

IN THE SUPREME COURT OF THE STATE OF ALASKA
ORDER NO. 1788

Adding a Note to Civil Rule 4 concerning indirect rule amendment made by Chapter 65 SLA 2012 (HB 296);

Amending Criminal Rule 39.1(e) and adding a Note to implement direct court rule amendment made by chapter 72 SLA 2012 (SB 135);

Amending Criminal Rule 45(d)(2) and adding a Note to implement direct court rule amendments made by chapter 72 SLA 2012 (SB 135); and

Adding a new subsection (h) to Criminal Rule 45 and adding a Note to implement direct court rule amendment made by chapter 72 SLA 2012 (SB 135).

IT IS ORDERED:

1. The following Note is added to the end of Civil Rule 4, *effective nunc pro tunc to June 15, 2012*:

Note: Chapter 65, SLA 2012 (HB 296) added a new subsection (c) to AS 09.05.050 relating to service of process on prisoners, effective June 15, 2012. According to section 5 of the Act, AS 09.05.050, including the amendment made by section 1, has

the effect of amending Alaska Rule of Civil Procedure 4, relating to service of process on prisoners committed to the custody of the commissioner of corrections.

2. Criminal Rule 39.1 is amended to read as follows, *effective nunc pro tunc to June 19, 2012*:

Rule 39.1. Determining Eligibility for Court-Appointed Counsel.

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(e) **Determining Eligibility.** The court or its designee shall determine whether a defendant is eligible for court-appointed counsel by placing the defendant under oath and asking about the defendant's financial status, or by requiring the defendant to complete a signed sworn financial statement, subject to penalties for perjury. A defendant who requests appointed counsel must execute a general waiver authorizing the release of financial information to the court as required by AS 18.85.120.

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3. The following Note is added to the end of Criminal Rule 39.1, *effective nunc pro tunc to June 19, 2012*:

Note: Chapter 72, section 6, SLA 2012 (SB 135), effective June 19, 2012, amended Criminal Rule 39.1(e) relating to the appointment of counsel for persons accused of crimes, as reflected in section 2 of this Order. The changes to Criminal Rule 39.1(e) are adopted for the sole reason that the legislature has mandated the amendments.

4. Criminal Rule 45 is amended to read as follows, *effective nunc pro tunc to June 19, 2012*:

Rule 45. Speedy Trial.

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(d) **Excluded Periods.** The following periods shall be excluded in computing the time for trial:

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(2) The period of delay resulting from an adjournment or continuance granted at the timely request or with the consent of the defendant and the defendant's counsel. The court shall grant such a continuance only if it is satisfied that the postponement is in the interest of justice, taking into account the public interest in the prompt disposition of criminal offenses, and after consideration of the interests of the crime victim, if known, as provided in (h) of this rule. A defendant without counsel shall not be deemed to have consented to a continuance unless the defendant has been advised by the court of the right to a speedy trial under this rule and of the effect of consent.

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5. The following Note is added to the end of Criminal Rule 45, *effective nunc pro tunc to June 19, 2012*:

Note: Chapter 72, section 7, SLA 2012 (SB 135), effective June 19, 2012, amended Criminal Rule 45(d)(2) relating to the rights of crime victims, as reflected in section 4 of this Order. The

changes to Criminal Rule 45(d)(2) are adopted for the sole reason that the legislature has mandated the amendments.

6. Criminal Rule 45 is amended by adding a new subsection to read as follows, *effective nunc pro tunc to June 19, 2012*:

Rule 45. Speedy Trial.

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(h) **Victim's Interest in Ruling on Motion to Continue.** Before ruling on a motion for a continuance in a case involving a victim, as defined in AS 12.55.185, the court shall consider the victim's position, if known, on the motion to continue and the effect of a continuance on the victim.

7. The following Note is added to the end of Criminal Rule 45, *effective nunc pro tunc to June 19, 2012*:

Note: Chapter 72, section 8, SLA 2012 (SB 135), effective June 19, 2012, amended Criminal Rule 45 relating to the rights of crime victims, as reflected in section 6 of this Order. The changes to Criminal Rule 45(h) are adopted for the sole reason that the legislature has mandated the amendments.

DATED: July 12, 2012

EFFECTIVE DATE: As provided in the Order

/s/
Chief Justice Fabe

/s/
Justice Carpeneti

/s/
Justice Winfree

/s/
Justice Stowers