

IN THE SUPREME COURT OF THE STATE OF ALASKA
ORDER NO. 1816

Adding Criminal Rule 11(i) and Delinquency Rule 21(d)(3) and 23(f) concerning restorative justice programs, to implement the recommendations of the Local Dispute Resolution Subcommittee of the Fairness, Diversity, and Equality Committee.

IT IS ORDERED:

1. Criminal Rule 11 is amended to add a new subsection (i), to read as follows:

Rule 11. Pleas.

* * * *

(i) Restorative Justice Programs.

(1) With the consent of the victim(s), the prosecutor, and the defendant(s), the judge may refer a case to a restorative justice program. The parties must inform the restorative justice program about any applicable mandatory sentencing provisions at the time the matter is submitted to the program. The parties may propose to the court the sentence recommended by the participants in proceedings convened by that program.

(2) The parties may include the recommendations of the restorative justice program in a sentencing agreement subject to the provisions of subsection (e).

(3) The term "restorative justice program" means a program using a process in which persons having an interest in a specific offense collectively resolve how to

respond to the offense, its aftermath, and its implications for the future. Restorative justice programs include, but are not limited to, circle sentencing, family group conferencing, reparative boards, and victim/offender mediation. For purposes of this rule, the term "restorative justice program" does not include the Alaska Court System's therapeutic courts.

(4) Except as provided below, the sentencing judge shall not participate directly in any restorative justice program to which a case is referred for sentencing recommendations.

(A) The judge may be present during the proceedings of the program provided that:

- (i) the proceedings are conducted on the record; or
- (ii) minutes of the proceedings are kept in a manner that the parties agree will fairly and accurately represent what is said at those proceedings.

(B) The judge may speak at these proceedings provided that the judge's comments do not detract or appear to detract from the judge's neutrality.

2. Delinquency Rule 21(d) is amended to add a new paragraph (3), which reads as follows:

Rule 21. Adjudication Hearing.

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(d) Judgment.

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(3) A minor may, with the consent of the Department and the victim(s), condition an admission to one or more acts alleged in the petition upon the court's agreement to the recommendations made by a restorative justice program to which the matter is referred pursuant to Delinquency Rule 23(f).

3. Delinquency Rule 23 is amended to add a new subsection (f), which reads as follows:

Rule 23. Disposition or Dual Sentence.

* * * *

(f) Restorative Justice Programs.

(1) With the consent of the victim(s), the Department and the juvenile may stipulate to a stay of disposition pending a referral of the matter to a restorative justice program. The parties must inform the restorative justice program about any applicable mandatory disposition provisions at the time the matter is submitted to the program.

(2) The court shall give due consideration to the recommendations made pursuant to a referral authorized by paragraph (1).

(3) The term "restorative justice program" means a program using a process in which persons having an interest in a specific offense collectively resolve how to respond to the offense, its aftermath, and its implications for the future. Restorative justice programs include, but are not limited to, circle sentencing, family group conferencing, reparative boards, and victim/offender mediation. For purposes of this rule, the term "restorative justice program" does not include the Alaska Court System's therapeutic courts.

(4) Except as provided below, the judge rendering the disposition shall not participate directly in any restorative justice program to which a case is referred for dispositional recommendations.

(A) The judge may be present during the proceedings of the program provided that:

- (i) the proceedings are conducted on the record; or
- (ii) minutes of the proceedings are kept in a manner that the parties agree will fairly and accurately represent what is said at those proceedings.

(B) The judge may speak at these proceedings provided that the judge's comments do not detract or appear to detract from the judge's neutrality.

DATED: December 4, 2013

EFFECTIVE DATE: April 15, 2014

/s/
Chief Justice Fabe

/s/
Justice Winfree

/s/
Justice Stowers

/s/
Justice Maassen

/s/
Justice Bolger