AGENDA
COLORADO SUPREME COURT
RULES OF JUVENILE PROCEDURE COMMITTEE

Friday, November 2, 2018, 9:00 a.m.
Ralph L. Carr Colorado Judicial Center
2 E. 14th Ave., Denver CO 80203
Supreme Court Conference Room

I. Call to Order

II. Chair's Report
A. Approval of the 7/28/18 meeting minutes [pages 1–5]

III. Old Business
A. Harmless Error/Plain Error Memo [pages 6–9]

IV. New Business
A. Disposition: Judge Simonet & Jennifer Conn [To be sent in a separate email]
B. Pre-Adjudication: Judge Slade & Traci Engdol-Fruhwirth
1) Redline Version [pages 10–16]
2) Clean Version [pages 17–23]
C. Review Present C.R.J.P 4 through 4.5 [pages 24–39]

V. Adjourn

Conference call information

To join the call please **dial 720-625-5050** and, when prompted, enter **participant code, 66992985#** (don't forget the pound sign).

Adobe Connect link

https://connect.courts.state.co.us/wallace/

Colorado Supreme Court Rules of Juvenile Procedure Committee
Minutes of July 27th, 2018 Meeting

I. Call to Order

The Rules of Juvenile Procedure Committee came to order around 9:04 AM in the supreme court conference room on the fourth floor of the Ralph L. Carr Colorado Judicial Center. Members present or excused from the meeting were:

Name	Present	Excused
Judge Karen Ashby, Chair	X	
David P. Ayraud	X	
Magistrate Howard Bartlett	X	
Jenny Bender		X
Jennifer Conn	X	
Sheri Danz	X	
Traci Engdol-Fruhwirth		X
Judge David Furman		X
Ruchi Kapoor	X	
Andi Truett for Shana Kloek	X	
Wendy Lewis	X	
Judge Ann Meinster	X	
Judge Dave Miller	X	
Chief Judge Mick O'Hara	X	
Trent Palmer	X	
Professor Colene Robinson	X	
Magistrate Fran Simonet		X
Judge Traci Slade		X
Magistrate Kent S. Spangler	X	
John Thirkell		X
Pam Wakefield	X	
Chief Judge Jeffrey Wilson		X
Non-voting Participants		
Justice Richard Gabriel, Liaison		X
Terri Morrison	X	
J.J. Wallace	X	

Attachments & Handouts:
(1) Draft Minutes of the 5/4/18 meeting
(2) Permanency Planning Rule & Notice Proposal
a. *People in Interest of S.L.*, 2017 COA 160
b. *People in Interest of H.K.W.*, 2017 COA 70

(3) Email from Ruchi Kapoor Re Ineffective Assistance of Counsel Group
(4) Termination Subcommittee Proposal
(5) Email from Judge Freyre Re Plain Error Review
a. Crim. P. 52
b. C.R.C.P. 61
(6) Email from Judge Freyre Re C.R.C.P. 54(b) certification
a. *People in Interest of R.S.*, 2018 CO 31
(7) Termination proposed forms:
a. Notice of Hearing
b. Advisement
c. Pre-trial Conference Order

II. Chair's Report

A. The May 4, 2018 minutes were approved without amendment or objection.
B. Lunch will arrive at around 11:45 PM
C. The next meeting will be Friday, September 14th at 9 AM. The meeting will be held in room 2B, which is on the second floor between the court building and the tower building. To reach the conference room, take the elevators in the tower building to the 2nd floor and then follow the signs.

III. Old Business

A. Permanency Planning Proposal

One committee member questioned including the reference to the federal statute on OPPLA (42 U.S.C. § 675a(a)(2)(A)) in the notice. The subcommittee included the reference because that requirement is often overlooked. The committee decided to leave the language parroting the federal statute but took out the specific cite to the statute. It was thought that avoiding statutory citations prevents later cross-reference problems if the statute is moved or changed.

The committee would like the rule to specifically address the issue of "developmentally appropriate" and have the rule reflect what to do if the child is a baby.

The committee does not like the phrase "speak with a child separately," and discussed using "in camera" instead. After discussion, the committee agreed that the phrase "speak with the child separately" comes from the statute, section 19-1-106(5), and has been recently addressed in two cases. Thus, it has become its own term of art.

The committee members questioned who gets the transcript of an in camera hearing and expressed concern that, years later, a transcript could be inappropriately released. Terri Morrison pointed out that CJD 05-01 controls access to court records and JV cases are not available to nonparties.

The committee suggested drafting a comment (1) noting that case law has declined to extend the UMDA statute, section 14-10-126(1), C.R.S. (2017) to D&N cases and (2) referring to CJD.

IV. New Business

A. Report from Ineffective Assistance of Counsel Group-Ruchi Kapoor

Ruchi explained that the group she was working with had substantively productive discussions, but they were split on how they should proceed. Half the group wanted to start drafting a rule; the other half wanted further discussions before committing to a rule. Ruchi asked to be put on the agenda to get guidance from the committee as to whether her group should move forward with their work and, if so, what form their work should take (drafting a rule; drafting a report).

She explained that her group had worked from an ALR article and a law review article each examining the ways courts have addressed ineffective assistance of counsel claims in the D&N context. There are two main approaches: (1) the direct appeal approach and (2) the C.R.C.P. 60 approach. She said most states, like Colorado's current case law, follow the direct appeal approach. Most IAC claims in Colorado are resolved because the parent fails to show prejudice. She related a few examples of what other states do differently from Colorado that address difficulties appellate counsel face in raising IAC claims on direct appeal such as allowing the submission of new evidence related to the IAC claim to the appellate court.

The chair asked the committee members if they believed they had enough information to vote on whether the group should continue working towards drafting a rule or not. The committee members unanimously believed they had sufficient information to vote on whether to continue the group. The committee voted 1-15 against the group continuing its work. The chair thanked the group chair for her work and for presenting the different viewpoints to the committee. The chair asked the group chair to pass along the thanks of the committee to the group members.

B. Termination Chief Judge O'Hara, Magistrate Bartlett, and Sheri Danz

Chief Judge O'Hara began by stating that the subcommittee held several discussions, but they did not believe that any termination-specific rules needed to be drafted given the committee's decision not to adopt rules re-stating statutes or explaining case law. After a brief discussion about whether a rule regarding children speaking with the court at termination (similar to the permanency hearing rule), the committee decided that it was unnecessary. Chief Judge O'Hara said that if any committee member feels like a particular rule would be helpful, email him and let him know.

The subcommittee did think that forms may be helpful, so they provided forms for: advisement, notice, and a pretrial conference order.

The proposed advisement could be an oral advisement by the court or a written advisement-the subcommittee's goal was to provide a comprehensive list of everything that could be included in an advisement. The committee discussed the individual advisements and felt that language regarding confidential communications with an expert and the right to prevent the expert from testifying should be removed because they may not be consistent with case law.

The committee felt there was no need for a sample motion to be included with the notice of termination hearing. The committee rephrased the notice to conform to the new procedure in section 19-3-607 for appointing experts (appointments go through ORPC instead of through the court).

The committee felt that the pretrial conference order should be retitled "Case Management Order-Termination Hearing" to conform to the discovery/disclosure rule case management order applicable throughout a D&N case. The committee cross-referenced the discovery/disclosure rules and noted that those rules would guide the termination hearing and there was a suggestion that, if the committee was to adopt a termination rule, it should include: an advisement, a reminder about ICWA, and a reminder for parties to look back at the discovery/disclosure rule and sample case management order.

