

# Colorado Supreme Court

## Rules Committees Rule Change 2018(12) Colorado Rules of Criminal Procedure

### Rule 15. Depositions

(a)–(c) [NO CHANGE]

#### (d) Taking and Preserving Depositions.

Depositions shall be taken as directed by the court. All depositions shall be preserved by video recording at the expense of the requesting party. A copy of the video recording shall be filed with the clerk of the court and provided to the opposing party.

(e) [NO CHANGE]

(f) **Transcripts of Depositions.** The requesting party shall file a transcript of the deposition with the clerk of the court and provide a copy to the opposing party without cost.

### Rule 24. Trial Jurors

(a) through (f) [NO CHANGE]

(g) **Juror Questions.** Jurors shall be allowed to submit written questions to the court for the court to ask of witnesses during trial, in compliance with procedures established by the trial court. The trial court shall have the discretion to prohibit or limit questioning in a particular trial for reasons related to the severity of the charges, the presence of significant suppressed evidence or for other good cause. After giving the parties notice and an opportunity to be heard on each question, the court shall determine whether to ask the submitted question. The trial court shall permit appropriate follow-up questions from the parties within the scope of the jurors' questions.

### Rule 49.5 Electronic Filing and Service System

(a) **Types of Cases Applicable.** E-Filing and

E-Service may be used for certain cases filed in the courts of Colorado as the service becomes available.

(b)–(l) [NO CHANGE]

#### (m) Form of Electronic Documents.

(1) **Electronic Document Format, Size, and Density.** Electronic document format, size, and density shall be as specified by Chief Justice Directive # 11-01.

(2) **Multiple Documents.** Multiple documents (including proposed orders) may be filed in a single electronic filing transaction. Each document (including proposed orders) in that filing must bear a separate document title.

(3) **Proposed Orders.** Proposed orders shall be E-Filed in editable format. Proposed orders that are E-Filed in a non-editable format shall be rejected by the clerk's office and must be resubmitted. In courts where proposed orders are not required, a proposed order need not be filed with the court.

(n)–(o) [NO CHANGE]

## COMMENTS

### 2014

[1] The Court authorized service provider for the program is the Integrated Colorado Courts E-Filing System ([www.jbits.courts.state.co.us/icces](http://www.jbits.courts.state.co.us/icces)).

[2] "Editable Format" is one which is subject to modification by the court using standard means, such as Word or WordPerfect format.

[3] C.R.C.P. 77 provides that courts are always open for business. This rule is intended to comport with that rule.

### 2017

[4] Effective November 1, 2016, the name of the court authorized service provider changed from the "Integrated Colorado Courts E-Filing System" to "Colorado Courts E-Filing" ([www.jbits.courts.state.co.us/efiling/](http://www.jbits.courts.state.co.us/efiling/)).

### 2018

[5] The website for the Colorado Courts E-filing system is now [www.courts.state.co.us/efiling](http://www.courts.state.co.us/efiling).

**Amended and Adopted by the Court, En Banc, September 6, 2018, effective immediately.**

#### By the Court:

*Carlos A. Samour, Jr.*

*Justice, Colorado Supreme Court*

## Rule Change 2018(13) The Colorado Rules for Magistrates

### Rule 6. Functions of District Court Magistrates

(a)–(d) [NO CHANGE]

(e) Functions in Probate and Mental Health Cases:

(1) No consent necessary:

(A) Perform any or all of the duties which may be delegated to or performed by a probate registrar, magistrate, or clerk, pursuant to C.R.P.P. 4 and C.R.P.P. 5.

(e)(1)(B)–(f) [NO CHANGE]

**Amended and Adopted by the Court, En Banc, September 11, 2018, effective immediately.**

#### By the Court:

*Richard L. Gabriel*

*Justice, Colorado Supreme Court*

## Rule Change 2018(14) Colorado Appellate Rules

### Rule 3.4 Appeals from Proceedings in Dependency or Neglect

(a)–(k) [NO CHANGE]

(l) **Petition for Writ of Certiorari.** Review of the judgment of the court of appeals may be sought by filing a petition for writ of certiorari in the supreme court in accordance with C.A.R. 51. The petition must be filed within 14 days after the expiration of the time for filing a petition for rehearing or the date of denial of a petition for rehearing by the court of appeals. The filing of the petition results in an automatic

stay of proceedings in the court of appeals. Any cross-petition or opposition brief to a petition for writ of certiorari must be filed within 14 days after the filing of the petition. The petition for writ of certiorari, any cross-petition, and any opposition brief must be in the form prescribed by C.A.R. 53(a)-(c) and filed and served in accordance with C.A.R. 53(h).  
(m)-(o) [NO CHANGE]

**Amended and Adopted by the Court, En Banc, September 11, 2018, effective immediately.**

**By the Court:**

*Richard L. Gabriel*  
*Justice, Colorado Supreme Court*

Rule Change 2018(15)  
Colorado Rules of  
Criminal Procedure

**Rule 5. Preliminary Proceedings**

(a) through (a)(3) [NO CHANGE]

