

To: Supreme Court Rules Committee

From: Rule 15 Subcommittee

Re: Rule 15

Attached you will find proposed changes to Rule 15 (d) and (f) related to the taking and preservation of depositions. The discussions regarding these changes were a result of amendments to C.R.S. § 18-6.5-103.5 dealing with depositions of At-Risk Adults. This statute as well as C.R.S. § 18-6-401.3 (Child Abuse Victims) and C.R.S. § 18-3-413 (Child Sex Assault Victims) require depositions to be preserved on a video imaging format. We have changed the rule to make the same requirement.

We have deleted language requiring the requesting party to lodge a copy of the deposition with the Clerk of the Court. We did this because with the switch to electronic files, there is no place to keep a CD or transcript of the deposition in the Clerk's Office. All 3 statutes still have the transmission language. However, it seems that this language was placed in the statutes before the switch to electronic filing in criminal cases.

We deleted subsection (f) because we did not see a reason for the prosecution to transcribe the CD and provide it to the defense. We thought that since the testimony was being preserved on video, there was no reason to also require transcription.

One member of the subcommittee has suggested that the rule require the requesting party to electronically file a copy of the deposition.

Another member does not believe that the rule should be modified at all since the only statute that was amended was the At Risk Adult statute. Because this member does not believe that the rule should be modified, she is also not in favor of deleting subsection (f).

Rule 15. Depositions

(a) – (c) [NO CHANGE]

(d) Taking and Preserving Depositions. Depositions shall be taken ~~and transcribed~~ as directed by the court. All depositions shall be preserved in a video imaging format at the expense of the requesting party. A copy of the video imaging shall be provided to the opposing party. ~~may direct and upon completion shall be lodged with the clerk of the court.~~

(e) [NO CHANGE]

~~(f) Copies of Deposition to Defendant. If the deposition is taken at the instance of the prosecution, a transcribed copy of it shall be furnished without cost to the defendant promptly upon the defendant's request.~~