

moore, jenny

From: moore, jenny
Sent: Thursday, January 15, 2015 1:06 PM
To: moore, jenny
Subject: FW: Criminal Rules Committee new agenda item for Friday's meeting

From: moore, jenny
Sent: Thursday, January 15, 2015 12:39 PM
To: gilman, shelley; grohs, deborah; 'matt.holman@state.co.us'; 'Abraham Hutt (abe@abehutt.com)' (abe@abehutt.com); 'Steve Jacobson (steve@collinsrafik.com)' (steve@collinsrafik.com); 'Kevin McGreevy (mcgreevy@rmwpc.com)' (mcgreevy@rmwpc.com); nichols, dana; Donna Skinner Reed (dsreed@co.jefferson.co.us); 'karen.taylor@coloradodefenders.us' (karen.taylor@coloradodefenders.us); David Vandenberg (vandendp@co.larimer.co.us); 'Robin Whitley (Rjw@denverda.org)' (Rjw@denverda.org); hoffman, morris
Cc: dailey, john; morrison, terri; yacuzzo, karen; fisch, susan
Subject: Criminal Rules Committee new agenda item for Friday's meeting

Judge Carl McGuire sent a proposed amendment to Crim. P.44(a) to the clerk's office yesterday, and I've pasted his email below. Judge Dailey would like to address this as new business tomorrow. This might be handled as a pro forma matter, or it might be assigned to a subcommittee.

Would you please bring it to someone's attention that Colorado Rules of Criminal Procedure 44(a) allows for the appointment of law student externs as counsel, but it still cites Colorado Rules of Civil Procedure 226. Rule 226 has been repealed since June 16, 2011, and its successor, Rule 226.5, was repealed on September 1, 2014. A correct reading of Colorado Rules of Criminal Procedure 44(a) should read:
Appointment of Counsel. If the defendant appears in court without counsel, the court shall advise the defendant of the right to counsel. In an appropriate case, if, upon the defendant's affidavit or sworn testimony and other investigation, the court finds that the defendant is financially unable to obtain counsel, an attorney shall be assigned to represent the defendant at every stage of the trial court proceedings. In any misdemeanor case the court may appoint as counsel law student externs who shall act under the provisions of C.R.C.P. 205.7. No lawyer need be appointed for a defendant who, after being advised, with full knowledge of his rights thereto, elects to proceed without counsel. Except in a case in which a law student extern has been appointed, unless good cause exists otherwise, the court shall appoint the state public defender.

Thanks,
Jenny A. Moore
Rules Research Attorney
Colorado Supreme Court Committees