

AGENDA
COLORADO SUPREME COURT
RULES OF JUVENILE PROCEDURE COMMITTEE

Friday, June 3, 2022, 9:00 AM
Videoconference Meeting via Webex

- I. Call to Order
- II. Chair's Report
 - A. Minutes of 4/1/2022 meeting [pages 2–5]
 - B. Committee Reappointments Order [page 6]
- III. Old Business
 - A. Rule Proposal from Access to Justice Committee RE Interlocutory Appeal Advisement (Z Saroyan)
 - Oral Update
 - B. Drafting Subcommittee (Judge Welling)
 - Oral Update
 - C. ICWA Subcommittee (Justice Gabriel)
 - Oral Update
 - D. Records Policy Subcommittee (Judge Welling & Justice Gabriel)
 - Policy attached [pages 7–8]
 - E. Vision Subcommittee (Judge Welling)
 - Verbal Update with sample [survey](#) attached [pages 9–13]
- IV. New Business
 - A. [HB22-1038](#) Right to Counsel for Youth (Anna Ulrich)
 - Email, Bill Summary & Signed Act [pages 14–41]
 - B. Proposal from Judge Moultrie RE Withdrawal/Termination of Provisionally Appointed RPC
 - Email & Memo [pages 42–48]
- V. Adjourn

Next Meeting is August 5th

Cisco Webex

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You can download the Webex software (called “Webex Meetings”) for free in advance [here](#) or from your favorite app store. You can also arrive early to the meeting, click on the link, and then be prompted to download the software.

If you have difficulties using a smart device, the original Webex invite also includes call-in information, so that you can participate by phone. Judicial’s IT department recommends using the Denver call-in number: (720) 650-7664.

**Colorado Supreme Court Rules of Juvenile Procedure Committee
Minutes of April 1, 2022**

I. Call to Order

The Rules of Juvenile Procedure Committee came to order just after 9 AM via videoconference. Members present or excused from the meeting were:

Name	Present	Excused
Judge Craig Welling, Chair	X	
Judge (Ret.) Karen Ashby	X	
David P. Ayraud	X	
Jennifer Conn	X	
Traci Engdol-Fruhworth		X
Judge David Furman		X
Ruchi Kapoor	X	
Magistrate Randall Lococo	X	
Judge Priscilla J. Loew	X	
Judge Ann Gail Meinster	X	
Chief Judge Mick O'Hara		X
Trent Palmer		X
Josefina Raphael-Milliner		X
Professor Colene Robinson		X
Zaven "Z" Saroyan	X	
Magistrate Fran Simonet		X
Judge Traci Slade		X
Anna Ulrich	X	
Pam Wakefield	X	
Abby Young	X	
Non-voting Participants		
Justice Richard Gabriel, Liaison	X	
Terri Morrison		X
J.J. Wallace	X	
Special Guests: Clancy Johnson & Jennifer Mullenbach		

Meeting Materials:

- (1) Draft minutes from 4.1.2022 meeting
- (2) Notes from Record Policy Subcommittee Meeting

II. Chair's Report

- A. The 2/4/22 meeting minutes were approved without amendment.
- B. ORPC Member Substitution. The chair welcomed Zaven Saroyan. He is replacing Melanie Jordan as the ORCP representative.

III. Old Business

- A. Rule Proposal from Access to Justice Committee re Interlocutory Appeal Advisement

Z Saroyan indicated that this project was recently handed to him. He understands that there's an ad hoc group formed. He will get the group together and provide an update at the next meeting.

- B. Drafting Subcommittee

Judge Welling explained that he is substituting as chair of the committee for Judge Furman while Judge Furman is out. The next meeting has been rescheduled to April 7th.

Jennifer Mullenbach, member of the Drafting Subcommittee, appeared as a representative of the subcommittee to ask the full committee to approve drafting revised language for the Attorney rule. Right now, the rule has respondent counsel's representation ending "when a mandate issues." But the subcommittee noted that a mandate may issue resolving an appeal of an adjudication while the case is ongoing. CRJP committee agrees that the idea is to terminate representation at the true end of the representation. Stated another way, the subcommittee is free to draft language that makes sure counsel is terminated only when there are no outstanding unresolved issues for the respondent. One committee member cautioned to be careful if using language excluding the adjudication appeal because there can be some question how a disposition fits within that type of appeal.

- C. Proposed ICWA Rules

Justice Gabriel explained that he would be substituting for Judge Furman as temporary chair of the ICWA subcommittee. The next meeting is April 29th. He indicated that the subcommittee continues to make good progress, he feels the group is fairly close to finishing its work.

Judge Welling also added that the U.S. Supreme Court has granted certiorari review of several ICWA cases out of the Fifth Circuit. Justice Gabriel stated related that the subcommittee, as a group, has an amazing amount of expertise in the area and is keeping close tabs on what's happening in the Supreme Court.

D. Records Policy

By way of background, Judge Welling explained that each of the supreme court's rules committees was tasked with examining its records by the court. The idea was for each committee to think about the records it has and what it should keep going forward. He informed everyone that he spoke with Judge Jones (who was heading the effort for the Civil Rules Committee and who is chair of the P.A.I.R.R. committee). The Records subcommittee met and notes from the meeting were provided in the meeting materials.

Justice Gabriel then explained that he has undertaken a unified effort to come up with a single, consistent record policy for all the committees. He indicated that most committees have fairly consistent public records: agendas, minutes, draft rules, correspondence to the supreme court proposing rule changes, and public comments. Going forward he envisions these records should be kept digitally and uniformly for all committees. As for older records being kept in dozens of boxes in the library, he believes these will be gone through and the records mentioned above will be kept, but any extraneous materials will be discarded. He indicated there is nothing at present for the subcommittee to do, but he will let the subcommittee know if their assistance is needed and keep the committee updated on the process.

E. Vision Subcommittee

Judge Welling explained that the subcommittee had set two meetings over the lunch hour in the last week of April. The subcommittee will work to prioritize issues before the committee and examine what the future of the committee looks like. Because of its importance for the committee, everyone is welcome to attend the meetings. If you are interested in attending, email him or J.J. Wallace and a Webex meeting invite will be sent to you. Judge Ashby indicated that she would like to be included.

IV. New Business

A. Committee Member Terms Ending June 1 and Up for Renewal

The committee members with expiring terms were listed on the agenda. Please email J.J. Wallace if you are interested in renewing your term. The chair hoped everyone would renew and thanked the membership for work on the committee. Justice Gabriel then said that, in case folks do not renew and this was their last meeting, he wanted to add his personal thanks and the thanks of the court for their work on the committee. The outstanding work product of the committee cannot happen without everyone's contribution.

V. Adjourn

Next meeting, June 3, 2022 at 9 AM via Webex.

Respectfully Submitted,

J.J. Wallace

Staff Attorney, Colorado Supreme Court

Unofficial

SUPREME COURT, STATE OF COLORADO

**IN RE: REAPPOINTMENTS TO THE COLORADO RULES OF JUVENILE
PROCEDURE COMMITTEE**

ORDER OF COURT

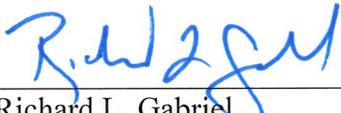
IT IS ORDERED that the following individual be reappointed as Chair of the Colorado Rules of Juvenile Procedure Committee for a three-year term beginning June 1, 2022, and ending on May 31, 2025:

Judge Craig R. Welling

IT IS FURTHER ORDERED that the following individuals be reappointed as members of the Colorado Rules of Juvenile Procedure Committee for a three-year term beginning June 1, 2022, and ending on May 31, 2025:

Judge Karen M. Ashby (retired)
Judge David Furman
Judge Ann Gail Meinster
Pam Wakefield

Date: May 17, 2022


Richard L. Gabriel
Justice, Colorado Supreme Court

cc: Judge Craig R. Welling
Judge Karen M. Ashby
Judge David Furman
Judge Ann Gail Meinster
pam Wakefield

MEMORANDUM

TO: All Colorado Supreme Court Standing Committees
CC: Steven Vasconcellos, Terri Morrison, Andy Rottman
FROM: Colorado Supreme Court
RE: Standing Committee Document Retention Policy
DATE: May 16, 2022

To ensure uniformity and consistency regarding the document retention practices of the Supreme Court's many standing committees, and to ensure that the standing committees retain documents when required by law or justified by valid business purposes, the Court has adopted the following document retention policy for all Supreme Court standing committees. This policy is to be applied absent express permission from the Court to proceed otherwise.

All standing committees must retain permanently and in electronic form at least one copy of all documents reflecting the work of and actions taken by the committee as a committee (as opposed to individual committee members' files and other personal records). Documents reflecting the work of and actions taken by the committee as a committee include, but are not limited to, the following:

- The committee charge as issued by the Supreme Court, and any amendments to that committee charge
- Orders of the Supreme Court appointing committee members (including orders appointing committee chairs)
- Committee meeting agendas, including agendas of any subcommittee meetings
- Committee meeting minutes, including minutes of any subcommittee meetings, as approved by the committee or subcommittees
- Rules proposed by the committee
- Rules adopted by the committee
- Correspondence from the committee as a committee, from a subcommittee thereof, or from a committee or subcommittee member acting on behalf of the committee or subcommittee to the Supreme Court and from the Supreme Court to the committee or subcommittee thereof
- Correspondence from any member of the public to the committee or to a subcommittee thereof and from the committee as a committee, from a subcommittee thereof, or from a committee or subcommittee member

acting on behalf of the committee or subcommittee to any member of the public

- Public comments received in response to proposed rules
- Public comments received in response to adopted rules

To the extent documents to be retained are currently held only in paper form, where possible, those documents should be digitized and retained in the h: drive on the state judicial network, unless and until the Supreme Court determines and advises of another uniform place in which such documents should be retained.

The staff person assigned to each committee is responsible for maintaining the electronic database of all records that are to be retained.

Committee and subcommittee chairs and any committee or subcommittee members acting on behalf of a committee or subcommittee who send or receive correspondence covered by this policy are responsible for ensuring that a copy of any such correspondence is provided to the staff person assigned to the committee.

Subcommittee chairs must provide to the staff person assigned to the committee copies of all subcommittee agendas and minutes of any subcommittee meetings, as approved by the subcommittee.