C. Plain error review

The chair asked the committee if there was a need for a rule setting out a standard of review and what that standard would be. The committee reached no consensus on this issue and did not feel it had enough information. The chair asked the committee to continue to think about the issue until the next meeting; J.J. Wallace will research what other states do and provide more information to the committee at the next meeting.

D. C.R.C.P. 54(b) Certification

After briefly discussing whether the rules should include some sort of mechanism like C.R.C.P. 54(b) certification and noting that the supreme court specifically did not address C.R.C.P. 54(b)'s application in *People in Interest of R.S.*, 2018 CO 31, the committee decided to take no further action on this agenda item.

V. Adjourn

Judge Ashby made some closing remarks about future planning. She wants the committee to start thinking about the things we need to do to wrap up the dependency and neglect rules. These include the subcommittees thinking about comments that need to be included with rules. J.J. Wallace will email subcommittee chairs references from past minutes where the committee thought a comment might be appropriate. Judge Ashby also suggested there may be some work done via email in the future.

The Committee adjourned at 1:48 PM.

_____

Respectfully Submitted,
J.J. Wallace

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To: Rules of Juvenile Procedure Committee
From: J.J. Wallace
RE: 7/28/18 Meeting Request for More Information
Date: 11/2/18

Background

The committee asked for more information, including using other states' rules as examples, to help decide whether the new juvenile rules should include a reference to a standard of review and whether plain error should be referenced. The discussion was prompted by an email from Judge Freyre of the Court of Appeals. Her email explained that she'd had several D&N appeals where the parties agreed that unpreserved errors are reviewed for plain error. She found this notable because D&N cases are civil, not criminal, and plain error comes from the criminal rules. She asked if the committee was considering incorporating Crim. P. 52 into the C.R.J.P.

Introduction

In this memo, I begin with a brief discussion of preservation of issues. I then describe C.R.C.P. 61 (harmless error), Crim. P. 52 (harmless error and plain error), and C.R.J.P. 1, which incorporates these rules into the juvenile rules. I also address "catchall" provisions in the rules of evidence and in the appellate rules that give courts discretion to address unpreserved errors. Finally, I review other states' juvenile-specific rules and their references to a standard of review.

Preservation

As a general rule, an argument not first presented to, considered by, or ruled upon by the trial court is not a proper argument to raise when seeking reversal of the trial court's decision. *See, e.g., People in Interest of K.L-P.*, 148 P.3d 402, 403 (Colo. App. 2006); CRE 103(a)(1) (requiring timely objections to the admission of evidence); C.R.C.P. 51 (requiring objections to jury instructions).[1]

C.R.C.P. 61, Crim. P. 52, & C.R.J.P. 1

Both the civil rules and the criminal rules include rules describing standards of review. The rules share similarities, but the criminal rule includes a clause authorizing review of unpreserved errors that is not included in the civil rule. C.R.C.P. 61 states:

> No error in either the admission or the exclusion of evidence and no error or defect in any ruling or order or in anything done or omitted by the court or by any of the parties is ground for granting a new trial or for setting aside a verdict or for vacating, modifying or otherwise disturbing a judgment or order, unless refusal to take such action appears to the court inconsistent with substantial justice. The

[1] There is not the same preservation requirement for arguments to support the trial court's decision because a reviewing court can affirm the trial court's decision based on any grounds that are supported by record. *See People v. Quintana*, 882 P.2d 1366, 1371 (Colo. 1994).

> court at every stage of the proceeding must disregard any error or defect in the proceeding which does not affect the substantial rights of the parties.

C.R.C.P. 61 has been cited in several court of appeals cases resolving dependency and neglect appeals for the proposition that error is harmless if it did not affect a substantial right of the party or impact the outcome of the case. *See, e.g., People in Interest of D.B.*, 2017 COA 139, ¶ 31 (any error in admitting a termination report including hearsay statements about mother's sobriety was harmless because other evidence showed mother failed to demonstrate sobriety and lack of sobriety was not the sole basis for terminating her rights); *People in Interest of D.P.*, 181 P.3d 403, 408 (Colo. App. 2008) (trial court erred in allowing law clerk to conduct UCCJEA consultation with Rhode Island court, but error was harmless because father did not show any prejudice from the error); *People in Interest of B.C.*, 122 P.3d 1067, 1071 (Colo. App. 2005) (trial court erred in delegating decision-making responsibility for visitation to therapist, but the court held multiple hearings on visitation; thus the delegation did not affect mother's substantial rights and did not require reversal).

In contrast to the civil rule, Crim. P. 52 incorporates both harmless error and plain error. Crim. P. 52 states:

> (a) Harmless Error. Any error, defect, irregularity, or variance which does not affect substantial rights shall be disregarded.
>
> (b) Plain Error. Plain errors or defects affecting substantial rights may be noticed although they were not brought to the attention of the court.

Thus, the criminal rules allow an appellate court to review errors that were not preserved. *People v. Hagos*, 2012 CO 63, ¶ 14. Crim. P. 52(b) was formulated to permit an appellate court to correct particularly egregious errors. *Id.* This kind of error is "so obvious that a trial judge should be able to avoid it without the benefit of an objection." *Scott v. People*, 2017 CO 16, ¶ 16.

I could find no dependency and neglect case from Colorado that references Crim. P. 52 or "plain error." In rare instances involving unusual or special circumstances, appellate courts have used plain error to review jury instructions in civil cases. *See Blueflame Gas, Inc. v. Van Hoose*, 679 P.2d 579, 588 (Colo. 1984). But, generally speaking, appellate courts express extreme reluctance to use plain error in the civil context. *Robinson v. City & Cty. Of Denver*, 30 P.3d 677, 684-85 (Colo. App. 2000) ("The use of the plain-error exception to the normal rules of appellate practice must be confined to the most compelling cases, especially in civil, as opposed to criminal, litigation.") (citation omitted).

Presently, the juvenile rules incorporate both the civil rules and the criminal rules. C.R.J.P. 1 reads:

> Proceedings are civil in nature and where not governed by these rules or the procedures set forth in Title 19, 8B C.R.S. (1987 Supp.), shall be conducted according to the Colorado Rules of Civil Procedure. Proceedings in delinquency shall be conducted in accordance with the Colorado Rules of Criminal Procedure, except as otherwise provided by statute or by these rules.

A proceeding to determine whether a child is dependent or neglected is civil in nature. *People v. D.A.K.*, 198 Colo. 11, 17, 596 P.2d 747, 751 (1979). Thus, C.R.C.P. 61 would seem to apply in D&N cases.

Catchall Provisions

There are two more rules which allow review of unpreserved errors.

CRE 103(a)(1) requires contemporaneous objections to the admission of evidence. But CRE 103(d) goes on to state: "Nothing in this rule precludes taking notice of plain errors affecting substantial rights although they were not brought to the attention of the court." I could not find a Colorado civil case which used or cited to CRE 103(d).

More wide-spread has been the use of the appellate rules to address unpreserved errors. The appellate rules include references similar to C.R.C.P. 61 and Crim. P. 52. C.A.R. 35(c) echoes the harmless error standard and states "[t]he appellate court may disregard any error or defect not affecting the substantial rights of the parties." But, C.A.R. 1(d) reserves plain error-like review at the discretion of the appellate court: "Briefs filed pursuant to C.A.R. 28(a) shall state clearly and briefly the grounds upon which the party relies in seeking a reversal or modification of the judgment or the correction of adverse findings, orders, or rulings of the trial court. The party will be limited to the grounds so stated *although the court may in its discretion notice any error appearing of record*." (emphasis added). *See also Mt. Emmons Min. Co. v. Town of Crested Butte*, 690 P.2d 231, 238 (Colo. 1984) (The court "may nevertheless notice errors appearing of record, C.A.R. 1(d), especially when these errors are of a fundamental character affecting the reliability of the judgment itself.").