**(a)(4) Preliminary Hearing—County Court Procedures.** Every person accused of a class 1, 2, or 3 felony or a level 1 or 2 drug felony in a felony complaint has the right to demand and receive a preliminary hearing to determine whether probable cause exists to believe that the offense charged in the felony complaint was committed by the defendant. In addition, only those persons accused of a class 4, 5, or 6 felony or a level 3 or 4 drug felony by felony complaint which felony requires mandatory sentencing or is a crime of violence as defined in section 18-1.3-406 or is a sexual offense under part 4 of article 3 of title 18, C.R.S., shall have the right to demand and receive a preliminary hearing to determine whether probable cause exists to believe that the offense charged in the felony complaint was committed by the defendant. However, any defendant accused of a class 4, 5, or 6 felony or a level 3 or 4 drug felony who is not otherwise entitled to a preliminary hearing may request a preliminary hearing if the defendant is in custody for the offense for which the preliminary hearing is requested; except that, upon motion of either party, the court shall vacate the preliminary hearing if there is a reasonable showing that the defendant has been

released from custody prior to the preliminary hearing. Any person accused of a class 4, 5, or 6 felony or a level 3 or 4 drug felony who is not entitled to a preliminary hearing shall, unless otherwise waived, participate in a dispositional hearing for the purposes of case evaluation and potential resolution. The following procedures shall govern the holding of a preliminary hearing: **(a)(4)(I)** through **(a)(4)(VIII)** [NO CHANGE] **(a)(4.5)** through **(a)(5)** [NO CHANGE] **(b)** through **(c)** [NO CHANGE]

**Rule 7. The Indictment and the Information**

(a) through (h) [NO CHANGE]

**(h)(1)** In cases in which a direct information was filed pursuant to Rule 7(c), charging: (1) a class 1, 2, or 3 felony; (2) a level 1 or 2 drug felony; or (3) a class 4, 5, or 6 felony or a level 3 or 4 drug felony if such felony requires mandatory

sentencing or is a crime of violence as defined in section 18-1.3-406 or is a sexual offense under part 4 of article 3 of title 18, C.R.S., a preliminary hearing is authorized. Either the defendant or the prosecutor may request a preliminary hearing to determine whether probable cause exists to believe that the offense charged in the information has been committed by the defendant. However, any defendant accused of a class 4, 5, or 6 felony or a level 3 or 4 drug felony who is not otherwise entitled to a preliminary hearing may request a preliminary hearing if the defendant is in custody for the offense for which the preliminary hearing is requested; except that, upon motion of either party, the court shall vacate the preliminary hearing if there is a reasonable showing that the defendant has been released from custody prior to the preliminary hearing. Any person accused of a class 4, 5, or 6 felony or a level 3 or 4 drug felony who may not



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request a preliminary hearing shall participate in a dispositional hearing unless otherwise waived for the purposes of case evaluation and potential resolution. Except upon a finding of good cause, the request for a preliminary hearing must be made within 7 days after the defendant is brought before the court for or following the filing of the information in that court and prior to a plea. No request for a preliminary hearing may be filed in a case which is to be tried upon indictment.

**(h)(2)** through **(h)(5)** [NO CHANGE]

**(i)** [NO CHANGE]

**Amended and Adopted by the Court, En Banc, September 13, 2018, effective immediately.**

**By the Court:**

*Carlos A. Samour, Jr.*

*Justice, Colorado Supreme Court*

**Rule Change 2018(16)  
Colorado Rules of Procedure  
Regarding Attorney Discipline  
And Disability Proceedings,  
Colorado Attorneys' Fund  
for Client Protection, and  
Mandatory Continuing  
Legal Education and  
Judicial Education**

**Rule 252.10. Eligible Claims**

**(a)** The loss must be caused by the dishonest conduct of the attorney or, in such circumstance as described below in the death or disability of the attorney, and shall have arisen out of and by reason of an attorney-client relationship or a court-appointed fiduciary relationship between the attorney and the claimant.

**(b)** through **(d)** [NO CHANGE]


**(e)** In cases of extreme hardship or special and unusual circumstances, the Board may, in its discretion, recognize a claim which would otherwise be excluded under these rules. The Board may also pay a claim when client funds are no longer in the attorney's trust account and, due to the attorney's death or court ordered transfer to disability inactive status, the Board is unable to determine whether the attorney earned the funds or engaged in dishonesty.

**(f)** In cases in which it appears that there will be unjust enrichment or multiple recovery or the claimant unreasonably or knowingly contributed to the loss, the Board may, in its discretion, deny the claim.

**Amended and Adopted by the Court, En Banc, October 4, 2018, effective immediately.**

**By the Court:**

*Monica M. Márquez*

*Justice, Colorado Supreme Court* 



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