From time to time, justices, judges, and committee members have provided their personal files and records of their work on standing committees to the Supreme Court, liaison justices, committee chairs, the Supreme Court library, or others in the judicial department. When this occurs, the recipient must notify the committee chair of and the staff person assigned to the pertinent committee of the receipt of such files and records, and the committee chair and staff person must promptly arrange to review such files and records to ensure that the committee retains all documents reflecting the work of and actions taken by the committee as a committee (and that the committee did not already have). The committee chair or staff attorney must arrange for digitizing and properly retaining any of such documents that the committee did not already have and will thereafter arrange to destroy the hard copies of such documents and any other documents received, after giving notice to the person who sent them and after confirming with the legal team at the State Court Administrator's Office that such documents are not subject to a litigation hold or otherwise implicated by a pending PAIRR-2 request.

(2) Please select the roles that best describe your practice over the last 5 years: *

- Respondent Parent Counsel (RPC)
- Guardian ad litem/Counsel for youth (in any juvenile case type)
- Assistant County Attorney
- Public Defender
- Alternate Defense Counsel
- Deputy District Attorney
- Judicial Officer - Trial Court
- Judicial Officer - Appellate Court
- Private Counsel
- Court Appointed Truancy Counsel
- Other:

(3) Please select the juvenile case types you have primarily handled over the last 5 years: *

- Dependency & Neglect
- Juvenile Delinquency
- Adoption & Relinquishment
- Truancy
- Paternity & Support
- Youth in Transition



(4) Please select the Colorado judicial districts you have practiced in over the last 5 years:

- 1st J.D. - Jefferson & Gilpin Counties
- 2nd J.D. - Denver Juvenile Court & other Denver Courts
- 3rd J.D. - Huerfano & Las Animas Counties
- 4th J.D. - El Paso & Teller Counties
- 5th J.D. - Clear Creek, Eagle, Lake & Summit Counties
- 6th J.D. - Archuleta, La Plata & San Juan Counties
- 7th J.D. - Delta, Gunnison, Hinsdale, Montrose, Ouray, San Miguel & Montrose Counties
- 8th J.D. - Jackson & Larimer Counties
- 9th J.D. - Garfield, Pitkin & Rio Blanco Counties
- 10th J.D. - Pueblo County
- 11th J.D. - Chaffee, Custer, Fremont & Park Counties
- 12th J.D. - Alamosa, Conejos, Costilla, Mineral, Rio Grande & Saguache Counties
- 13th J.D. - Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington & Yuma Counties
- 14th J.D. - Grand, Moffat & Routt Counties
- 15th J.D. - Baca, Cheyenne, Kiowa & Prowers Counties
- 16th J.D. - Bent, Crowley & Otero Counties
- 17th J.D. - Adams & Broomfield Counties
- 18th J.D. - Arapahoe, Douglas, Elbert & Lincoln Counties
- 19th J.D. - Weld County



- 20th J.D. - Boulder County
- 21st J.D. - Mesa County
- 22nd J.D. - Montezuma County
- Colorado Court of Appeals
- Colorado Supreme Court

(5) DEPENDENCY & NEGLECT - The Rules of Juvenile Procedure Committee has been redrafting the D&N rules for several years. Are there current rules you believe should be amended or new rules that should be drafted? Please explain below:

Your answer

(6) JUVENILE DELINQUENCY - Are there current rules you believe should be amended or new rules that should be drafted? Please explain below:

Your answer

(7) TRUANCY - Are there current rules you believe should be amended or new rules that should be drafted? Please explain below:

Your answer

(8) ADOPTION & RELINQUISHMENT - Are there current rules you believe should be amended or new rules that should be drafted? Please explain below:

Your answer



(9) PATERNITY & SUPPORT - Are there current rules you believe should be amended or new rules that should be drafted? Please explain below:

Your answer

(10) YOUTH IN TRANSITION - Are there current rules you believe should be amended or new rules that should be drafted? Please explain below:

Your answer

(11) Is there anything else you would like the Colorado Supreme Court Rules of Juvenile Procedure Committee to know?

Your answer

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wallace, jennifer

From: Anna Ulrich <aulrich@coloradochildrep.org>
Sent: Tuesday, May 24, 2022 3:02 PM
To: wallace, jennifer; welling, craig
Subject: [External] Client-Directed Counsel in D&Ns & Juvenile Rules
Attachments: 22-1038 Bill Summary (002).pdf

CAUTION: This email originated from outside of the Judicial Department. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi JJ and Judge Welling,

I'm looking forward to tomorrow's meeting and I wanted to bring one item to your attention before the meeting. As I'm sure you're aware, HB22-1038 passed and was signed into law on April 23, 2022, and it will go into effect on January 9, 2023. This is the legislation that mandates client-directed counsel for youth 12 and up in dependency and neglect cases (I'm attaching a summary of the bill for your convenience). OCR believes this legislation might require some changes to the procedural rules to be implemented effectively. At minimum, I think it makes sense to take a look at the rules with this law in mind between now and January 2023 – perhaps using a small subcommittee – and see what, if any, changes are necessary. Would it be possible to add a discussion item regarding this legislation either to tomorrow's agenda or to the next meeting's agenda? I am certainly happy to take the lead on providing an overview of the legislation, whenever it gets scheduled.

Thanks for the consideration.

Sincerely

Anna Ulrich

Anna N. Ulrich

Appellate and Affirmative Litigation Strategies Attorney

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Colorado Office of the Child's Representative

HB22-1038: Client Directed Counsel in D&N Cases

HB22-1038 was signed into law by Governor Polis on April 12, 2022 and **will go into effect on January 9, 2023**. This bill gives youth 12 and older a more authentic voice in their dependency and neglect ("D&N") proceedings and provides procedural justice for those youth. Below is a summary of some of the new terms and changes encompassed in HB22-1038:

Every child and youth in a D&N proceeding is now a party to the case (C.R.S. 19-3-502).

- As such, the child(ren)/youth have the **right to attend and fully participate in all hearings** related to the child's case.
 - The GAL or CFY must provide developmentally appropriate notice to the child of all hearings related to their case.
- A GAL may still demand a jury trial for the adjudicatory hearing and now a youth aged 12 and older may as well (C.R.S. 19-3-202).

Counsel for Youth ("CFY") is the term for an attorney providing specialized client-directed legal representation for a child or youth and is defined in C.R.S. 19-1-103 (41.5). This attorney has a traditional attorney/client relationship with the youth and owes the same duties, including undivided loyalty, confidentiality and competent representation to the youth as is due an adult. CFY represent the youth's position rather than what the attorney determines is in a child's best interest. This is the same term used in the Foster Youth and Transition Program.

- CFY, like a GAL, has access to information about the youth, with some expanded language for both (C.R.S. 19-3-203 (4)).
- CFY, like a GAL, must ensure the child or youth has representation through pending appeals (C.R.S. 19-3-203(6)).
- After Termination, a CFY must file a position statement rather than a post-termination report (C.R.S. 19-3-606).
- CFY is added throughout Title 19 to ensure access similar to a GAL (e.g. in C.R.S. 13-1-119.5 to give access to Colorado State Court Data Access, C.R.S. 19-3-213 to ensure CFY is notified of a change of placement, or C.R.S. 42-2-108 to ensure they can sign the application for a driver's license.)

Mechanics (C.R.S. 19-1-111; C.R.S. 19-3-203)

- The Court will continue to appoint a GAL for every child under the age of 12 in D&N cases.
- The Court will appoint CFY for every youth aged 12 and older in D&N cases.
- When a youth turns 12 in a D&N case, the GAL will transition to CFY automatically upon the youth's 12th birthday (unless the youth has diminished capacity, in which case the GAL may remain in that role and new CFY must be appointed).
 - The attorney must notify the Court and parties of the change in appointment, and the Court shall issue a new order of appointment within 7 days (C.R.S. 19-3-203 (3))
- The court may also appoint a GAL for a youth 12 and older who has diminished capacity).

- An attorney may be appointed as CFY for a youth 12 or older and GAL for that youth's younger siblings so long as the attorney does not assert a conflict of interest.
- The youth's right to counsel cannot be waived (C.R.S. 19-3-203 (2))

Diminished Capacity is the standard to determine whether a youth needs a GAL in addition to Counsel. This term comes from the Rules of Professional Conduct and is now defined in C.R.S. 19-1-103 (55.5). The definition is consistent with R.P.C. 1.14, which also features additional commentary and guidance. The statute defines diminished capacity as a child or youth who lack sufficient capacity to communicate or make considered decisions adequately in connection with the child or youth's legal representation. Age or developmental maturity must not be the sole basis for a determination of diminished capacity.

Note: Diminished capacity is now also the standard when determining if a GAL appointment should continue past the age of 18 in Delinquency cases (see 19-1-111 (4)(b)(II)).

- CFY may also be appointed in PRNP cases (C.R.S. 19-1-115)

Next Steps

- Pursuant to its enabling legislation, the OCR will make recommendations to the Chief Justice regarding necessary changes and updates to the practice standards in Chief Justice Directive 04-06 to further clarify and help implement these changes.
- Stay tuned for training about this legislation in the next few months.

If you have any questions about this new legislation, please feel free to reach out to your [staff attorney liaison](#) or any of us at the OCR!

An Act

HOUSE BILL 22-1038

BY REPRESENTATIVE(S) Daugherty and Van Beber, Amabile, Bacon, Benavidez, Bennett, Bird, Boesenecker, Carver, Cutter, Duran, Esgar, Exum, Froelich, Gonzales-Gutierrez, Gray, Herod, Hooton, Jodeh, Lindsay, Lontine, Lynch, McCluskie, McCormick, Michaelson Jenet, Ortiz, Pelton, Pico, Rich, Ricks, Sandridge, Sirota, Snyder, Soper, Titone, Valdez A., Weissman, Will, Woodrow, Young;
also SENATOR(S) Moreno and Gardner, Buckner, Ginal, Gonzales, Jaquez Lewis, Kirkmeyer, Kolker, Lee, Liston, Lundeen, Pettersen, Priola, Smallwood, Woodward, Zenzinger, Fenberg.

