

IN THE SUPREME COURT OF THE STATE OF ALASKA
ORDER NO. 1722

Amending Administrative Rule 19.2
concerning Deputy Magistrates.

IT IS ORDERED:

Administrative Rule 19.2 is amended to read as follows:

Rule 19.2. Deputy Magistrates.

(a) **Introduction.** This rule governs the certification and appointment of court system employees as deputy magistrates. A person, other than a court system employee officially classified as judge, justice, magistrate, or committing magistrate, may not perform judicial duties unless that person is appointed master under the Alaska Rules of Court, or is otherwise given judicial duties by statute or court rule.

(b) **Qualifications.** A deputy magistrate must:

- (1) be an Alaska Court System employee;
- (2) be at least 21 years of age;
- (3) be a United States citizen;
- (4) be a resident of the State of Alaska for six months immediately preceding the appointment; and
- (5) have received training from a training judge or ~~training judge's designee~~ another judicial officer designated by the presiding judge or

by the chief justice, prior to appointment as a deputy magistrate, for each judicial duty which the appointee will be certified to perform.

(c) **Appointment.** The presiding judge may appoint a qualified court system employee as a deputy magistrate. The appointment order must be in writing and specify the duties which the deputy magistrate is authorized to perform. The appointment order must also contain the training judge's certification that the person appointed has received training in each of the judicial duties which the appointee is authorized to perform, and that the appointee is competent to perform each of these duties. Copies of the order must be sent to the appointee, chief justice, ~~personnel~~human resources director, magistrate services, training judge, area court administrator, and the highest ranking local judicial officer.

(d) **Duties.** A deputy magistrate may be appointed to perform only the following magistrate duties:

~~(1) emergency Child in Need of Aid and Delinquency proceedings;~~

~~(2)~~(1) acceptance of criminal complaints;

~~(3)~~(2) issuance of summonses and arrest warrants;

~~(4)~~(3) bail hearings;

~~(5)~~(4) felony first appearances;

~~(6)~~(5) misdemeanor and minor offense arraignments;

~~(7)~~(6) acceptance of guilty or no contest pleas in misdemeanor and minor offense cases;

~~(8)(7)~~ (7) sentencings following pleas accepted by the deputy magistrate;

~~(9)~~ (9) initial coroner duties, including taking control and custody of property;

~~(10)~~ (10) notary duties;

~~(11)~~ (8) issuance of marriage licenses and performance of marriages;

~~(12)~~ (9) issuance of ex parte and emergency domestic violence protective orders pursuant to AS 18.66.110, and issuance of ex parte and emergency stalking and sexual assault protective orders pursuant to AS 18.65.855; and

~~(13)~~ (10) issuance of search warrants; and

~~(14)~~ (11) fugitive from justice arraignments and acceptance of fugitive complaints.

(e) Limitations on Deputy Magistrate Duty.

(1) A deputy magistrate may perform the duties listed in subparagraphs ~~(d)(10)~~ and ~~(11)~~ at any time. A deputy magistrate may not perform the other deputy magistrate duties listed in subsection (d) unless all other judicial officers are unavailable as defined by subparagraph (e)(3), or additional weekend or holiday duty is authorized pursuant to subparagraph (e)(2), or for supervised training purposes.

(2) The presiding judge may approve weekend or holiday duty by deputy magistrates subject to review by the chief justice.

(3) A judicial officer is unavailable for purposes of subparagraph (e)(1) only if the judicial officer is conducting courtroom proceedings~~other judicial duties~~, is absent from the community on other court business, ~~is sick ill~~, or is on leave. In addition, a judicial officer is unavailable for weekend or holiday duty if the judicial officer is on leave either the day before or after the weekend or holiday. A judicial officer is not unavailable for weekend or holiday duty only because the judicial officer is absent from the court building.

(4) A deputy magistrate who is not a clerk of court may perform magistrate duties only if there is no deputy magistrate at the court location who is a clerk of court or if the deputy magistrate who is a clerk of court is performing other judicial duties or is not at the court building.

(5) The limitations on performance of deputy magistrate duties in (e)(1) - (4) do not apply to a deputy magistrate who is performing deputy magistrate duties while being observed by a training judge.

(f) Classification and Compensation.

(1) A clerk of court appointed deputy magistrate will be classified two salary ranges above the classification which would normally be assigned to the position. A clerk of court appointed deputy magistrate is not entitled to upward reclassification if the deputy magistrate duties have previously been considered by the personnel office in the classification of the position.

~~(2) A deputy magistrate who functions as a magistrate for more than 50 percent of the deputy magistrate's total working hours may~~

~~request that the position be reviewed for possible reclassification to a magistrate position. All such requests must be submitted through the presiding judge to the personnel officer.~~

~~(3) Compensation for a deputy magistrate who is exempt from the Fair Labor Standards Act will be ~~\$50.00~~ \$100.00 for each holiday, Saturday, or Sunday of on-call duty. ~~The employee may elect, with the approval of the employee's supervisor, to take two hours of compensatory time instead of the \$50.00 compensation.~~~~

~~(4)~~(3) Deputy magistrates who are not exempt from the Fair Labor Standards Act will be compensated for overtime magistrate work during the regular work week as provided by the Fair Labor Standards Act. Such deputy magistrates will be compensated for holiday, Saturday or Sunday on-call duty in the following manner:

(A) If a non-exempt deputy magistrate is required to perform magistrate duties while on-call during holidays, Saturdays, or Sundays, the deputy magistrate will be compensated either in accordance with the provisions of the Fair Labor Standards Act for those hours worked, or as provided in subparagraph (f)~~(32)~~ of this rule, whichever is greater.

(B) If a non-exempt deputy magistrate is not required to perform magistrate duties while on-call, the deputy magistrate will be compensated as provided in subparagraph (f)~~(32)~~ of this rule.

(4) A law clerk appointed deputy magistrate will receive no additional compensation, other than the law clerk's regular salary, for the law clerk's deputy magistrate functions, notwithstanding any other provision in this rule.

DATED: November 12, 2009

EFFECTIVE DATE: January 1, 2010

/s/
Chief Justice Carpeneti

/s/
Justice Fabe

/s/
Justice Winfree

/s/
Justice Christen