In the dependency and neglect context, the court of appeals has very occasionally exercised its discretion to address unpreserved arguments. In *People in Interest of A.E.*, the division explained "[t]his case presents one of those limited situations in which an error by the trial court, not otherwise properly preserved for appeal, should be characterized as fundamental or one causing a miscarriage of justice, thereby allowing us to consider it on appeal." 914 P.2d 534, 539-40 (Colo. App. 1996) (reversing a trial court's granting termination of parental rights by a summary judgment motion filed in a piece-mill fashion less than three weeks before trial); *see also People in Interest of R.D.*, 2012 COA 35, ¶¶ 23-39 (rejecting harmless error standard of review when a parent's statutory right to counsel was violated and concluding that the deprivation of the right to counsel constitutes reversible error per se).

Other States' Rules

I could find only one state with a rule specifying a standard of review within its version of the juvenile rules. New Mexico's rule, titled "Harmless Error; failure to comply with time limits" states:

> Error or defect in any ruling, order, act or omission by the court or by any of the parties including failure to comply with time limits is not grounds for granting a new hearing or for setting aside a verdict, for vacating, modifying or otherwise disturbing a judgment or order, or for dismissing an action, unless refusal to take any such action appears to the

court inconsistent with substantial justice or unless these rules expressly provide otherwise.

N.M. Child. Ct. R. 10-144.

And I could find only one reference to "plain error" in any juvenile rules (applicable to D&N cases). In an Ohio juvenile rule setting out the procedure for reviewing a magistrate's decision, the rule requires parties to raise their objections to a magistrate's decision, and if not raised, they are waived on appeal. The rule provides an exception for claims of plain error. Ohio Juv. R. 40.

Most states seem to be like Colorado and have adopted the standards of review that are modeled on the federal rules.[2] In these states, there is no specific juvenile rule; there is a harmless error rule in the civil rules; there is a harmless error and a plain error rule in the criminal rules; and the appellate rules incorporate aspects of both harmless error and plain error giving the appellate court discretion to address unpreserved issues to prevent a miscarriage of justice.

States that follow this model often appear to have plain error-like review in civil cases (including D&N cases) available under the "unless justice requires otherwise" provision of the civil rule or they have an appellate rule which states that the appellate court may, in its discretion, address issues not raised in the trial court. *See e.g.*, Minn. R. App. P. 103.04 (The appellate courts "may review any other matter as the interest of justice may require."); Or. R. App. P. 5.45(1): "Assignments of error are required in all opening briefs of appellants and crossappellants. No matter claimed as error will be considered on appeal unless the claim of error was preserved in the lower court and is assigned as error in the opening brief in accordance with this rule, provided that the appellate court may, in its discretion, consider a plain error." *See also* Or. R. App. P. 5.45(7): "The court may decline to exercise its discretion to consider plain error absent a request explaining the reasons that the court should consider the error."

States that follow this model also have juvenile rules like C.R.J.P. 1, which incorporates the civil and criminal rules of procedure into the juvenile rules. *See* Wash. Juv. Ct. R. 1.4 (titled "Applicability of Other Rules" and applying the civil, criminal, evidence, and local rules to juvenile cases); *see also* Minn. R. J. Protection P. 47.01 (applying the rules of appellate procedure to juvenile protection matters, but not the civil rules of procedure, Minn. R. J. Protection P. 3.01, because Minnesota has comprehensive juvenile rules of procedure for the trial level).

[2] Crim. P. 52 is identical to the federal rule. C.R.C.P. 61 and the federal rule are the same in substance and were identical before 2007, but the Colorado rule was not modified to reflect changes made to the federal rule that makes the latter easier to read. For example, the federal rule begins "[u]nless justice requires otherwise. . ." and the Colorado rule expresses the same idea at the end of a sentence by saying "unless refusal to take such action appears to the court inconsistent with substantial justice." The federal appellate rules do not reference any particular standard of review, but federal case law has acknowledged limited use of plain error analysis in civil cases when the error is so fundamental that it may have resulted in "a miscarriage of justice." *See Employers Reinsurance Corp. v. Mid-Continent Cas.*, 358 F.3d 757, 769 (10th Cir. 2004).

Rule Petition Initiation, Form and Content.

(a) A petition concerning a child who is alleged to be dependent and neglected shall be initiated in accordance with Section 19-3-501, C.R.S., and shall be in the form set forth in Section 19-3-502, C.R.S. Said petition shall be filed within 14 days from the day a child is taken into custody, unless otherwise directed by the court;

(b) The petition shall be initiated by the designated County or City Attorney in the proper city or county pursuant to 19-3-201, C.R. S. The County or City Attorney shall be the Petitioner;

(c) The Petition shall name the child or children at issue;

(d) The Petition shall name as Respondents:

A) Any and all parents of the child(ren);

B) Any legal guardian or custodian;

C) Any person who a court of competent jurisdiction has allocated any legal responsibility for the child(ren);

(e) The Petition may name as a Special Respondent, a person who resides with, has assumed a parenting role toward, has participated in whole or in part in the neglect or abuse of, or maintains a significant relationship with the child(ren).

(f) Service shall conform with 19-3-503.

Commented [st1]: 19-3-503 says conform with CRCP (cant change)

Rule Responsive Pleadings

No written responsive pleadings to the Petition in Dependency and Neglect are required.

Rule Pre-Trial Motions

Any issue, except an adjudicatory finding, may be raised by motion All motions shall be in writing and signed by the moving party or counsel and supported by legal authority. If the moving party fails to incorporate legal authority into a written motion, the court may deem the motion abandoned

and may enter an order denying the motion. The court may grant permission for oral motions. All pleading shall include a certificate of service listing manner of delivery to the County Attorney, all named respondents, the guardian ad litem, and any intervenors.

a) **Duty to Confer.** Unless a statute or rule governing the motion provides that it may be filed without notice, moving counsel or unrepresented moving party shall have a duty to confer with non-moving counsel or pro se parties prior to filing any motions. To verify this requirement has been met, every motion to which the rule applies shall contain a brief statement at the beginning summarizing the moving party's efforts to confer with or notify all other parties. The outcome of that contact shall also be summarized. The Court may strike any motion that does not have the required statement concerning consultation.

OR

Unless a statute or rule governing the motion provides that it may be filed without notice, moving counsel and any self-represented party shall confer with opposing counsel and any self-represented parties before filing a motion. The requirement of self-represented parties to confer and the requirement to confer with self-represented parties shall not apply to any incarcerated person, or any self-represented party as to whom the requirement is contrary to court order or statute, including, but not limited to, any person as to whom contact would or precipitate a violation of a protection or restraining order. The motion shall, at the beginning, contain a certification that the movant in good faith has conferred with opposing counsel and any self-represented parties about the motion. If the relief sought by the motion has been agreed to by the parties or will not be opposed, the court shall be so advised in the motion. If no conference has occurred, the reason why, including all efforts to confer, shall be stated.

b) **Timing:** All pre-trial motions must be filed at least 21 days prior to trial or within 7 days of setting trial whichever is later. Responses are due no later than 7 days after filing of the motion. Any motions to amend the Petition shall be filed no later than 10 days prior to trial unless good cause is shown.