CONCERNING CLIENT-DIRECTED LEGAL REPRESENTATION FOR YOUTH IN COURT PROCEEDINGS FOR YOUTH.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly finds and declares that:

(a) Every child or youth has a liberty interest in the child's or youth's own health, safety, well-being, and family relationships, which may be directly impacted by dependency and neglect proceedings;

(b) A child or youth deserves to have a voice when important and life-altering decisions are made about the child's or youth's life;

(c) A child or youth has the right to high-quality legal representation, to attend court proceedings, and to participate in dependency and neglect proceedings;

(d) Every child or youth deserves an attorney throughout the pendency of the court proceedings. Every child or youth twelve years of age or older deserves an attorney who will consider the child's or youth's position and reasons for the position, provide independent counsel and independent investigation to inform those positions, and represent the child's or youth's position diligently both inside and outside of court; and

(e) When a child or youth believes the child's or youth's position has been effectively advocated, procedural fairness and justice enhance the child's or youth's acceptance of the proceedings and the decisions made.

(2) Therefore, the general assembly finds that every child or youth twelve years of age or older deserves a client-directed legal representative who can advocate for the child or youth, communicate and understand the complicated dynamics of trauma, guard against undue influence, and thoroughly grasp the law and practice standards established by rule or chief justice directives.

SECTION 2. In Colorado Revised Statutes, 13-91-103, **amend** (2.5) as follows:

13-91-103. Definitions. As used in this article 91, unless the context otherwise requires:

(2.5) "Counsel for youth" means an ~~attorney who is licensed to practice law in Colorado and~~ ATTORNEY-AT-LAW WHO PROVIDES SPECIALIZED CLIENT-DIRECTED LEGAL REPRESENTATION FOR A CHILD OR YOUTH AND WHO OWES THE SAME DUTIES, INCLUDING UNDIVIDED LOYALTY, CONFIDENTIALITY, AND COMPETENT REPRESENTATION, TO THE CHILD OR YOUTH AS IS DUE AN ADULT CLIENT. COUNSEL FOR YOUTH MAY BE appointed by the court to represent a child or youth in a proceeding pursuant to article 1, 3, or 7 of title 19, or MAY BE assigned by the office of the child's representative pursuant to article 7 of title 19. "COUNSEL FOR YOUTH" DOES

NOT MEAN DEFENSE COUNSEL FOR A JUVENILE PURSUANT TO ARTICLE 2.5 OF TITLE 19.

SECTION 3. In Colorado Revised Statutes, 13-91-105, **amend** (1)(a)(V) as follows:

13-91-105. Duties of the office of the child's representative - guardian ad litem and counsel for youth programs. (1) In addition to any responsibilities assigned to it by the chief justice, the office of the child's representative shall:

(a) Enhance the provision of GAL or counsel for youth services in Colorado by:

~~(V) Working cooperatively with the chief judge in each judicial district or group of judicial districts to jointly establish a local body to oversee the provision of guardian ad litem or counsel for youth services in that judicial district or districts. The oversight bodies would operate and report directly to the director concerning the practice of guardians ad litem or counsel for youth in that judicial district or districts pursuant to oversight procedures established by the office of the child's representative~~ WORKING COOPERATIVELY WITH LOCAL JUDICIAL DISTRICTS, ATTORNEYS, AND CHILDREN AND YOUTH IMPACTED BY THE CHILD WELFARE AND JUSTICE SYSTEM TO FORM PARTNERSHIPS FOR THE PURPOSES OF ENSURING HIGH-QUALITY LEGAL REPRESENTATION FOR CHILDREN AND YOUTH IN COLORADO.

SECTION 4. In Colorado Revised Statutes, 19-1-103, **amend** (26); and **add** (41.5) and (55.5) as follows:

19-1-103. Definitions. As used in this title 19 or in the specified portion of this title 19, unless the context otherwise requires:

(26) "Child protection team", as used in part 3 of article 3 of this title 19, means a multidisciplinary team consisting, where possible, of a physician; a representative of the juvenile court or the district court with juvenile jurisdiction; a representative of a local law enforcement agency; a representative of the county department of human or social services; a representative of a mental health clinic; a representative of a county, district, or municipal public health agency; an attorney; a representative of

a public school district; and one or more representatives of the lay community, at least one of whom must be a person who serves as a foster parent in the county. Each public agency may have more than one participating member on the team; except that, in voting on procedural or policy matters, each public agency ~~shall have~~ HAS only one vote. In no event must an attorney member of the child protection team be appointed as guardian ad litem OR COUNSEL FOR YOUTH for the child OR YOUTH or as counsel for the parents at any subsequent court proceedings. The child protection team must never be composed of fewer than three persons. When any racial, ethnic, or linguistic minority group constitutes a significant portion of the population of the jurisdiction of the child protection team, a member of each such minority group must serve as an additional lay member of the child protection team. At least one of the preceding members of the team must be chosen on the basis of representing low-income families. The role of the child protection team is advisory only.

(41.5) "COUNSEL FOR YOUTH" MEANS AN ATTORNEY-AT-LAW WHO PROVIDES SPECIALIZED CLIENT-DIRECTED LEGAL REPRESENTATION FOR A CHILD OR YOUTH AND WHO OWES THE SAME DUTIES, INCLUDING UNDIVIDED LOYALTY, CONFIDENTIALITY, AND COMPETENT REPRESENTATION, TO THE CHILD OR YOUTH AS IS DUE AN ADULT CLIENT. "COUNSEL FOR YOUTH" DOES NOT MEAN DEFENSE COUNSEL FOR A JUVENILE PURSUANT TO ARTICLE 2.5 OF THIS TITLE 19.

(55.5) "DIMINISHED CAPACITY" MEANS A CHILD OR YOUTH WHO LACKS SUFFICIENT CAPACITY TO COMMUNICATE OR MAKE CONSIDERED DECISIONS ADEQUATELY IN CONNECTION WITH THE CHILD'S OR YOUTH'S LEGAL REPRESENTATION. AGE OR DEVELOPMENTAL MATURITY MUST NOT BE THE SOLE BASIS FOR A DETERMINATION OF DIMINISHED CAPACITY.

SECTION 5. In Colorado Revised Statutes, 19-1-105, **amend** (2); and **add** (3) as follows:

19-1-105. Right to counsel and jury trial. (2) The right to counsel ~~shall be as~~ IS provided in this title; ~~except that, in all proceedings under the "School Attendance Law of 1963", article 33 of title 22, C.R.S., the court may appoint counsel or a guardian ad litem for the child, unless the child is already represented by counsel. If the court finds that it is in the best interest and welfare of the child, the court may appoint both counsel and a guardian ad litem~~ TITLE 19. Nothing in this title ~~shall prevent~~ TITLE 19 PREVENTS the

court from appointing counsel IN ADDITION TO A GUARDIAN AD LITEM FOR A CHILD if it deems representation by counsel necessary to protect the interests of the child. ~~or other parties. In addition, in all proceedings under the "School Attendance Law of 1963", article 33 of title 22, C.R.S., the court shall make available to the child's parent or guardian ad litem information concerning the truancy process.~~

(3) IN PROCEEDINGS PURSUANT TO THE "SCHOOL ATTENDANCE LAW OF 1963", ARTICLE 33 OF TITLE 22, THE COURT MAY APPOINT A GUARDIAN AD LITEM FOR THE CHILD, UNLESS THE CHILD IS ALREADY REPRESENTED BY COUNSEL. IF THE COURT FINDS THAT IT IS IN THE BEST INTEREST AND WELFARE OF THE CHILD, THE COURT MAY APPOINT BOTH COUNSEL AND A GUARDIAN AD LITEM. THE COURT SHALL MAKE INFORMATION REGARDING THE TRUANCY PROCESS AVAILABLE TO THE CHILD'S PARENT OR GUARDIAN AD LITEM.

SECTION 6. In Colorado Revised Statutes, 19-1-111, **amend** (1), (4)(b) introductory portion, (4)(b)(II), and (6); and **add** (2)(e) as follows:

19-1-111. Appointment of guardian ad litem. (1) The court shall appoint a guardian ad litem for ~~the~~ EVERY child UNDER TWELVE YEARS OF AGE in all dependency ~~or~~ AND neglect cases ~~under~~ PURSUANT TO this title TITLE 19.

(2) The court may appoint a guardian ad litem in the following cases:

(e) FOR A YOUTH WHO IS TWELVE YEARS OF AGE OR OLDER IN A DEPENDENCY AND NEGLECT CASE WHEN THE COURT DETERMINES A GUARDIAN AD LITEM IS NECESSARY DUE TO THE YOUTH'S DIMINISHED CAPACITY. THE COURT SHALL NOT CONSIDER AGE OR DEVELOPMENTAL MATURITY AS THE SOLE BASIS FOR A DETERMINATION OF DIMINISHED CAPACITY. THE COURT SHALL NOT DEEM A GUARDIAN AD LITEM APPOINTED PURSUANT TO THIS SUBSECTION (2)(e) TO BE A SUBSTITUTE FOR A COUNSEL FOR YOUTH APPOINTED PURSUANT TO THIS SECTION.

(4) (b) The appointment of the guardian ad litem ~~shall terminate~~ TERMINATES in a delinquency proceeding:

(II) When the child reaches eighteen years of age, unless ~~the child~~

~~has a developmental disability~~ THE COURT CONTINUES THE APPOINTMENT BECAUSE THE COURT DETERMINES THE APPOINTMENT IS NECESSARY BECAUSE OF THE YOUTH'S DIMINISHED CAPACITY.

(6) Any person appointed to serve as a guardian ad litem pursuant to this section shall comply with ~~the provisions set forth in~~ any chief justice directive concerning the court appointment of guardians ad litem and other representatives and of counsel for ~~children~~ YOUTH and indigent persons in titles 14, 15, ~~19 (dependency and neglect only)~~, 22, and 27 C.R.S., AND THIS TITLE 19, and any subsequent chief justice directive or other practice standards established by rule or directive of the chief justice pursuant to section 13-91-105 C.R.S., concerning the duties or responsibilities of guardians ad litem in legal matters affecting children.

