

IN THE SUPREME COURT OF THE STATE OF ALASKA
ORDER NO. 1979

Amending Administrative Rule 12(e) to correct statutory reference; amending Adoption Rules 6(c), 8(b), and 13(b) to correct statutory reference; and amending Probate Rule 16(h) to correct rule reference.

IT IS ORDERED:

1. Administrative Rule 12(e) is amended to read as follows:

Rule 12. Procedure for Counsel and Guardian Ad Litem Appointments at Public Expense.

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(e) **Other Appointments at Public Expense.**

(1) *Constitutionally Required Appointments.*

If the court determines that counsel, or a guardian ad litem, or other representative should be appointed for an indigent person, and further determines that the appointment is not authorized by AS 18.85.100(a) or AS 44.21.410, but in the opinion of the court is required by law or rule, the court shall appoint an attorney who is a member of the Alaska Bar Association to provide the required services. Other persons may be appointed to provide required services to the extent permissible by law.

(A) Appointments may be made in the following types of cases without prior approval of the administrative director, but only in cases in which the required services would not otherwise be provided by a public agency:

(i) Attorneys for biological parents in adoption cases to the extent required by the Indian Child Welfare Act (25 USC 1901 et seq.),

(ii) Attorneys for minor children and indigent parents or custodians of minor children in minor guardianship cases brought pursuant to AS 13.26.147(d)~~AS 13.26.060(d)~~,

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2. Adoption Rule 6(c) is amended to read as follows:

Rule 6. Petitions.

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(c) **Petition for Involuntary Termination.** A petition for termination based on the involuntary termination of parental rights pursuant to AS 25.23.180(c)(1)(A), (1)(B), or (2) ~~AS 25.23.180(c)(1)-(3)~~ must state, in addition to the information required by paragraph (a), the specific statutory and factual basis of the claim that parental rights should be involuntarily terminated.

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3. Adoption Rule 8(b) is amended to read as follows:

Rule 8. Right to Counsel.

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(b) **Appointed Counsel.**

(1) The court shall appoint counsel at public expense pursuant to Administrative Rule 12(e)(1)(A)(i) to represent an indigent parent of an Indian child.

(2) The court shall appoint the Office of Public Advocacy to represent an indigent parent against whom an involuntary termination of parental rights is sought pursuant to AS 25.23.180(c)(2)~~AS 25.23.180(c)(3)~~.

(3) The court shall also appoint counsel at public expense pursuant to Administrative Rule 12 to represent:

(A) an indigent parent against whom an involuntary termination of parental rights is sought on grounds other than stated in AS 25.23.180(c)(2)~~AS 25.23.180(c)(3)~~, if the action is brought by the state or by a party represented by the Alaska Legal Services Corporation or the Alaska Pro Bono Program; and

(B) an indigent parent who is defending against a claim that the parent's consent to adoption is not required under AS 25.23.050(a).

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4. Adoption Rule 13(b) is amended to read as follows:

Rule 13. Decree of Termination.

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(b) Involuntary Termination of Parental Rights.

Proceedings for the involuntary termination of parental rights in conjunction with adoption proceedings must comply with CINA Rule 18, except as otherwise provided by AS 25.23.180(c)(1)(B) and (2)~~AS 25.23.180(c)(2) and (3)~~. 25 U.S.C. Section 1912 also applies to all involuntary termination proceedings involving an Indian child.

5. Probate Rule 16(h) is amended to read as follows:

Rule 16. Guardianship of Incapacitated Persons.

* * * *

(h) Authority of Guardian After Death of Ward. Once a guardian knows that the ward has died, the guardian has no further authority over the ward's affairs and estate except

(1) to preserve, account, and transfer control of assets to a personal representative or special administrator appointed by the court or to a temporary property custodian appointed by the court or authorized to take custody of personal property by affidavit; and

(2) as provided in AS 13.26.281(b).

Guardians who have the powers of a conservator may also exercise authority as provided in Probate Rule 17(j)~~17(h)~~.

DATED: February 2, 2022

EFFECTIVE DATE: February 2, 2022

/s/
Chief Justice Winfree

/s/
Justice Maassen

/s/
Justice Carney

/s/
Justice Borghesan

/s/
Justice Henderson