Forthwith or Emergency Motions may be filed when there is an issue that requires immediate determination by the court. The movant must state with particularity the need for an immediate determination. Any objection or response shall be filed within 72 hours. No reply is permitted unless otherwise ordered by the court.

a. Parties are still required to comply with (the conferral rule)

Except for orders containing signatures of the parties or attorneys as required by statute or rule, each motion shall be accompanied by a proposed order. The proposed order complies with this provision if it states that the requested relief be granted or denied.

Commented [st2]: Needed to define because GAL does not get pleadings sometimes and to clearly define SR not always entitled to pleadings.

Commented [st3]: We stuck with Pre-adj, but should be consistent throughout rules.

Commented [st4]: (a)Struggled with this: when a child's life, health, or safety is at risk.
a.

Commented [st5]: Want to still say there is a duty to confer

Service of Motions:

Rule Reports, Filings and Other pleadings

1) Except as otherwise provided in these rules or pursuant to Title 19, every order required by its terms to be served, every pleading subsequent to the original Petition unless the court otherwise orders, every written motion other than one which may be heard ex parte, and every written notice, appearance, designation of record on appeal, reports as prescribed in Title 19 and similar papers shall be served upon each of the parties. No service need be made on parties in default for failure to appear except that pleadings asserting new or additional claims for relief against them shall be served upon them in the manner provided in 19-3-503.
   a) **Making Service:**
      i) Service on a party represented by an attorney is made upon the attorney unless the court orders personal service upon the party. A resident attorney, on whom pleadings and other papers may be served, shall be associated as attorney of record with any out-of-state attorney practicing in any courts of this state.
      ii) Delivering a copy to the person by:
         (1) handing it to the person;
         (2) leaving it at the person's dwelling house or usual place of abode with someone 18 years of age or older residing there;
         (3) Mailing a copy to the last known address of the person served. Service by mail is complete on mailing;
         (4) If the person served has no known address, leaving a copy with the clerk of the court; or
         (5) Delivering a copy by any other means, including E-Service, other electronic means or a designated overnight courier, consented to in writing by the person served. Designation of a facsimile phone number or an email address in the filing effects consent in writing for such delivery. Parties who have subscribed to E-Filing. Service by other electronic means is complete on transmission; service by other consented means is complete when the person making service delivers the copy to the agency designated to make delivery. Service by other electronic means or overnight courier is not effective if the party making service learns that the attempted service did not reach the person to be served.
   b) **Filing Certificate of Service.** All papers after the initial pleading required to be served upon a party, together with a certificate of service, must be filed with the court within a reasonable time after service.

2) **Inmate Filing and Service.** Except where personal service is required, a pleading or paper filed or served by an inmate confined to an institution is timely filed or served if deposited in

Commented [AB6]: The service of motions is not covered in 19-3-503 so this is a general provision for motions.

Commented [st7]: 1)May or may not want to address HOW to file (counter vs. efiling as defined in 121)
Ie CRCP 5
Filing with Court Defined. The filing of pleadings and other papers with the court as required by these rules shall be made by filing them with the clerk of the court, except that the judge may permit the papers to be filed with the judge, in which event the judge shall note thereon the filing date and forthwith transmit them to the office of the clerk. A paper filed by E-Filing in compliance with C.R.C.P. 121 Section 1-26 constitutes a written paper for the purpose of this Rule. The clerk shall not refuse to accept any paper presented for filing solely because it is not presented in proper form as required by these rules or any local rules or practices.

Commented [st8]: This entire rule was adapted but copied from CRCP

Commented [AB9]: We are unable to change these provisions of the CRCP because 19-3-503 refers directly to the CRCP versus CRJP. We would make significant revisions of this section to make them apply to juvenile cases if this was not already part of the statute.

Commented [st10]: Maybe some day? Leave in or take out for now??

Commented [AB11]: Remove E-filing and E-Service from this because we currently do not have Colorado Court's E-Filing for juvenile cases.

Commented [AB12]: Suggest that this also be removed because there is not E-filing or E-Service yet.

the institution's internal mailing system on or before the last day for filing or serving. If an institution has a system designed for legal mail, the inmate must use that system to receive the benefit of this rule.

3) With the exception of reports filed pursuant to 19-1-107, Every pleading, motion, or any other document filed with the court (hereinafter "document") shall conform with the following:
    1) **Caption; Names of Parties.** Documents shall contain a caption setting forth the name of the court, the title of the action, the case number, if known to the person signing it, the name of the document and other applicable information in the format specified by paragraph ____ and the captions illustrated by paragraph _____ of this rule.

Illustration of Case Caption:

DISTRICT COURT or DENVER JUVENILE COURT _____ COUNTY, STATE OF COLORADO (Court Address)	
PEOPLE OF THE STATE OF COLORADO **IN THE INTEREST OF:** **child** **AND CONCERNING:** **Respondents,** **And concerning**	**Court Use Only**
Filing party Name Address Phone Number Email Address Attorney Bar #	Case No. Division

2) **Obligations of Parties and Attorneys.** Every pleading or document filed by a party represented by an attorney shall be signed by at least one attorney of record in his or her individual name. The initial pleading shall state the current number of his or her registration

issued to him by the Supreme Court. The attorney's address and that of the party shall also be stated. A party who is not represented by an attorney shall sign his or her pleadings and state his or her address. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The signature of an attorney constitutes a certificate by him or her that he or she has read the pleading; that to the best of his or her knowledge, information, and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay. If a pleading is not signed it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader.

3) **Limited Representation.** An attorney may undertake to provide limited representation in accordance with Colo. RPC 1.2 to a pro se party involved in a court proceeding. Pleadings or papers filed by the pro se party that were prepared with the drafting assistance of the attorney shall include the attorney's name, address, telephone number and registration number. The attorney shall advise the pro se party that such pleading or other paper must contain this statement. In helping to draft the pleading or paper filed by the pro se party, the attorney certifies that, to the best of the attorney's knowledge, information and belief, this pleading or paper is (1) well-grounded in fact based upon a reasonable inquiry of the pro se party by the attorney, (2) is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law, and (3) is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. The attorney in providing such drafting assistance may rely on the pro se party's representation of facts, unless the attorney has reason to believe that such representations are false or materially insufficient, in which instance the attorney shall make an independent reasonable inquiry into the facts. Assistance by an attorney to a pro se party in filling out pre-printed and electronically published forms that are issued through the judicial branch for use in court are not subject to the certification and attorney name disclosure requirements of this rule.

Commented [st13]: Rule 121 (not pre adj, but entry of appearance is… withdrawal?)

4) Limited representation of a pro se party under this Rule _____ shall not constitute an entry of appearance by the attorney, and does not authorize or require the service of papers upon the attorney. Representation of the pro se party by the attorney at any proceeding before a judge, magistrate, or other judicial officer on behalf of the pro se party does constitute an entry of an appearance.

5) Rule First Appearance Advisement Upon Filing of Petition

(a) At the first appearance before the court, the court shall inquire of all parties and counsel regarding the applicability of the Indian Child Welfare Act pursuant to 19-1-126.