SECTION 7. In Colorado Revised Statutes, 19-1-115, **amend** (8)(c) and (8)(d) as follows:

19-1-115. Legal custody - guardianship - placement out of the home - petition for review for need of placement. (8) (c) After a petition has been filed, the court shall promptly issue a summons reciting briefly the substance of the petition. The summons ~~shall~~ MUST be substantially in the form specified in section 19-3-502 and be dealt with in the manner provided in section 19-3-503 and ~~shall~~ MUST set forth the constitutional and legal rights of the child, ~~his or her~~ THE CHILD'S parents or guardian, and any other respondent, including the right to have an attorney present at the hearing on the petition. The petitioner shall send the summons to the child and ~~his or her~~ THE CHILD'S parents, guardian, or legal custodian by certified mail. THE COURT SHALL GIVE notice of the hearing ~~shall be given by the court~~ to the director of the facility or agency in which the child is placed and any person who has physical custody of the child and any attorney or guardian ad litem OR COUNSEL FOR YOUTH of record. Nothing in this subsection (8) ~~shall require~~ REQUIRES the presence of any person before the court unless the court so directs.

(d) The court shall appoint a guardian ad litem FOR A CHILD UNDER TWELVE YEARS OF AGE, OR COUNSEL FOR YOUTH IF THE YOUTH IS TWELVE YEARS OF AGE OR OLDER, to protect the interest of ~~the child~~ for any child OR YOUTH who is the subject of a petition for review of placement, unless the court makes specific findings that no useful purpose would be served by such appointment. THE COURT MAY APPOINT BOTH A GUARDIAN AD LITEM

AND A COUNSEL FOR YOUTH IF A YOUTH IS TWELVE YEARS OF AGE OR OLDER AND THE APPOINTMENT OF A GUARDIAN AD LITEM IS NECESSARY BECAUSE THE YOUTH HAS DIMINISHED CAPACITY.

SECTION 8. In Colorado Revised Statutes, 19-3-202, **amend** (2) as follows:

19-3-202. Right to counsel and jury trial. (2) The petitioner, any respondent, ~~or the guardian ad litem FOR THE CHILD, OR A CHILD WHO IS~~ TWELVE YEARS OF AGE OR OLDER may demand a trial by jury of six persons at the adjudicatory hearing ~~under~~ PURSUANT TO section 19-3-505, or the court, on its own motion, may order such a jury to try any case at the adjudicatory hearing ~~under~~ PURSUANT TO section 19-3-505.

SECTION 9. In Colorado Revised Statutes, **amend** 19-3-203 as follows:

19-3-203. Right to guardian ad litem and counsel for youth. (1) Upon the filing of a petition ~~under~~ PURSUANT TO section 19-3-502 that alleges abuse or neglect of a ~~minor~~ child, the court shall appoint a guardian ad litem ~~who shall~~ FOR ANY CHILD WHO IS UNDER TWELVE YEARS OF AGE. THE GUARDIAN AD LITEM MUST be an attorney-at-law licensed to practice in Colorado AND APPROVED BY THE OFFICE OF THE CHILD'S REPRESENTATIVE CREATED IN SECTION 13-91-104. Nothing in this section ~~shall limit~~ LIMITS the power of the court to appoint a guardian ad litem prior to the filing of a petition for good cause.

(2) UPON THE FILING OF A PETITION PURSUANT TO SECTION 19-3-502 THAT ALLEGES ABUSE OR NEGLECT OF A CHILD, THE COURT SHALL APPOINT COUNSEL FOR YOUTH FOR ANY CHILD OR YOUTH WHO IS TWELVE YEARS OF AGE OR OLDER. THE COUNSEL FOR YOUTH MUST BE AN ATTORNEY-AT-LAW LICENSED TO PRACTICE IN COLORADO AND APPROVED BY THE OFFICE OF THE CHILD'S REPRESENTATIVE CREATED IN SECTION 13-91-104. THE COURT MAY APPOINT THE SAME ATTORNEY, AS LONG AS THE ATTORNEY DOES NOT ASSERT THERE IS A CONFLICT OF INTEREST AS DEFINED UNDER THE APPLICABLE RULES OF PROFESSIONAL CONDUCT, TO REPRESENT THE BEST INTERESTS OF YOUNGER SIBLINGS WHO ARE UNDER TWELVE YEARS OF AGE AS A GUARDIAN AD LITEM AND TO REPRESENT YOUTH IN THE SIBLING GROUP WHO ARE TWELVE YEARS OF AGE OR OLDER AS A COUNSEL FOR YOUTH. UNTIL THE COURT'S JURISDICTION IS TERMINATED, APPOINTMENT OF

COUNSEL FOR YOUTH PURSUANT TO THIS SECTION CONTINUES. A CHILD'S OR YOUTH'S RIGHT TO COUNSEL MAY NOT BE WAIVED. NOTHING IN THIS SECTION LIMITS THE POWER OF THE COURT TO APPOINT COUNSEL FOR YOUTH PRIOR TO THE FILING OF A PETITION FOR GOOD CAUSE.

(3) A GUARDIAN AD LITEM WHO IS CURRENTLY APPOINTED TO REPRESENT THE BEST INTERESTS OF A CHILD OR YOUTH PURSUANT TO THIS SECTION SHALL TRANSITION TO CLIENT-DIRECTED COUNSEL FOR YOUTH IMMEDIATELY UPON A CHILD'S TWELFTH BIRTHDAY AND ACT IN THIS ROLE UNTIL EITHER THE CASE IS DISMISSED OR NEW COUNSEL IS APPOINTED, UNLESS THE COURT FINDS IT NECESSARY TO APPOINT A GUARDIAN AD LITEM BECAUSE THE CHILD OR YOUTH HAS DIMINISHED CAPACITY, IN WHICH CASE THE GUARDIAN AD LITEM REMAINS IN THAT ROLE AND THE COURT SHALL APPOINT SEPARATE COUNSEL FOR YOUTH FOR THE CHILD. COUNSEL FOR YOUTH SHALL NOTIFY THE COURT AND PARTIES OF THE CHANGE AND THE COURT SHALL ISSUE A NEW ORDER OF APPOINTMENT WITHIN SEVEN DAYS.

~~(2)~~ (4) The guardian ad litem ~~shall~~ OR COUNSEL FOR YOUTH MUST BE provided with all reports relevant to a case submitted to or made by any agency or person pursuant to this ~~article~~ ARTICLE 3, including reports of examination of the child OR YOUTH or persons responsible for the neglect or dependency of the child OR YOUTH. The county department shall share with the guardian ad litem OR THE COUNSEL FOR YOUTH the reports of fingerprint-based criminal history record checks from the Colorado bureau of investigation and from the federal bureau of investigation if the court orders the county department to share that information with the guardian ad litem OR THE COUNSEL FOR YOUTH. THE GUARDIAN AD LITEM OR COUNSEL FOR YOUTH MUST HAVE ACCESS TO THE CHILD OR YOUTH AND CONFIDENTIAL INFORMATION REGARDING THE CHILD OR YOUTH, INCLUDING BUT NOT LIMITED TO THE CHILD'S OR YOUTH'S EDUCATIONAL, MEDICAL, AND MENTAL HEALTH RECORDS; SOCIAL SERVICE AGENCY FILES; COURT RECORDS, INCLUDING COURT FILES INVOLVING ALLEGATIONS OF ABUSE OR NEGLECT OF THE CHILD OR YOUTH; DELINQUENCY RECORDS INVOLVING THE CHILD OR YOUTH; AND ANY OTHER INFORMATION REGARDING THE CHILD RELEVANT TO THE ISSUES IN THE PROCEEDING AND REPORTS THAT FORM THE BASIS OF RECOMMENDATIONS MADE TO THE COURT. THIS SECTION DOES NOT CONFER AN INDEPENDENT RIGHT TO OBTAIN A PARENT'S INFORMATION OR PARENT'S RECORDS THAT ARE CONFIDENTIAL OR THAT ARE OTHERWISE PRIVILEGED UNDER STATE OR FEDERAL LAW. The court and social workers assigned to the case shall keep the guardian ad litem OR COUNSEL FOR YOUTH apprised

of significant developments in the case, particularly prior to further neglect or dependency court appearances.

~~(3)~~ (5) The guardian ad litem ~~shall be~~ IS charged in general with the representation of the child's BEST interests. To that end, the guardian ad litem shall make such further investigations as the guardian ad litem deems necessary to ascertain the facts and shall talk with or observe the child involved, examine and cross-examine witnesses in both the adjudicatory and dispositional hearings, introduce and examine the guardian ad litem's own witnesses, make recommendations to the court concerning the child's welfare, appeal matters to the court of appeals or the supreme court, and participate further in the proceedings to the degree necessary to adequately represent the child. In addition, the guardian ad litem, if in the best interest of the child, shall seek to assure that reasonable efforts are being made to prevent unnecessary placement of the child out of the home and to facilitate reunification of the child with the child's family or, if reunification is not possible, to find another safe and permanent living arrangement for the child. In determining whether said reasonable efforts are made with respect to a child, and in making such reasonable efforts, the child's health and safety ~~shall be~~ ARE the paramount concern.

~~(4) A guardian ad litem already appointed to represent a youth's best interests pursuant to this article 3 shall begin acting as counsel and providing client-directed representation immediately upon the youth's eighteenth birthday and shall act in this role until either the case is dismissed or new counsel is appointed, unless the youth is deemed incapacitated pursuant to section 19-3-704, in which case the guardian ad litem shall remain in that role and separate counsel for the youth shall be appointed.~~

~~(5) At the first hearing following a youth's eighteenth birthday, the court shall advise each youth who has a current guardian ad litem appointed pursuant to this section of the youth's right to counsel and the option to either consent to have the same person continue as counsel, if the lawyer remains available and has no conflict of interest, or to have a new person appointed as counsel. If the youth elects to have a new person appointed as counsel, the court shall appoint an attorney from the list of attorneys approved by the office of the child's representative.~~

(6) A PERSON APPOINTED TO SERVE AS COUNSEL FOR YOUTH

PURSUANT TO THIS SECTION SHALL COMPLY WITH THE COLORADO RULES OF PROFESSIONAL CONDUCT, PROVISIONS SET FORTH IN A CHIEF JUSTICE DIRECTIVE CONCERNING THE COURT APPOINTMENT OF COUNSEL FOR YOUTH IN THIS TITLE 19, AND SUBSEQUENT CHIEF JUSTICE DIRECTIVES OR PRACTICE STANDARDS ESTABLISHED BY RULE OR DIRECTIVE OF THE CHIEF JUSTICE PURSUANT TO SECTION 13-91-105 CONCERNING THE DUTIES AND RESPONSIBILITIES OF A GUARDIAN AD LITEM AND COUNSEL FOR YOUTH IN LEGAL MATTERS AFFECTING CHILDREN OR YOUTH. COUNSEL FOR YOUTH SHALL ENSURE THAT THE CHILD OR YOUTH HAS REPRESENTATION THROUGH PENDING APPEALS.

