
Submitted by Victim or Victim's  
Representative. If a written statement is  
prepared and submitted by the victim of an  
[A FELONY] offense [OR A DOMESTIC VIOLENCE  
ASSAULT] under AS 12.55.023, or if the  
victim gives sworn testimony or makes an  
unsworn oral presentation under AS  
12.55.023, the trial court:

(1) shall take the content of the  
[WRITTEN] statement, testimony, or  
presentation into consideration:

(A) when preparing those elements of  
the sentencing report required by AS  
12.55.025 that relate to the effect of the  
offense on the victim;

(B) when considering the need for  
restitution under AS 12.55.045; and

(2) may take the content of the [WRITTEN] statement, testimony, or presentation into consideration in any other circumstances that the court believes necessary.

2. Criminal Rule 32(h) is amended to provide:

(h) In (g) of this rule [,

(1) "DOMESTIC VIOLENCE ASSAULT" HAS THE MEANING GIVEN IN AS 12.61.900;

(2)] "victim" has the meaning given in AS 12.55.185.

3. The note following Criminal Rule 32 is amended to provide:

**NOTE:** Paragraphs (g) and (h) were added by ch. 59, § 27, SLA 1989 and amended by ch. 57, §§ 19 & 20, SLA 1991. Subparagraph (d)(1) was amended by ch. 59 § 26, SLA 1989.

4. Delinquency Rule 3(c) is amended to provide:

(c) **General Public Excluded.** Hearings are not open to the public unless requested by the juvenile. However, the court may, after due consideration for the welfare of the juvenile and the interests of the public, admit specific individuals to a hearing, and shall admit victims of

the juvenile's offense to hearings as required by AS 47.10.070(b).

5. A note is added following Delinquency Rule 3 to provide:

Paragraph (c) was amended by ch. 57, § 21, SLA 1991.

6. Subparagraph (1) of Delinquency Rule 22(a) is amended to provide:

(1) The predisposition report filed by the Department may include information concerning the following: the juvenile's family background, educational history, past adjudications, verified past incidents of delinquent behavior, the juvenile's medical, psychological and psychiatric history; and a description of the delinquent act and the juvenile's attitude about the act. The report must contain a recommendation regarding the recommended form of treatment that would be in the best interests of the juvenile and the public, and the victim impact statement required by AS 47.10.081(a).

7. A note is added following Delinquency Rule 22 to provide:

Paragraph (a) was amended by ch. 57, § 22, SLA 1991.

8. A note is added following Civil Rule 82 to provide:

AS 09.55.601, added by ch. 57, § 5, SLA 1991, amended Civil Rule 82 by requiring an award of full reasonable attorney fees to prevailing victims of certain crimes.

9. A note is added following Criminal Rule 16 to provide:

AS 12.61.120, added by ch. 57, § 13, SLA 1991, amended Criminal Rule 16 by restricting discovery available to criminal defendants.

10. A note is added following Civil Rule 54(b) to provide:

AS 25.24.150(f), 25.24.155, and 25.24.160(c), added by ch. 76, §§ 1-3, SLA 1991, amended Civil Rule 54(b) by prohibiting the separation of claims in an action for divorce or an action declaring a marriage void without compliance with AS 25.24.155, as added by ch. 76, § 2, SLA 1991.

11. Criminal Rule 8(b) is amended to provide:

(b) Joinder of Defendants. Two or more defendants may be charged in the same indictment or information if they are alleged to have participated in the same act or transaction or in the same series of acts or transactions constituting an offense or offenses, or if the defendants are parties to an express or tacit

agreement to aid each other to commit an act or transaction constituting a criminal offense or offenses. Such defendants may be charged in one or more counts together or separately and all of the defendants need not be charged in each count. The disposition of the indictment or information as to one of several defendants joined in the same indictment or information shall not affect the right of the state to proceed against the other defendants.

12. A note is added following Criminal Rule 8 to provide:

Paragraph (b) was amended by ch. 79, § 2, SLA 1991.

13. Criminal Rule 14 is amended to provide:

**Rule 14. Relief from Prejudicial Joinder.**

If it appears that a defendant or the state is unfairly prejudiced by a joinder of offenses or of defendants in an indictment or information or by such joinder for trial together, the court may order an election or separate trials of counts, grant a severance of defendants, or provide whatever other relief justice requires. A showing that evidence of one offense would not be admissible during a separate trial of a joined offense or a codefendant does not constitute prejudice that warrants relief under this rule. In

ruling on a motion by a defendant for severance the court may order the attorney for the state to deliver to the court for inspection in camera any statements or confessions made by the defendants which the state intends to introduce at trial.

14. A note is added following Criminal Rule 14 to provide:

The rule was amended by ch. 79, § 3, SLA 1991.

15. Subparagraph (1) of Evidence Rule 404(b) is amended to provide:

(1) Evidence of other crimes, wrongs, or acts is not admissible if the sole purpose for offering the evidence is to prove the character of a person in order to show that the person [HE] acted in conformity therewith. It is [MAY], however, [BE] admissible for other purposes, including, but not limited to, [SUCH AS] proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

16. A note is added following Evidence Rule 404 to provide:

Subparagraph (b)(1) was amended by ch. 79, § 4, SLA 1991.

17. Subparagraph (3) of Adoption Rule 8(b) is amended to provide:

(3) The court also shall appoint counsel at public expense pursuant to Administrative Rule 12 to represent:

(A) an indigent parent against whom an involuntary termination of parental rights is sought on grounds other than stated in AS 25.23.180(c)(3), if the action is brought by the state or by a party represented by the Alaska Legal Services Corporation or the Alaska Pro Bono Program; and

(B) an indigent parent who is defending against a claim that the parent's consent to adoption is not required under AS 25.23.050(a).

18. Administrative Rule 12(d) is amended to add a new subsection 12(d)(2)(B)(viii) to provide:

(viii) Attorneys for indigent parents who are defending against a claim that their consent to adoption is not required under AS 25.23.050(a).

19. Adoption Rule 7(b) is amended to provide:

(b) **Appointment.** Guardians ad litem will be appointed in accordance with the provisions of AS 25.23.100 [AS 25.33.100] and Administrative Rule 12. The court shall specify the duties of the guardian ad litem and the duration of the appointment in its order of appointment.

20. Subparagraph (3)(B) of Criminal Rule 16(d) is amended to provide:

(B) An attorney shall not disclose to a defendant the residence or business address or telephone number of a victim or witness, obtained from information provided under this rule, even if the defendant is acting as co-counsel. If the addresses and telephone numbers of all victims and witnesses have been obliterated, materials that had contained the address or telephone number of a victim or witness may be provided to the defendant. An address or telephone number of a victim or witness may be provided to a defendant proceeding without counsel only as allowed by AS 12.61.120.

21. Subparagraph (1)(B) of Appellate Rule 403(a) is amended to provide:

(B) The running of the time of filing a petition for review is terminated by a timely motion for reconsideration in the trial court. The full time for a petition for review by any party begins to run again on the date of notice, as defined in Civil Rule 58.1(c) and Criminal Rule 32.3(c), or the date of denial of the motion pursuant to Civil Rule 77(k)(m)(4), whichever is earlier.

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DATED: April 8, 1992

EFFECTIVE DATE: July 15, 1992

Chief Justice Rabinowitz

Justice Burke

Justice Matthews

Justice Compton

Justice Moore