(b) The court shall require the parties to complete and file an Affidavit as To Children (see form____)

(c) The court shall fully advise the respondent(s) as to all rights and the possible consequences of a finding that a child is dependent or neglected. The court shall make certain that the respondent(s) understand the following:

(1) The nature of the allegations contained in the petition;

(2) As a party to the proceeding, the right to counsel;

(3) That if the respondent(s) is a parent, guardian, or legal custodian, and is indigent, the respondent may be assigned counsel as provided by law.

(4) The right to an adjudicatory trial by jury;

(5) That any admission to the petition must be voluntary;

(6) The general dispositional alternatives available to the court if the petition is sustained, as set forth in Section 19-3-508, C.R.S.;

(7) That termination of the parent-child legal relationship is a possible remedy which is available if the petition is sustained;

(8) That if a motion to terminate the parent-child legal relationship is filed, the court will set a separate hearing at which the allegations of the motion must be proven by clear and convincing evidence;

(9) That termination of the parent-child legal relationship means that the subject child would be available for adoption;

(10) That any party has the right to appeal any final decision made by the court; and

(11) That if the petition is admitted, the court is not bound by any promises or representations made by anyone about dispositional alternatives selected by the court.

August 4, 2017- Committee directs Pre-Adjudication committee to consider a rule to appoint counsel whether a parent appears or not. (Default discussion)

- RPC cannot advocate for a non-existing client
- Right to counsel of choice, including pro se. What if there is a private attorney giving bad advice- advice none-the-less that contradicts RPC;
- How do you determine indigency if there is no application;

December 8 meeting directed Pre-Adjudication committee to consider a rule requiring all courts to adopt a uniform CMO in D&N cases:

- Procedural problems are addressed (hopefully) by rule. Counties may issue CMO if they want.

Rule Petition Initiation, Form and Content.

(a) A petition concerning a child who is alleged to be dependent and neglected shall be initiated in accordance with Section 19-3-501, C.R.S., and shall be in the form set forth in Section 19-3-502, C.R.S. Said petition shall be filed within 14 days from the day a child is taken into custody, unless otherwise directed by the court;

(b) The petition shall be initiated by the designated County or City Attorney in the proper city or county pursuant to 19-3-201, C.R. S. The County or City Attorney shall be the Petitioner;

(c) The Petition shall name the child or children at issue;

(d) The Petition shall name as Respondents:

A) Any and all parents of the child(ren);

B) Any legal guardian or custodian;

C) Any person who a court of competent jurisdiction has allocated any legal responsibility for the child(ren);

(e) The Petition may name as a Special Respondent, a person who resides with, has assumed a parenting role toward, has participated in whole or in part in the neglect or abuse of, or maintains a significant relationship with the child(ren).

(f) Service shall conform with 19-3-503.

Rule Responsive Pleadings

No written responsive pleadings to the Petition in Dependency and Neglect are required.

Rule Pre-Trial Motions

Any issue, except an adjudicatory finding, may be raised by motion All motions shall be in writing and signed by the moving party or counsel and supported by legal authority. If the moving party fails to incorporate legal authority into a written motion, the court may deem the motion abandoned

and may enter an order denying the motion. The court may grant permission for oral motions. All pleading shall include a certificate of service listing manner of delivery to the County Attorney, all named respondents, the guardian ad litem, and any intervenors.

a) **Duty to Confer.** Unless a statute or rule governing the motion provides that it may be filed without notice, moving counsel or unrepresented moving party shall have a duty to confer with non-moving counsel or pro se parties prior to filing any motions. To verify this requirement has been met, every motion to which the rule applies shall contain a brief statement at the beginning summarizing the moving party's efforts to confer with or notify all other parties. The outcome of that contact shall also be summarized. The Court may strike any motion that does not have the required statement concerning consultation.

OR

Unless a statute or rule governing the motion provides that it may be filed without notice, moving counsel and any self-represented party shall confer with opposing counsel and any self-represented parties before filing a motion. The requirement of self-represented parties to confer and the requirement to confer with self-represented parties shall not apply to any incarcerated person, or any self-represented party as to whom the requirement is contrary to court order or statute, including, but not limited to, any person as to whom contact would or precipitate a violation of a protection or restraining order. The motion shall, at the beginning, contain a certification that the movant in good faith has conferred with opposing counsel and any self-represented parties about the motion. If the relief sought by the motion has been agreed to by the parties or will not be opposed, the court shall be so advised in the motion. If no conference has occurred, the reason why, including all efforts to confer, shall be stated.

b) **Timing:** All pre-trial motions must be filed at least 21 days prior to trial or within 7 days of setting trial whichever is later. Responses are due no later than 7 days after filing of the motion. Any motions to amend the Petition shall be filed no later than 10 days prior to trial unless good cause is shown.

Forthwith or Emergency Motions may be filed when there is an issue that requires immediate determination by the court. The movant must state with particularity the need for an immediate determination. Any objection or response shall be filed within 72 hours. No reply is permitted unless otherwise ordered by the court.

a. Parties are still required to comply with (the conferral rule)

Except for orders containing signatures of the parties or attorneys as required by statute or rule, each motion shall be accompanied by a proposed order. The proposed order complies with this provision if it states that the requested relief be granted or denied.

Service of Motions:

Rule Reports, Filings and Other pleadings

1) Except as otherwise provided in these rules or pursuant to Title 19, every order required by its terms to be served, every pleading subsequent to the original Petition unless the court otherwise orders, every written motion other than one which may be heard ex parte, and every written notice, appearance, designation of record on appeal, reports as prescribed in Title 19 and similar papers shall be served upon each of the parties. No service need be made on parties in default for failure to appear except that pleadings asserting new or additional claims for relief against them shall be served upon them in the manner provided in 19-3-503.
   a) **Making Service:**
      i) Service on a party represented by an attorney is made upon the attorney unless the court orders personal service upon the party. A resident attorney, on whom pleadings and other papers may be served, shall be associated as attorney of record with any out-of-state attorney practicing in any courts of this state.
      ii) Delivering a copy to the person by:
         (1) handing it to the person;
         (2) leaving it at the person's dwelling house or usual place of abode with someone 18 years of age or older residing there;
         (3) Mailing a copy to the last known address of the person served. Service by mail is complete on mailing;
         (4) If the person served has no known address, leaving a copy with the clerk of the court; or
         (5) Delivering a copy by any other means, including E-Service, other electronic means or a designated overnight courier, consented to in writing by the person served. Designation of a facsimile phone number or an email address in the filing effects consent in writing for such delivery. Parties who have subscribed to E-Filing. Service by other electronic means is complete on transmission; service by other consented means is complete when the person making service delivers the copy to the agency designated to make delivery. Service by other electronic means or overnight courier is not effective if the party making service learns that the attempted service did not reach the person to be served.
   b) **Filing Certificate of Service.** All papers after the initial pleading required to be served upon a party, together with a certificate of service, must be filed with the court within a reasonable time after service.

2) **Inmate Filing and Service.** Except where personal service is required, a pleading or paper filed or served by an inmate confined to an institution is timely filed or served if deposited in

the institution's internal mailing system on or before the last day for filing or serving. If an institution has a system designed for legal mail, the inmate must use that system to receive the benefit of this rule.

3) With the exception of reports filed pursuant to 19-1-107, Every pleading, motion, or any other document filed with the court (hereinafter "document") shall conform with the following:
    1) **Caption; Names of Parties.** Documents shall contain a caption setting forth the name of the court, the title of the action, the case number, if known to the person signing it, the name of the document and other applicable information in the format specified by paragraph ____ and the captions illustrated by paragraph _____ of this rule.