(7) A GUARDIAN AD LITEM MAY BE APPOINTED FOR A CHILD OR YOUTH TWELVE YEARS OF AGE OR OLDER IF NECESSARY BECAUSE THE CHILD OR YOUTH HAS DIMINISHED CAPACITY. THE COURT SHALL NOT CONSIDER AGE OR DEVELOPMENTAL MATURITY AS THE SOLE BASIS FOR AN APPOINTMENT OF A GUARDIAN AD LITEM PURSUANT TO THIS SECTION.

SECTION 10. In Colorado Revised Statutes, 19-3-502, **amend** (7); and **add** (4.5) as follows:

19-3-502. Petition form and content - limitations on claims in dependency or neglect actions. (4.5) A CHILD NAMED IN THE PETITION SHALL BE A PARTY TO THE PROCEEDINGS AND HAVE THE RIGHT TO ATTEND AND FULLY PARTICIPATE IN ALL HEARINGS RELATED TO THE CHILD'S CASE. THE CHILD'S GUARDIAN AD LITEM OR COUNSEL FOR YOUTH SHALL PROVIDE DEVELOPMENTALLY APPROPRIATE NOTICE TO THE CHILD OF ALL HEARINGS RELATED TO THE CHILD'S CASE.

(7) In addition to notice to all parties, the court shall ensure that notice is provided of all hearings and reviews held regarding a child to the following persons with whom a child is placed: Foster parents, pre-adoptive parents, or relatives. Such persons shall have the right to be heard at such hearings and reviews. ~~The persons with whom a child is placed shall provide prior notice to the child of all hearings and reviews held regarding the child.~~ The foster parent, pre-adoptive parent, or relative providing care to a child shall not be made a party to the action for purposes of any hearings or reviews solely on the basis of such notice and right to be heard. Notice of hearings and reviews shall MUST not reveal to the respondent parent or other relative the address, last name, or other such identifying information regarding any person providing care to the child.

SECTION 11. In Colorado Revised Statutes, 19-3-602, **repeal** (3) as follows:

19-3-602. Motion for termination - separate hearing - right to counsel - no jury trial. (3) ~~A guardian ad litem, who shall be an attorney and who shall be the child's previously appointed guardian ad litem whenever possible, shall be appointed to represent the child's best interests in any hearing determining the involuntary termination of the parent-child legal relationship. Additionally, said attorney shall be experienced; whenever possible, in juvenile law. Such representation shall continue until an appropriate permanent placement of the child is effected or until the court's jurisdiction is terminated. If a respondent parent is a minor, a guardian ad litem shall be appointed and shall serve in addition to any counsel requested by the parent.~~

SECTION 12. In Colorado Revised Statutes, 19-3-606, **amend** (1) as follows:

19-3-606. Review of child's disposition following termination of the parent-child legal relationship. (1) The court, at the conclusion of a hearing in which it ordered the termination of a parent-child legal relationship, shall order that a review hearing be held not later than ninety days ~~following~~ AFTER the date of the termination. At such hearing, the agency or individual vested with custody of the child shall report to the court what disposition of the child, if any, has occurred. ~~and~~ The guardian ad litem shall ~~submit~~ PROVIDE a written report ~~with recommendations~~ STATING THE GUARDIAN AD LITEM'S POSITION to the court based upon an independent investigation ~~for the best disposition of the child~~ AND CONSULTATION WITH THE CHILD REGARDING THE DISPOSITION THAT IS IN THE BEST INTERESTS OF THE CHILD AND THE NECESSARY STEPS TO FINALIZE THE CHILD'S PERMANENCY. COUNSEL FOR YOUTH SHALL PROVIDE A POSITION STATEMENT THAT CONVEYS THE CHILD'S POSITION AND OBJECTIVES FOR THE CHILD'S DESIRED DISPOSITION AND NECESSARY STEPS TO FINALIZE PERMANENCY. Any report required ~~under~~ PURSUANT TO this subsection (1) ~~shall be~~ IS subject to the provisions of section 19-1-309.

SECTION 13. In Colorado Revised Statutes, 19-3-612, **amend** (3) as follows:

19-3-612. Reinstatement of the parent-child legal relationship -

circumstances - petition - hearings - legislative declaration. (3) A child who is ~~sixteen~~ TWELVE years of age or older, or ~~his or her~~ THE CHILD'S guardian ad litem, may also file a petition to reinstate the parent-child legal relationship alleging that the conditions set forth in ~~paragraphs (b) to (f) of subsection (2)~~ SUBSECTIONS (2)(b) TO (2)(f) of this section are met.

SECTION 14. In Colorado Revised Statutes, 19-3-702, **amend** (4)(c), (5)(e), and (6) introductory portion as follows:

19-3-702. Permanency hearing. (4) (c) Prior to closing a case before a youth's eighteenth birthday, the court or the youth's guardian ad litem OR COUNSEL FOR YOUTH shall notify the youth that the youth will lose the right to receive medicaid until the maximum age provided by federal law if the case is closed prior to the youth's eighteenth birthday. Prior to closing a case after a youth's sixteenth birthday, the court shall advise the youth of the youth's eligibility for the foster youth in transition program, created in section 19-7-303, should the youth later determine ~~he or she~~ THE YOUTH needs child welfare assistance from a county department.

(5) For a child or youth in a case designated pursuant to section 19-1-123 only:

(e) At each permanency planning hearing, the caseworker ~~and the child's or youth's guardian ad litem~~ shall provide the court with a written or verbal report specifying what efforts have been made to identify a permanent home for the child ~~or youth~~ and what services have been provided to the child ~~or youth~~ to facilitate identification of a permanent home.

(6) If a placement change is contested by a ~~named party or child or youth~~ and the child or youth is not reunifying with a parent or legal guardian, the court shall consider all pertinent information, including the child's or youth's wishes, related to modifying the placement of the child or youth prior to removing the child or youth from ~~his or her~~ THE CHILD'S OR YOUTH'S placement, and including the following:

SECTION 15. In Colorado Revised Statutes, 19-5-103, **amend** (9)(a)(I), (9)(a)(III), and (9)(b) as follows:

19-5-103. Relinquishment procedure - petition - hearings.

(9) (a) The court may appoint a guardian ad litem to protect the interests of the child if:

(I) The court finds that there is a conflict of interest between the child and ~~his or her~~ THE CHILD'S parents, guardian, or legal custodian;

(III) The court determines that the child is twelve years of age or older and that the welfare of the child mandates such appointment. IF COUNSEL FOR YOUTH IS APPOINTED PURSUANT TO ARTICLE 3 OF THIS TITLE 19, THE COUNSEL FOR YOUTH IS APPOINTED PURSUANT TO THIS SECTION.

(b) Reasonable fees for guardians ad litem OR COUNSEL FOR YOUTH appointed pursuant to this subsection (9) ~~shall~~ MUST be paid by the relinquishing parent or parents; except that, in the case of an indigent parent or parents, such fees ~~shall~~ MUST be paid as an expense of the state from annual appropriations to the ~~office of the state court administrator~~ OFFICE OF THE CHILD'S REPRESENTATIVE.

SECTION 16. In Colorado Revised Statutes, 13-1-119.5, **amend** (1)(c) as follows:

13-1-119.5. Electronic access to name index and register of actions. (1) Statewide electronic read-only access to the name index and register of actions of public case types must be made available to the following agencies or attorneys appointed by the court:

(c) Guardians ad litem OR COUNSEL FOR YOUTH under contract with the office of the child's representative, created in section 13-91-104, or authorized by the office of the child's representative to act as a guardian ad litem OR COUNSEL FOR YOUTH, as it relates to a case in which they are appointed by the court;

SECTION 17. In Colorado Revised Statutes, 13-92-103, **amend** (2)(a) introductory portion and (2)(a)(V) as follows:

13-92-103. Respondent parents' counsel - commission - office - duties - qualifications of director. (2) (a) The Colorado supreme court shall appoint a nine-member respondent parents' counsel governing commission on or before July 1, 2015. In appointing the membership of the commission, the court ~~must~~ SHALL, to the extent practicable, include

persons from throughout the state and persons with disabilities and take into consideration race, gender, and the ethnic diversity of the state. The court shall make the appointments as follows:

(V) Commission members must not currently be under contract with the office or employed by the state department of human services, a county department of human or social services, or be serving currently as a city or county attorney, judge, magistrate, court-appointed special advocate, or guardian ad litem, OR COUNSEL FOR YOUTH.

SECTION 18. In Colorado Revised Statutes, 19-1-304, amend (1)(a)(IV), (1)(c)(IX), (2)(a)(XIII), and (7)(c) as follows:

19-1-304. Juvenile delinquency records - division of youth services critical incident information - definitions. (1)(a) **Court records - open.** Except as provided in subsection (1)(b.5) of this section, court records in juvenile delinquency proceedings or proceedings concerning a juvenile charged with the violation of any municipal ordinance except a traffic ordinance are open to inspection to the following persons without court order:

(IV) The juvenile's guardian ad litem OR COUNSEL FOR YOUTH;

(c) **Probation records - limited access.** Except as otherwise authorized by section 19-1-303, a juvenile probation officer's records, whether or not part of the court file, are not open to inspection except as provided in subsection (1)(c)(I) to (1)(c)(XI) of this section:

(IX) To the juvenile's guardian ad litem OR COUNSEL FOR YOUTH;

(2)(a) **Law enforcement records in general - closed.** Except as otherwise provided by subsection (1)(b.5) of this section and otherwise authorized by section 19-1-303, the records of law enforcement officers concerning juveniles, including identifying information, must be identified as juvenile records and must not be inspected by or disclosed to the public, except:

(XIII) To the juvenile's guardian ad litem OR COUNSEL FOR YOUTH;

(7) In addition to the persons who have access to court records

pursuant to subsection (1)(a) of this section, statewide electronic read-only access to the name index and register of actions of the judicial department must be allowed to the following agencies or persons:

(c) Guardians ad litem OR COUNSEL FOR YOUTH under contract with the office of the child's representative, created in section 13-91-104, ~~C.R.S.~~, or authorized by the office of the child's representative to act as a guardian ad litem OR AN ATTORNEY UNDER CONTRACT OR EMPLOYED BY THE OFFICE OF THE CHILD'S REPRESENTATIVE, as it relates to a case in which they are appointed by the court;

SECTION 19. In Colorado Revised Statutes, 19-1-305, **amend** (1)(a) as follows:

19-1-305. Operation of juvenile facilities. (1) Except as otherwise authorized by section 19-1-303 or 19-1-304 (8), all records prepared or obtained by the department of human services in the course of carrying out its duties pursuant to article 2.5 of this title 19 are confidential and privileged. The records may be disclosed only:

(a) To the parents, legal guardian, legal custodian, attorney for the juvenile, district attorney, guardian ad litem, COUNSEL FOR YOUTH, law enforcement official, and probation officer;

SECTION 20. In Colorado Revised Statutes, 19-1-307, **amend** (2) introductory portion, (2)(d), and (2.3)(c) as follows:

19-1-307. Dependency and neglect records and information - access - fee - rules - records and reports fund - misuse of information - penalty - adult protective services data system check. (2) **Records and reports - access to certain persons - agencies.** Except as set forth in section 19-1-303, only the following persons or agencies ~~shall~~ have access to child abuse or neglect records and reports:

(d) Any person named in the report or record who was alleged as a ~~child to be~~ AN abused or neglected CHILD or, if the child named in the report or record is a ~~minor or is~~ otherwise incompetent at the time of the request, ~~his or her~~ THE CHILD'S guardian ad litem OR COUNSEL FOR YOUTH;

(2.3) The following agencies or attorneys appointed by the court

must be granted statewide read-only access to the name index and register of actions for the judiciary department:

(c) Guardians ad litem OR COUNSEL FOR YOUTH under contract with the office of the child's representative, created in section 13-91-104, ~~C.R.S.~~, or authorized by the office of the child's representative to act as a guardian ad litem OR COUNSEL FOR YOUTH, as it relates to a case in which they are appointed by the court; and

SECTION 21. In Colorado Revised Statutes, 19-3-201, **amend** (1), (4)(b) introductory portion, and (4)(b)(I) as follows:

19-3-201. Venue. (1) (a) Except as provided in ~~paragraph (b) of this subsection (1)~~ SUBSECTION (1)(b) OF THIS SECTION, all proceedings brought ~~under~~ PURSUANT TO this ~~article shall~~ ARTICLE 3 MUST be commenced in the county in which the child resides or is present.

(b) A county department, guardian ad litem OR COUNSEL FOR YOUTH, or other person filing a petition for reinstatement of the parent-child legal relationship as set forth in section 19-3-612 must file the petition for the reinstatement of the parent-child legal relationship in the county or city and county that has legal custody of the child.

(4) (b) The order granting a change of venue and transferring jurisdiction ~~shall~~ MUST include:

(I) Notice to the receiving court of whether a respondent parent's counsel and the guardian ad litem OR COUNSEL FOR YOUTH appointed for the child will remain on the case. If a respondent parent's counsel or the guardian ad litem OR COUNSEL FOR YOUTH for the child will not remain on the case, the order ~~shall~~ MUST inform the receiving court that the receiving court shall make a new appointment of counsel or guardian ad litem OR COUNSEL FOR YOUTH.

SECTION 22. In Colorado Revised Statutes, 19-3-208, **amend** (3)(a) as follows:

19-3-208. Services - county required to provide - out-of-home placement options - rules - definitions. (3) (a) The state board of human services shall promulgate rules creating a standard and deliberate process

for determining, in coordination with the education provider, parents, if appropriate, guardian ad litem OR COUNSEL FOR YOUTH, and the child, ~~or youth~~, whether it is in the best interest of a child ~~or youth~~ in out-of-home placement to remain in ~~his or her~~ THE CHILD'S school of origin when the child ~~or youth~~ is placed in out-of-home placement or experiences a change in placement.

SECTION 23. In Colorado Revised Statutes, 19-3-213, **amend** (1)(a) as follows:

19-3-213. Placement criteria. (1) In any case in which the county department recommends placement out of the home for a child or in which a child is in out-of-home placement, the court, the guardian ad litem, the county department, any CASA volunteer, and other parties shall consider the best interests of the child and shall comply with the following placement criteria:

(a) Prior to the change of placement of a child, the county department shall, to the extent possible, notify the guardian ad litem OR COUNSEL FOR YOUTH, any CASA volunteer, and other parties. If ~~the guardian ad litem or other~~ ANY party disagrees with the change of placement, ~~he or she~~ THE PARTY may seek an emergency hearing concerning the appropriate placement for a child. In an emergency, the county department may proceed to make the change of placement prior to any requested hearing.

SECTION 24. In Colorado Revised Statutes, 19-3-217, **amend** (3) as follows:

19-3-217. Parent-child visitation upon removal. (3) Absent the issuance of an emergency order, a parent granted visitation is entitled to a hearing prior to an ongoing reduction in, suspension of, or increase in the level of supervision, including a change from in-person visitation to virtual visitation. If the court issues an emergency order suspending, reducing, or restricting visitation, a parent is entitled to a hearing within seventy-two hours after the order is issued, excluding Saturdays, Sundays, and court holidays. The court need not hold a hearing if there is agreement by the petitioner, guardian ad litem OR COUNSEL FOR YOUTH, and parent to the reduction, suspension, or increase in level of supervision of visits. Any such agreement must be reduced to writing and filed with the court. Nothing in

this section prevents the county department from canceling a visit if the child's health or welfare would be endangered or if the parent consents to the cancellation of the visit.

SECTION 25. In Colorado Revised Statutes, 19-3-308, **amend** (10) introductory portion as follows:

19-3-308. Action upon report of intrafamilial, institutional, or third-party abuse - investigations - child protection team - rules - report. (10) In the event that the local department initiates a petition in the juvenile court or the district court with juvenile jurisdiction on behalf of the child who is the subject of a report, the department shall notify, in writing, the guardian ad litem OR COUNSEL FOR YOUTH appointed by the court ~~under~~ PURSUANT TO section 19-3-312 to represent the child's interest. Such notice ~~shall~~ MUST include:

SECTION 26. In Colorado Revised Statutes, 19-3-403, **amend** (3.6)(a)(III) as follows:

19-3-403. Temporary custody - hearing - time limits - restriction - rules. (3.6) (a) (III) The court shall advise the CHILD'S parents ~~of the child~~ that the child may be placed with a relative if, in the court's opinion, such placement is appropriate and in the child's best interests. The court shall order the parents to complete the form affidavit and advisement described in ~~subparagraph (f) of this paragraph~~ (a) SUBSECTION (3.6)(a)(I) OF THIS SECTION no later than seven business days after the date of the hearing or prior to the next hearing on the matter, whichever occurs first. The original completed form ~~shall~~ MUST be filed with the court, and a copy delivered to the county department of human or social services no later than five business days after the date of the hearing. Each parent, the guardian ad litem OR COUNSEL FOR YOUTH, and counsel for each parent, if any, shall also receive copies of the completed form. The court may advise each parent of the penalties associated with perjury and contempt of court, if necessary. Each parent may suggest an adult relative or relatives whom ~~he or she~~ THE PARENT believes to be the most appropriate caretaker or caretakers for the child. If appropriate, the child or children shall be consulted regarding suggested relative caretakers. The court shall order each parent to notify every relative who may be an appropriate relative caretaker for the child that failure to come forward in a timely manner may result in the child being placed permanently outside of the home of the child's relatives, if the child

is not able to return to the child's home. In addition, the court shall advise each parent that failure to identify these relatives in a timely manner may result in the child being placed permanently outside of the home of the child's relatives.

SECTION 27. In Colorado Revised Statutes, 19-3-705, **amend** (3)(e) as follows:

19-3-705. Transition hearing. (3) The court shall advise the youth that:

~~(e) The youth has the right to counsel who will represent the youth's objectives, beginning on the youth's eighteenth birthday. The youth has the right to choose whether to have the youth's current guardian ad litem reappointed as counsel or to have a different individual appointed as counsel pursuant to section 19-3-203. The youth has the right to consult with the youth's counsel about the decision whether to emancipate~~ THE YOUTH HAS THE RIGHT TO COUNSEL WHO SHALL REPRESENT THE YOUTH THROUGHOUT THE YOUTH'S PARTICIPATION IN THE FOSTER YOUTH TRANSITION PROGRAM. The court shall advise the youth that the current emancipation transition hearing may be continued for up to one hundred nineteen days if the youth would like additional time to make a decision or to prepare for emancipation. The court shall ask the youth whether the youth has had sufficient opportunity to consult with counsel and if the youth is ready to make a decision at the current time or, alternatively, if the youth would like to request a continuance of up to one hundred nineteen days.

SECTION 28. In Colorado Revised Statutes, 19-5-208, **amend** (4.5)(h) as follows:

19-5-208. Petition for adoption - open adoption - post-adoption contact agreement. (4.5) (h) In any case where a post-adoption contact agreement is being considered by the court and a guardian ad litem OR COUNSEL FOR YOUTH is currently appointed for the child OR YOUTH pursuant to section 19-3-203, the court shall appoint the guardian ad litem to represent the best interests of the child OR YOUTH, OR THE COUNSEL FOR YOUTH TO REPRESENT THE POSITION AND OBJECTIVES THAT THE CHILD OR YOUTH WANT, with respect to the contact agreement. The guardian ad litem's OR COUNSEL FOR YOUTH'S representation in these proceedings is limited solely to making a recommendation as to whether the agreement

proposed by the petitioner is in the best interests of the child and should be adopted as proposed. The court shall not make additions or modifications to the agreement in accordance with the recommendations of the guardian ad litem OR COUNSEL FOR YOUTH unless the petitioner consents to the additions or modifications. The duties of the guardian ad litem OR COUNSEL FOR YOUTH terminate upon the entry of the decree of adoption.

