

**PROPOSED AMENDMENTS
HEARING TO BE HELD
TUESDAY, SEPTEMBER 29, 1998, 1:30 P.M.
MAGISTRATE RULES**

NOTICE

The Supreme Court will conduct a hearing on proposed amendments to the Colorado Rules For Magistrates on Tuesday, September 29, 1998, at 1:30 P.M., in the Colorado Supreme Court Courtroom, 2 E. 14th Ave., Denver, Colorado. An original and eight copies of the written comments to the court concerning the proposals should be submitted to Mac V. Danford, Clerk of the Supreme Court, 2 E. 14th Ave., Denver, Colorado, 80203, no later than Friday, September 11, 1998, by 5:00 P. M. Persons wishing to participate in the hearing should so notify Mr. Danford no later than September 11, 1998.

COLORADO RULES FOR MAGISTRATES

PROPOSED AMENDMENTS

**Rule 5. General Provisions--
Applicable to All Magistrates**

(a) through (c) * * * * [No Change]

(d) A magistrate shall have the power to issue bench warrants for the arrest of non-appearing ~~defendants in felony, misdemeanor, petty offense, or traffic cases~~ PERSONS, to set bonds in connection therewith, and to conduct bond forfeiture proceedings.

(e) through (f) * * * * [No Change]

(g) ALL MAGISTRATES SHALL HAVE THE POWER TO ISSUE ALL WRITS AND ORDERS NECESSARY FOR THE EXERCISE OF THEIR JURISDICTION ESTABLISHED BY STATUTE OR RULE, AND AS PROVIDED IN SECTION 13-1-115, C.R.S.

Rule 6. District Court Magistrates

(a) * * * * [No Change]

(b) **Functions in Criminal Cases.** A district court magistrate may perform any or all of the following functions in criminal proceedings:

(1) through (7) * * * * [No Change]

(8) WITH WRITTEN CONSENT OF THE DEFENDANT AND THE PROSECUTION, PERFORM COURT TRIALS, SENTENCING, AND SUBSEQUENT PROBATION MATTERS.

(c) **Functions in Civil Cases With Consent.** A district court magistrate may perform any or all of the following functions in civil ~~proceedings~~ CASES upon obtaining the consent of all parties APPEARING AT THE PROCEEDING:

(1) conduct trials to court; ~~and~~

(2) conduct contested permanent orders hearings in domestic relations cases; AND

(3) RULE ON ALL MOTIONS IN THAT PROCEEDING.

(d) **Functions in Civil Cases Without Consent.** A district court magistrate may perform any or all of the following functions in civil proceedings without obtaining the consent of the parties:

(1) through (9) * * * * [No Change]

(10) act as A MEDIATOR OR an arbitrator; ~~pursuant to C.R.C.P. 109,~~ and

(11) * * * * [No Change]

(12) hear and rule upon ~~motions~~ ALL MATTERS in domestic relations cases, ~~including establishment and modification of child support~~ whether temporary or permanent IN NATURE, WITH THE EXCEPTION OF CONTESTED PERMANENT ORDERS.

(13) HEAR AND RULE UPON ALL MOTIONS RELATING TO DISCLOSURE, DISCOVERY, AND ALL C.R.C.P.16(b) MATTERS.

(e) **Review of Orders and Judgments.**

(1) The chief judge shall designate one or more district judges to review orders and judgments of district court magistrates OTHER THAN THOSE ENTERED UNDER MAGISTRATE RULE 6(c). ANY APPEALS OF ANY ORDER OR JUDGMENT ENTERED UNDER MAGISTRATE RULE 6(c) SHALL ONLY BE PURSUANT TO THE COLORADO APPELLATE RULES IN THE SAME MANNER AND EXTENT AS AN ORDER OR JUDGMENT OF THE DISTRICT COURT.

(2) A party to a proceeding OTHER THAN A PROCEEDING conducted by a district court magistrate UNDER MAGISTRATE RULE 6(c) may obtain review of the magistrate's order or judgment by filing a motion to review such order or judgment with the reviewing judge no later than fifteen days subsequent to the date of the order or judgment. If review is not requested, the findings and recommendations of the magistrate shall become the order or judgment of the district court.

(3) through (6) * * * * [No Change]

Rule 7. County Court Magistrates

(a) * * * * [No Change]

(b) **Functions in Criminal Cases With Consent.** Upon obtaining the consent of the defendant and prosecuting authority, a county court magistrate shall have authority to perform any or all of the following functions in county court criminal proceedings:

(1) through (2) * * * * [No Change].

(3) [REPEALED BECAUSE OF MAGISTRATE RULE 7(c)(2)]. ~~conduct proceedings other than Class A and Class B traffic infraction proceedings in traffic offense matters.~~

(4) through (5) * * * * [No Change].

(6) [REPEALED BECAUSE OF MAGISTRATE RULE 7(c)(3)]. ~~conduct advisements and set bail in criminal and traffic cases, pursuant to Crim. P. 5.~~

(c) **Functions in Criminal Cases Without Consent.** A county court magistrate shall have authority to perform any or all of the following functions in county court criminal proceedings without obtaining the consent of the parties:

(1) appoint attorneys for indigent defendants and approve attorney expense vouchers;

(2) conduct proceedings in ~~Class A and Class B traffic infraction matters, as provided by Title 42, Article 4, C.R.S.;~~ and TRAFFIC OFFENSE MATTERS;
AND

(3) CONDUCT ADVISEMENTS AND SET BAIL IN CRIMINAL AND TRAFFIC CASES, PURSUANT TO CRIM. P. 5.