Illustration of Case Caption:

<table>
<tr><td>DISTRICT COURT or DENVER JUVENILE COURT
_____ COUNTY, STATE OF COLORADO
(Court Address)</td><td rowspan="2">Court Use Only</td></tr>
<tr><td>PEOPLE OF THE STATE OF COLORADO
IN THE INTEREST OF:

child

AND CONCERNING:

Respondents,

And concerning</td></tr>
<tr><td>Filing party Name
Address
Phone Number
Email Address
Attorney Bar #</td><td>Case No.

Division</td></tr>
<tr><td colspan="2"></td></tr>
</table>

2) **Obligations of Parties and Attorneys.** Every pleading or document filed by a party represented by an attorney shall be signed by at least one attorney of record in his or her individual name. The initial pleading shall state the current number of his or her registration

issued to him by the Supreme Court. The attorney's address and that of the party shall also be stated. A party who is not represented by an attorney shall sign his or her pleadings and state his or her address. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The signature of an attorney constitutes a certificate by him or her that he or she has read the pleading; that to the best of his or her knowledge, information, and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay. If a pleading is not signed it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader.

3) **Limited Representation.** An attorney may undertake to provide limited representation in accordance with Colo. RPC 1.2 to a pro se party involved in a court proceeding. Pleadings or papers filed by the pro se party that were prepared with the drafting assistance of the attorney shall include the attorney's name, address, telephone number and registration number. The attorney shall advise the pro se party that such pleading or other paper must contain this statement. In helping to draft the pleading or paper filed by the pro se party, the attorney certifies that, to the best of the attorney's knowledge, information and belief, this pleading or paper is (1) well-grounded in fact based upon a reasonable inquiry of the pro se party by the attorney, (2) is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law, and (3) is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. The attorney in providing such drafting assistance may rely on the pro se party's representation of facts, unless the attorney has reason to believe that such representations are false or materially insufficient, in which instance the attorney shall make an independent reasonable inquiry into the facts. Assistance by an attorney to a pro se party in filling out pre-printed and electronically published forms that are issued through the judicial branch for use in court are not subject to the certification and attorney name disclosure requirements of this rule.

4) Limited representation of a pro se party under this Rule _____ shall not constitute an entry of appearance by the attorney, and does not authorize or require the service of papers upon the attorney. Representation of the pro se party by the attorney at any proceeding before a judge, magistrate, or other judicial officer on behalf of the pro se party does constitute an entry of an appearance.

5) Rule First Appearance Advisement Upon Filing of Petition

(a) At the first appearance before the court, the court shall inquire of all parties and counsel regarding the applicability of the Indian Child Welfare Act pursuant to 19-1-126.

(b) The court shall require the parties to complete and file an Affidavit as To Children (see form____)

(c) The court shall fully advise the respondent(s) as to all rights and the possible consequences of a finding that a child is dependent or neglected. The court shall make certain that the respondent(s) understand the following:

(1) The nature of the allegations contained in the petition;

(2) As a party to the proceeding, the right to counsel;

(3) That if the respondent(s) is a parent, guardian, or legal custodian, and is indigent, the respondent may be assigned counsel as provided by law.

(4) The right to an adjudicatory trial by jury;

(5) That any admission to the petition must be voluntary;

(6) The general dispositional alternatives available to the court if the petition is sustained, as set forth in Section 19-3-508, C.R.S.;

(7) That termination of the parent-child legal relationship is a possible remedy which is available if the petition is sustained;

(8) That if a motion to terminate the parent-child legal relationship is filed, the court will set a separate hearing at which the allegations of the motion must be proven by clear and convincing evidence;

(9) That termination of the parent-child legal relationship means that the subject child would be available for adoption;

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(11) That if the petition is admitted, the court is not bound by any promises or representations made by anyone about dispositional alternatives selected by the court.

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- RPC cannot advocate for a non-existing client
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West's Colorado Revised Statutes Annotated
Title 19. Children's Code (Refs & Annos)
Related Court Rules
Chapter 28. Colorado Rules of Juvenile Procedure
Part One. Applicability

Juvenile Procedure Rule 1

RULE 1. SCOPE OF RULES

Currentness

These rules govern proceedings brought in the juvenile court under Title 19, 8B C.R.S. (1987 Supp.), also hereinafter referred to as the Children's Code. All statutory references herein are to the Children's Code as amended. Proceedings are civil in nature and where not governed by these rules or the procedures set forth in Title 19, 8B C.R.S. (1987 Supp.), shall be conducted according to the Colorado Rules of Civil Procedure. Proceedings in delinquency shall be conducted in accordance with the Colorado Rules of Criminal Procedure, except as otherwise provided by statute or by these rules.

Credits
Amended eff. July 1, 1997.

Juvenile Procedure Rule 1, CO ST JUV P Rule 1
Current with amendments received through July 15, 2018.

End of Document

Juvenile Procedure Rule 2

RULE 2. PURPOSE AND CONSTRUCTION

Currentness

These rules are intended to provide for the just determination of juvenile proceedings. They shall be construed to secure simplicity in procedure and fairness in administration.

Juvenile Procedure Rule 2, CO ST JUV P Rule 2
Current with amendments received through July 15, 2018.

End of Document

West's Colorado Revised Statutes Annotated
Title 19. Children's Code (Refs & Annos)
Related Court Rules
Chapter 28. Colorado Rules of Juvenile Procedure
Part Two. General Provisions

Juvenile Procedure Rule 2.1

RULE 2.1. ATTORNEY OF RECORD

Currentness

(a) An attorney shall be deemed of record when the attorney appears personally before the court, files a written entry of appearance, or has been appointed by the court.

(b) The clerk shall notify an attorney appointed by the court. An order of appointment shall appear in the file.

Credits
Amended eff. Jan. 1, 2001.

Juvenile Procedure Rule 2.1, CO ST JUV P Rule 2.1
Current with amendments received through July 15, 2018.

End of Document

West's Colorado Revised Statutes Annotated
Title 19. Children's Code (Refs & Annos)
Related Court Rules
Chapter 28. Colorado Rules of Juvenile Procedure
Part Two. General Provisions

Juvenile Procedure Rule 2.2

RULE 2.2. SUMMONS--CONTENT AND SERVICE

Currentness

(a) Juvenile Delinquency Proceedings.

(1) The summons served in juvenile delinquency proceedings shall contain the notifications required by § 19-2-514, C.R.S. The summons and petition shall be served upon the juvenile in the manner provided in § 19-2-514, C.R.S.

(2) When the court has acquired jurisdiction over the parties as provided in the Children's Code or pursuant to the Colorado Rules of Juvenile Procedure, subsequent pleadings and notice may be served by regular mail.

(3) If a juvenile is issued a promise to appear pursuant to § 19-2-507(5), C.R.S., the promise to appear shall contain the notifications required by § 19-2-507(5), C.R.S.

(b) Dependency and Neglect Proceedings.

(1) The summons served in dependency and neglect proceedings shall contain the notifications required by § 19-3-503, C.R.S. The summons and petition shall be served upon respondent(s) in the manner provided in § 19-3-503(7) and (8), C.R.S.

(2) When the court has acquired jurisdiction over the parties as provided in the Children's Code or pursuant to the Colorado Rules of Juvenile Procedure, subsequent pleadings and notice may be served by regular mail.

(c) Relinquishment Proceedings.

(1) The summons served in relinquishment proceedings shall contain the notifications required by § 19-5-105(5), C.R.S.