SECTION 29. In Colorado Revised Statutes, 19-5-217, **amend** (2) as follows:

19-5-217. Enforcement or termination of post-adoption contact agreement. (2) The court may appoint a guardian ad litem for the adopted child, OR A COUNSEL FOR YOUTH FOR AN ADOPTED CHILD TWELVE YEARS OF AGE OR OLDER, at the time of any action for the enforcement or termination of the post-adoption contact agreement if the court determines that consideration of the factors set forth in section 19-5-103 (9)(a) require the appointment of a guardian ad litem OR A COUNSEL FOR YOUTH. In all adoptions other than those in which the child is placed by the county department, a party or parties shall pay reasonable fees for the services of the guardian ad litem OR COUNSEL FOR YOUTH unless a party is indigent, in which case ~~such fees shall be paid~~ by the office of the child's representative SHALL PAY THE FEES.

SECTION 30. In Colorado Revised Statutes, 19-7-101, **amend** (1)(bb) as follows:

19-7-101. Legislative declaration. (1) The general assembly finds and declares that youth in foster care, excluding those in the custody of the division of youth services or a state hospital for persons with mental health disorders, should enjoy the following:

(bb) Having a guardian ad litem appointed to represent the youth's best interests OR A COUNSEL FOR YOUTH APPOINTED TO REPRESENT THE OBJECTIVES AND POSITIONS OF A YOUTH TWELVE YEARS OF AGE OR OLDER; and

SECTION 31. In Colorado Revised Statutes, 19-7-102, **amend** (1) as follows:

19-7-102. Protection against identity theft. (1) The court shall

ensure that each youth in foster care who is in the legal custody of a county department of human or social services or the department of human services and who is at least sixteen years of age obtains or receives free annual credit reports from the department of human services or a county department of human or social services. The county department of human or social services or the department of human services shall inform the court with jurisdiction over the youth, if any, of any inaccuracies in a report and refer the matter to a governmental or nonprofit entity on the referral list developed pursuant to subsection (2) of this section for assistance in interpreting and resolving any inaccuracies in a report if the credit report shows evidence of possible identity theft. The ~~child's guardian ad litem~~ YOUTH'S COUNSEL FOR YOUTH shall advise the youth of possible consequences of and options to address the possible identity theft, including the right to report the matter to law enforcement and seek possible prosecution of the offender.

SECTION 32. In Colorado Revised Statutes, 19-7-202, **amend** (2) as follows:

19-7-202. Legislative declaration. (2) The general assembly further finds and declares that it is the responsibility of all adults involved in a youth's life, including but not limited to county departments, parents, foster parents, guardians ad litem, COUNSEL FOR YOUTH, court-appointed special advocates, next of kin, treatment providers, and others, to seek opportunities to foster those sibling relationships to promote continuity and help to sustain family relationships.

SECTION 33. In Colorado Revised Statutes, 22-32-138, **amend** (2)(b) introductory portion and (2)(b)(III) as follows:

22-32-138. Out-of-home placement students - school stability, transfer, and enrollment procedures - absences - exemptions - provision of academic supports - definitions. (2) (b) The child welfare education liaison ~~shall be~~ IS responsible for working with child placement agencies, county departments, and the state department of human services to facilitate services to maintain students in out-of-home placement in their schools of origin or, if the county department determines that it is not in the students' best interests to remain in the school of origin, facilitate the prompt and appropriate placement, transfer, and enrollment in school of students in out-of-home placement within the school district or who are enrolled or

enrolling in institute charter schools. The child welfare education liaison's specific duties include but need not be limited to:

(III) If a county department determines that it is not in the student's best interest to remain in the school of origin, working with county departments, juvenile probation officers, parents, guardian ad litem OR COUNSEL FOR YOUTH, and foster care parents to ensure that the student is enrolled in a new school immediately with transition planning, and that the student's complete education information and records are requested immediately by the student's new school upon enrollment;

SECTION 34. In Colorado Revised Statutes, 26-6-106.5, **amend** (2)(b) as follows:

26-6-106.5. Foster care - kinship care - rules applying generally - rule-making. (2) At a minimum, the rules described in subsection (1) of this section must include the following:

(b) The immediate notification of a child's guardian ad litem OR COUNSEL FOR YOUTH upon the child's placement in a foster care home, and the provision of the guardian ad litem's OR COUNSEL FOR YOUTH'S contact information to the foster parents;

SECTION 35. In Colorado Revised Statutes, 26-7-104, **amend** (1)(e)(I) as follows:

26-7-104. General information for prospective adoptive families. (1) At the time that the family is matched for adoption of a child or youth who is potentially eligible for benefits pursuant to this article 7, the state department, a county department, or a nonprofit child placement agency, as appropriate, shall provide the prospective adoptive family, in writing, with information concerning the following:

(e) Notice of the general right to bring to the adoption assistance negotiation process:

(I) Parties who possess relevant information about a child's or youth's history and needs, including the child's guardian ad litem OR COUNSEL FOR YOUTH or the family's advocate; and

SECTION 36. In Colorado Revised Statutes, 42-2-108, **amend** (1)(a)(II), (1)(a)(III), (1)(b)(I), (1)(b)(II)(B), and (2)(b) as follows:

42-2-108. Application of minors - rules. (1) (a) (II) When an applicant has been made a ward of any court in the state for any reason and has been placed in foster care, the foster parents or parent may sign the affidavit of liability for the minor. If the parent or foster parent is unwilling or unable to sign the affidavit of liability, a guardian ad litem OR COUNSEL FOR YOUTH, an official of the county department of human or social services having custody of the applicant, or an official of the division of youth services in the state department of human services having custody of the applicant may sign the application for an instruction permit without signing the affidavit of liability for the minor if the requirements of subsection (1)(b) of this section are met; except that, prior to signing the application for an instruction permit, the guardian ad litem OR COUNSEL FOR YOUTH or other official shall notify the court of ~~his or her~~ THE GUARDIAN AD LITEM'S OR COUNSEL FOR YOUTH'S OR OTHER OFFICIAL'S intent to sign the application, and except that the guardian ad litem OR COUNSEL FOR YOUTH or official shall not sign the application for an instruction permit for a minor who is placed in foster care and is under seventeen years of age without first obtaining the consent of the foster parent. If the minor is seventeen years of age or older and is in the care of a foster parent, in order to prepare the minor for emancipation from foster care and to assist the minor in obtaining important life skills, the guardian ad litem OR COUNSEL FOR YOUTH or official shall consult with the foster parent of the minor about the opportunity for the minor to learn driving skills under the restrictions provided in subsection (1)(b) of this section prior to signing an application for an instruction permit. The guardian ad litem OR COUNSEL FOR YOUTH or official shall solicit the opinion of the minor's foster parent concerning the minor's ability to exercise good judgment and make decisions as well as the minor's overall capacity to drive.

(III) When a minor to whom an instruction permit or minor driver's license has been issued is required to appear before the department for a hearing in accordance with this article 2, the person who signed the affidavit of liability for the minor or the guardian ad litem OR COUNSEL FOR YOUTH or official who signed the application for an instruction permit for the minor shall accompany the minor. If the person who signed the minor's affidavit of liability or application for an instruction permit is unable to attend the hearing, ~~he or she~~ THE PERSON shall submit to the department a

verified signed statement certifying under oath that ~~he or she~~ THE PERSON is aware of the purpose of the hearing but cannot attend.

(b) The department shall issue an instruction permit to an applicant under eighteen years of age who is otherwise eligible to obtain an instruction permit and who has been made a ward of the court and who is in out-of-home placement without the requirement of a person signing an affidavit of liability if the following requirements are met:

(I) The guardian ad litem OR COUNSEL FOR YOUTH, an official of the county department of human or social services having custody of the applicant, or an official of the division of youth services in the state department of human services having custody of the applicant signs the application for an instruction permit; and

(II) (B) If the minor is in the care of a foster parent and is at least seventeen years of age, the guardian ad litem OR COUNSEL FOR YOUTH or the official has consulted with the foster parent prior to signing the application for an instruction permit.

(2) (b) A guardian ad litem OR A COUNSEL FOR YOUTH, an official of a county or district department of human or social services, or an official of the division of youth services in the state department of human services who signs a minor's application for an instruction permit or a minor driver's license but does not sign an affidavit of liability does not impute liability on themselves, on the county, or on the state for any damages caused by the negligence or willful misconduct of the applicant.

SECTION 37. Act subject to petition - effective date. This act takes effect January 9, 2023; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be

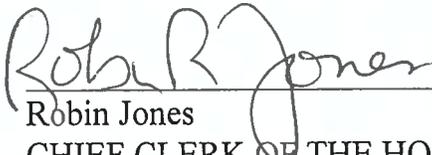
held in November 2022 and, in such case, will take effect January 9, 2023, or on the date of the official declaration of the vote thereon by the governor, whichever is later.



Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES



Steve Fenberg
PRESIDENT OF
THE SENATE

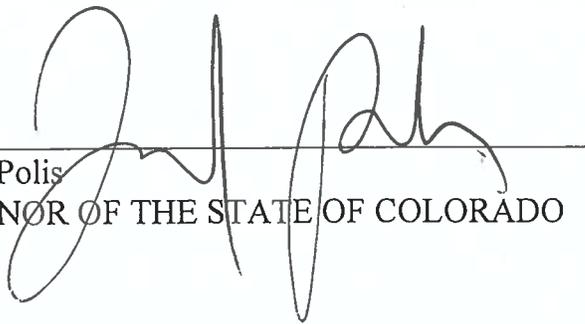


Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES



Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED April 12, 2022 at 3:30 pm
(Date and Time)



Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO

wallace, jennifer

From: gabriel, richard
Sent: Thursday, May 26, 2022 1:41 PM
To: wallace, jennifer
Subject: FW: Proposal for Juvenile Rules Committee re Withdrawal/Termination of provisionally appointed Respondent Parent Counsel
Attachments: Proposal re Termination of Provisionally Appointed RPC.pdf

Please see attached and below.

Thanks!

Rich



Richard L. Gabriel (he/him/his)
Justice, Colorado Supreme Court
2 East 14th Avenue
Denver, Colorado 80203
(720) 625-5440
richard.gabriel@judicial.state.co.us

From: moultrie, pax <pax.moultrie@judicial.state.co.us>
Sent: Thursday, May 26, 2022 1:38 PM
To: gabriel, richard <richard.gabriel@judicial.state.co.us>
Cc: welling, craig <craig.welling@judicial.state.co.us>; Zaven Saroyan <zsaroyan@coloradoorpc.org>; Melanie Jordan <mjordan@coloradoorpc.org>
Subject: Proposal for Juvenile Rules Committee re Withdrawal/Termination of provisionally appointed Respondent Parent Counsel

Hi Justice Gabriel,

Thanks for chatting with me regarding this issue. Please find attached a memo and proposed rule change for a modified process to allow courts to authorize withdrawal of provisionally appointed Respondent Parent Counsel under limited circumstances as an alternative to the requirements of Rule 121.

Please let me know if you have questions.

Thanks,

Pax Moultrie (she/her)

District Court Judge | Denver Juvenile Court | 2E
520 West Colfax Ave | Denver, CO 80204

MEMO

To: Juvenile Rules Committee

From: Pax Moultrie, District Court Judge, Denver Juvenile Court

Re: Termination of provisional appointments of Respondent Parent Counsel

Dear Juvenile Rules Committee Members,

As you may be aware, CDHS's Division of Child Welfare is subject to a Program Improvement Plan (PIP) in response to the 2017 Child and Family Services Review. The PIP addresses areas several areas of systemic improvement related to safety, permanency and well-being outcomes of the child(ren)/youth and families involved in the child welfare system. One identified area of improvement in Colorado is timely achievement of permanency for children.

As you are aware, the timeframes governing adjudicatory hearings/trials are quite short (60 or 90 days). *See* C.R.S. § 19-3-505(3). As you are also aware, indigent parents involved in dependency and neglect proceedings are afforded the right to court-appointed counsel because "Respondent parents' counsel plays a critical role in helping achieve the best outcomes for children involved in dependency and neglect proceedings by providing effective legal representation for parents in dependency and neglect proceedings, protecting due process and statutory rights, presenting balanced information to judges, and promoting the preservation of family relationships when appropriate." C.R.S. § 13-92-101.

Because of the critical role that Respondent Parent Counsel ("RPC") play in these proceedings, trial courts are authorized to provisionally appoint RPC in the interest of justice. *See* CJD 16-02(VI)(d). RPC have access to numerous resources that can assist in the representation of parents, such as investigators and parent advocates. *See* CJD 16-02, Attachment A. The quality legal representation provided by RPC in conjunction with the additional resources provided through the Office of Respondent Parents' Counsel can have a significantly positive impact on parent engagement and family preservation. Additionally, early/provisional appointment of RPC can greatly assist in the court's management of cases and administration of justice.

At times, however, RPC are unsuccessful in locating or engaging parents. As a result, RPC may request to withdraw from representing a parent. RPC are subject to the Rules of Professional Conduct and the Statewide Practice Standards set forth in C.R.C.P. 121. Additionally, RPC are governed by the terms and conditions of Chief Justice Directive 16-02. As the law currently stands, RPC cannot withdraw from a case without following the procedures of Rule 121, which requires a written motion and a 14-day waiting period following service of the motion prior to the court being able to consider the request to withdraw. There is no specific juvenile rule of procedure related to withdrawal of court-appointed RPC. As it currently stands,

the attorney withdrawal process can create significant delays in moving cases through the adjudicatory phase when efforts by provisionally appointed RPC to locate and/or engage parents have been unsuccessful. In turn, these delays can negatively impact case progress and timely permanency for children. If a court does not follow the requirements of Rule 121 in allowing RPC to withdraw, it is reversible error, which further delays permanency for children.

Accordingly, I am proposing an amendment to C.R.J.P. Rule 2.1 (“Attorney of Record”). I propose that the rule be amended to allow the court to immediately allow provisionally appointed RPC to withdraw upon making a written or oral motion to the court of one or more of the following: (1) the parent is not indigent; (2) the parent does not wish to have court-appointed counsel; or (3) the parent cannot be located after diligent search and direction from the parent is unknown.

Rules and law applicable to this issue follow this memo. Thank you for your consideration and I look forward to discussing this issue further.

Sincerely,

A handwritten signature in black ink, appearing to read 'Pax Leia Moultrie', written in a cursive style.

Pax Leia Moultrie
District Court Judge
Denver Juvenile Court

Applicable Rules and Law:

I. CJD 16-02 – Court Appointments through ORPC

CJD 16-02 (VI)(d), (VIII)(a)

If, in the interest of justice, a provisional appointment of legal counsel for the respondent parent is necessary, such appointment may be made pending a final decision regarding indigency. The court shall review provisional appointments on a regular basis to determine whether the provisional appointment should continue. If a review of a respondent parent's application shows that the parent is not indigent and is not qualified to have court-appointed counsel at state expense, the court may order the parent to reimburse the ORPC for the representation provided from a tentative appointment of counsel.

...

Duties of Judges and Magistrates -- Judges and Magistrates shall appoint RPC no later than the first temporary custody/shelter/initial hearing.

Attachment A

12.1 - RPC shall pursue withdrawal where: (1) there is such a breakdown in communication that the client is denied a substantial right by counsel's continued representation; (2) a conflict of interest exists such that withdrawal is advisable or required under Colo. RPC 1.16; (3) the client cannot be located after diligent search and direction from the client is unknown; (4) the client wishes to proceed pro se and has received an advisement by the court.

12.3 - Motions to Withdraw: If circumstances necessitate withdrawal prior to resolution of the case, RPC shall comply with all relevant Colorado Rules of Professional Conduct, including 1.6 and 1.16, comply with C.R.C.P. 121 § 1-1, file a motion to withdraw, and request an ex parte in camera hearing only if the motion to withdraw is not granted. RPC should obtain a court order allowing withdrawal and substitution of counsel, if necessary.

II. Colo. R. Prof. Conduct 1.16

(a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if: (1) the representation will result in violation of the Rules of Professional Conduct or other law;

(2) the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client; or

(3) the lawyer is discharged.

(b) Except as stated in paragraph (c), a lawyer may withdraw from representing a client if:

(1) withdrawal can be accomplished without material adverse effect on the interests of the client;

(2) the client persists in a course of action involving the lawyer's services that the lawyer reasonably believes is criminal or fraudulent;

(3) the client has used the lawyer's services to perpetrate a crime or fraud;

(4) the client insists upon taking action that the lawyer considers repugnant or with which the lawyer has a fundamental disagreement;

(5) the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled;

(6) the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; or

(7) other good cause for withdrawal exists.

(c) A lawyer must comply with applicable law requiring notice to or permission of a tribunal when terminating a representation. When ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation.

III. Rule 121 § 1-1(2)(b)

[A]n attorney may withdraw from a case only upon approval of the court. Such approval shall rest in the discretion of the court, but **shall not** be granted until a motion to withdraw has been filed and served on the client and the other parties of record or their attorneys and either both the client and all counsel for the other parties consent in writing at or after the time of the service of said motion, or at least 14 days have expired after service of said motion. Every motion to withdraw shall contain the following advisements:

(I) the client has the burden of keeping the court and the other parties informed where notices, pleadings or other papers may be served;

(II) if the client fails or refuses to comply with all court rules and orders, the client may suffer possible dismissal, default or other sanctions;

(III) the dates of any proceedings, including trial, which dates will not be delayed nor proceedings affected by the withdrawal of counsel;

(IV) the client's and the other parties' right to object to the motion to withdraw within 14 days after service of the motion;

(V) if the client is not a natural person, that it must be represented by counsel in any court proceedings unless it is a closely held entity and first complies with section 13-1-127, C.R.S.; and

(VI) the client's last known address and telephone number.

(c) The client and the opposing parties shall have 14 days after service of a motion to withdraw within which to file objections to the withdrawal.

(d) If the motion to withdraw is granted, the withdrawing attorney shall promptly notify the client and the other parties of the effective date of the withdrawal.

IV. People ex rel. Z.P., 167 P.3d 211, 213–14, (Colo. App. 2007)

Dependency and neglect proceedings are civil in nature, and the Colorado courts have long held that the Colorado Rules of Civil Procedure apply in such proceedings when a particular procedure is not addressed in the Colorado Children's Code (Code) or the Colorado Rules of Juvenile Procedure (Juvenile Rules). C.R.J.P. 1; *People in Interest of A.E.*, 914 P.2d 534, 537 (Colo.App.1996); *People in Interest of S.B.*, 742 P.2d 935, 938 (Colo.App.1987).

The Code requires that a parent be advised of the statutory right to appointed counsel at his or her first appearance and again after the motion to terminate is filed if the parent is not represented. Sections 19–3–202(1), 19–3–602(2). **Neither the Code nor the Juvenile Rules address the standards for withdrawal of appointed counsel.**

Under C.R.C.P. 121 § 1–1(2)(b), an attorney may withdraw from a case only upon approval of the court. Such approval lies within the discretion of the trial court, but cannot be granted until a motion to withdraw, which advises the client of his or her right to object and other obligations, has been filed and served on the client.

Thus, we conclude that the discretionary standard for withdrawal of counsel set forth in C.R.C.P. 121 § 1–1(2)(b), together with the advisements required by that rule and the Code, provide sufficient safeguards to protect a parent's interests in a dependency and neglect proceeding.

****ALSO NOTE:** 17CA925, *People in Interest of L.K.G.* (Unpublished). COA reversed a termination order for failure to comply with Rule 121 when RPC moved to withdraw, citing to Z.P. and noting that withdrawal of counsel is governed by C.R.C.P. 121 § 1-1(2) and withdrawal of counsel “shall not” be granted without compliance with Rule 121.

V. Juvenile Rules of Procedure – Applicability, Purpose and Construction

C.R.J.P. 1 – Applicability

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

C.R.J.P. 2 – Purpose and Construction

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.

VI. C.R.J.P. Rule 2.1. Attorney of Record – currently states:

(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.

Proposed amendment – add paragraph “c”

(c) Withdrawal of court-appointed counsel: Appointments of court-appointed respondent parent counsel shall continue until terminated by the court. Court-appointed counsel may withdraw from the case upon the filing of a substitution of counsel that complies with C.R.C.P. 121 sec. 1-1(2)(a) or upon motion to the court. A motion to withdraw shall comply with C.R.C.P. 121 sec. 1-1(2)(b) unless the appointment is a provisional appointment. Provisionally appointed counsel may request to withdraw upon written or oral motion to the court stating that the client is not indigent, the client does not wish to have court-appointed counsel, or the client cannot be located after diligent search and direction from the client is unknown. The court may immediately terminate a provisional appointment of counsel.