(2) The summons and petition shall be served upon the non-relinquishing parent as follows:

A. As ordered by the court; or

B. In the same manner as a summons in a civil action; or

C. By mailing it to the respondent ('s/s') last known address, not less than 14 days prior to the time the respondent(s) is/are required to appear, by registered mail return receipt requested or certified mail return receipt requested. Service by mail shall be complete upon return of the receipt signed by the respondent(s) or signed on behalf of the respondent(s) by one authorized by law.

(3) When the person to be served cannot be found after due diligence, service may be by a single publication pursuant to C.R.C.P. 4(g).

(4) When the court has acquired jurisdiction over the parties as provided in the Children's Code or pursuant to the Colorado Rules of Juvenile Procedure, subsequent pleadings and notice may be served by regular mail.

(d) Truancy Proceedings.

(1) The summons served in truancy proceedings shall comply with the provisions of C.R.C.P. 4(c). If the summons is combined with the notice required by § 22-33-108(5)(c), C.R.S., it shall also comply with the provisions of that section. In any jurisdiction in which juvenile detention may be used as a sanction after a finding of a violation of a valid court order, the summons shall inform the juvenile served of his or her right to a hearing and to due process as guaranteed by the United States Constitution prior to the entry of a valid court order.

(2) The summons and petition shall be served upon the respondent(s) as required pursuant to C.R.C.P. 4.

(3) When the person to be served cannot be found after due diligence, service may be by a single publication pursuant to C.R.C.P. 4(g).

(4) When the court has acquired jurisdiction over the parties as provided in the Children's Code or pursuant to the Colorado Rules of Civil Procedure, subsequent pleadings and notice may be served by regular mail.

(e) Uniform Parentage Act Proceedings.

(1) The petition and summons served in Uniform Parentage Act proceedings shall comply with all requirements of Title 19, Article 4 of the Colorado Revised Statutes.

(2) The petition and summons, filed by one party, shall be personally served upon all other parties in accordance with § 19-4-105.5, C.R.S., or § 19-4-109(2), C.R.S., or the Colorado Rules of Civil Procedure.

(3) When the person to be served cannot be found after due diligence, service may be by a single publication pursuant to C.R.C.P. 4(g). Affidavits in support of motions for service by publication shall include a detailed statement of the specific efforts made to locate an absent parent.

(4) The summons issued upon commencement of a proceeding under Article 4 shall include the specified advisements and notice requirements of § 19-4-105.5(5), C.R.S.

(5) If the child support enforcement unit is initiating a proceeding under the Uniform Parentage Act, a delegate shall serve the petition and notice of financial responsibility in the manner identified in § 26-13.5-104, C.R.S.

(f) Adoption Proceedings.

(1) In adoption proceedings where either parent's parental rights have not been terminated or relinquished, that parent must be personally served with a copy of the petition for adoption.

(2) When the person to be served cannot be found after due diligence, service may be by a single publication pursuant to C.R.C.P. 4(g). Affidavits in support of motions for service by publication shall include a detailed statement of the specific efforts made to locate an absent parent.

(3) If the motion for service through publication is granted, the court shall order service by one publication of the notice in a newspaper of general circulation in the county in which the hearing is to be held. The hearing shall not be held sooner than 35 days after service of the notice is complete.

(4) If the subject child in the adoption proceeding is an enrolled member of a federally recognized American Indian Nation, the petition for adoption must be sent to the parent or Indian custodian of the Indian child and to the Indian child's tribe by registered mail, return receipt requested, pursuant to § 19-1-126, C.R.S., and § 19-5-208, C.R.S., and proof shall be filed with the court. Postal receipts, or copies thereof, shall be attached to the petition for adoption when it is filed with the court or filed within 10 days after the filing of the petition, as specified in § 19-1-126(1)(c), C.R.S.

(5) Service of petition and notice requirements do not apply to validation of a foreign adoption decree proceedings.

(6) A petition for adult adoption shall be filed in accordance with § 19-5-208, C.R.S. The petition and summons shall be served on the identified adult adoptee by the petitioner.

(g) Support Proceedings Under the Children's Code.

(1) Upon filing of the petition for support, the clerk of court, petitioner, or child support enforcement unit shall issue a summons stating the hearing date and the substance of the petition. A copy of the petition may be attached to the summons in lieu of stating the substance of the petition in the summons.

(2) Service of the summons shall be by personal service pursuant to C.R.C.P. 4(e). If the obligor is a nonresident of this state, the summons and petition may be served by sending the copies by certified mail with proof of actual receipt by the individual.

(3) The hearing to establish support shall occur at least 10 days after service is completed, or any later date the court orders.

(h) Administrative Procedure for Establishing Child Support by the Child Support Enforcement Unit.

(1) The child support enforcement unit shall issue a notice of financial responsibility to an obligor who owes child support.

(2) The child support enforcement unit shall serve the notice of financial responsibility on the obligor not less than 10 days prior to the date stated in the notice for the negotiation conference. Service can be accomplished in accordance with the Colorado Rules of Civil Procedure, by an employee appointed by the child support enforcement unit to serve process, or by certified mail, return receipt requested, signed by the obligor only. The receipt will be prima facie evidence of service.

(3) If process is served through the administrative process, there will be no additional service necessary if the case is referred to court for further review.

Credits
Amended eff. Feb. 24, 1999; Jan. 1, 2001; Nov. 1, 2014; March 2, 2015.

Juvenile Procedure Rule 2.2, CO ST JUV P Rule 2.2
Current with amendments received through July 15, 2018.

End of Document

West's Colorado Revised Statutes Annotated
Title 19. Children's Code (Refs & Annos)
Related Court Rules
Chapter 28. Colorado Rules of Juvenile Procedure
Part Two. General Provisions

Juvenile Procedure Rule 2.3

RULE 2.3. EMERGENCY ORDERS

Currentness

(a) On the basis of a report that a child's or juvenile's welfare or safety may be endangered, and if the court believes action is reasonably necessary, the court may issue an ex parte order.

(b) Where the need for emergency orders arises, and the court is not in regular session, the judge or magistrate may issue such orders orally, by facsimile, or by electronic filing. Such orders shall have the same force and effect. Oral orders shall be followed promptly by a written order entered on the first regular court day thereafter.

(c) Any time when a child or juvenile is subject to an emergency order of court, as herein provided, and the child or juvenile requires medical or hospital care, reasonable effort shall be made to notify the parent(s), guardian, or other legal custodian for the purpose of gaining consent for such care; provided, however, that if such consent cannot be secured and the child's or juvenile's welfare or safety so requires, the court may authorize needed medical or hospital care.

Credits
Amended eff. Jan. 1, 2001.

Juvenile Procedure Rule 2.3, CO ST JUV P Rule 2.3
Current with amendments received through July 15, 2018.

End of Document

West's Colorado Revised Statutes Annotated
Title 19. Children's Code (Refs & Annos)
Related Court Rules
Chapter 28. Colorado Rules of Juvenile Procedure
Part Two. General Provisions

Juvenile Procedure Rule 2.4

RULE 2.4. LIMITATION ON AUTHORITY OF JUVENILE MAGISTRATES

Currentness

No magistrate shall have the power to decide whether a state constitutional provision, statute, municipal charter provision, or ordinance is constitutional either on its face or as applied. Questions pertaining to the constitutionality of a state constitutional provision, statute, municipal charter provision, or ordinance may, however, be raised for the first time on review of the magistrate's order or judgment.

Credits
Adopted eff. Feb. 3, 1994.

Juvenile Procedure Rule 2.4, CO ST JUV P Rule 2.4
Current with amendments received through July 15, 2018.

End of Document

West's Colorado Revised Statutes Annotated
Title 19. Children's Code (Refs & Annos)
Related Court Rules
Chapter 28. Colorado Rules of Juvenile Procedure
Part Four. Dependency and Neglect

Juvenile Procedure Rule 4

RULE 4. PETITION INITIATION, FORM AND CONTENT

Currentness

(a) [1] A petition concerning a child who is alleged to be dependent and neglected shall be initiated in accordance with Section 19-3-501, C.R.S., and shall be in the form set forth in Section 19-3-502, C.R.S. Said petition shall be filed within 14 days from the day a child is taken into custody, unless otherwise directed by the court.

Credits
Amended eff. Jan. 1, 2012.

Footnotes
1 No paragraph (b) in original.

Juvenile Procedure Rule 4, CO ST JUV P Rule 4
Current with amendments received through July 15, 2018.

End of Document

West's Colorado Revised Statutes Annotated
Title 19. Children's Code (Refs & Annos)
Related Court Rules
Chapter 28. Colorado Rules of Juvenile Procedure
Part Four. Dependency and Neglect

Juvenile Procedure Rule 4.1

RULE 4.1. RESPONSIVE PLEADINGS AND MOTIONS

Currentness

(a) No written responsive pleadings are required. Jurisdictional matters of age and residence of the child which shall be deemed admitted unless specifically denied.

(b) Any defense or objection which is capable of determination without trial of the general issues may be raised by motion.

(c) Defenses and objections based on defects in the institution of the action or in the petition, other than it fails to show jurisdiction in the court, shall be raised only by motion filed prior to the entry of an admission or denial of the allegations of the petition. Failure to present any such defense or objection constitutes a waiver, but the court for good cause shown may grant relief from the waiver. Lack of jurisdiction shall be noticed by the court at any time during the proceeding.

(d) All motions shall be in writing and signed by the moving party or counsel, except those made orally by leave of court.

Juvenile Procedure Rule 4.1, CO ST JUV P Rule 4.1
Current with amendments received through July 15, 2018.

West's Colorado Revised Statutes Annotated
Title 19. Children's Code (Refs & Annos)
Related Court Rules
Chapter 28. Colorado Rules of Juvenile Procedure
Part Four. Dependency and Neglect

Juvenile Procedure Rule 4.2

RULE 4.2. ADVISEMENT--DEPENDENCY AND NEGLECT

Currentness

(a) At the first appearance before the court, the respondent(s) shall be fully advised by the court as to all rights and the possible consequences of a finding that a child is dependent or neglected. The court shall make certain that the respondent(s) understand the following:

(1) The nature of the allegations contained in the petition;

(2) As a party to the proceeding, the right to counsel;

(3) That if the respondent(s) is a parent, guardian, or legal custodian, and is indigent, the respondent may be assigned counsel as provided by law;

(4) The right to a trial by jury;

(5) That any admission to the petition must be voluntary;

(6) The general dispositional alternatives available to the court if the petition is sustained, as set forth in Section 19-3-508, C.R.S.;

(7) That termination of the parent-child legal relationship is a possible remedy which is available if the petition is sustained;

(8) That if a motion to terminate the parent-child legal relationship is filed, the court will set a separate hearing at which the allegations of the motion must be proven by clear and convincing evidence;

(9) That termination of the parent-child legal relationship means that the subject child would be available for adoption;

(10) That any party has the right to appeal any final decision made by the court; and

(11) That if the petition is admitted, the court is not bound by any promises or representations made by anyone about dispositional alternatives selected by the court.

(b) The respondent(s), after being advised, shall admit or deny the allegations of the petition.

(c) If a respondent(s) admits the allegations in the petition, the court may accept the admission after making the following findings:

(1) That the respondent(s) understand his or her rights, the allegations contained in the petition, and the effect of the admission;

(2) That the admission is voluntary.

(d) Notwithstanding any provision of this Rule to the contrary, the court may advise a non-appearing respondent(s) pursuant to this Rule in writing and may accept a written admission to the petition if the respondent has affirmed under oath that the respondent(s) understands the advisement and the consequences of the admission, and if, based upon such sworn statement, the court is able to make the findings set forth in part (c) of this Rule.

Juvenile Procedure Rule 4.2, CO ST JUV P Rule 4.2
Current with amendments received through July 15, 2018.

End of Document

West's Colorado Revised Statutes Annotated
Title 19. Children's Code (Refs & Annos)
Related Court Rules
Chapter 28. Colorado Rules of Juvenile Procedure
Part Four. Dependency and Neglect

Juvenile Procedure Rule 4.3

RULE 4.3. JURY TRIAL

Currentness

(a) At the time the allegations of a petition are denied, a respondent, petitioner, the court, or guardian ad litem may demand a jury of not more than six. Unless a jury is demanded, it shall be deemed waived.

(b) Examination, selection, and challenges for jurors in such cases shall be as provided by C.R.C.P. 47, except that the petitioner, all respondents, and the guardian ad litem shall be entitled to three peremptory challenges. No more than nine peremptory challenges are authorized.

Juvenile Procedure Rule 4.3, CO ST JUV P Rule 4.3
Current with amendments received through July 15, 2018.

End of Document

West's Colorado Revised Statutes Annotated
Title 19. Children's Code (Refs & Annos)
Related Court Rules
Chapter 28. Colorado Rules of Juvenile Procedure
Part Four. Dependency and Neglect

Juvenile Procedure Rule 4.4

RULE 4.4. CERTIFICATION OF CUSTODY MATTERS TO JUVENILE COURT

Currentness

(a) Any party to a dependency or neglect action who becomes aware of any other proceeding in which the custody of a subject child is at issue shall file in such other proceeding a notice that an action is pending in juvenile court together with a request that such other court certify the issue of legal custody to the juvenile court pursuant to Section 19-1-104(4) and (5), C.R.S.

(b) When the custody issue is certified to the juvenile court, a copy of the order certifying the issue to juvenile court shall be filed in the dependency or neglect case.

(c) When the juvenile court enters a custody order pursuant to the certification, a certified copy of such custody order shall be filed in the certifying court. Such order shall thereafter be the order of the certifying court.

Juvenile Procedure Rule 4.4, CO ST JUV P Rule 4.4
Current with amendments received through July 15, 2018.

End of Document

West's Colorado Revised Statutes Annotated
Title 19. Children's Code (Refs & Annos)
Related Court Rules
Chapter 28. Colorado Rules of Juvenile Procedure
Part Four. Dependency and Neglect

Juvenile Procedure Rule 4.5

RULE 4.5. CONTEMPT IN DEPENDENCY AND NEGLECT CASES

Currentness

The citation, copy of the motion, affidavit, and order in contempt proceedings pursuant to C.R.C.P. 107, shall be served personally upon any respondent or party to the dependency and neglect action, at least 14 days before the time designated for the person to appear before the court. Proceedings in contempt shall be conducted pursuant to C.R.C.P. 107, except that the time for service under subsection (c) shall be not less than 14 days before the time designated for the person to appear.

Credits
Adopted eff. Jan. 1, 2001. Amended eff. Jan. 1, 2012.

Juvenile Procedure Rule 4.5, CO ST JUV P Rule 4.5
Current with amendments received through July 15, 2018.

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