

6. REQUEST FOR A NEW LOCAL RULE CREATING DEADLINES, DISCLOSURES AND PATTERN LANGUAGE IN PETITIONS, FIRST-SET TERMINATION, GUARDIANSHIP AND FACT-FINDING ORDERS UNDER SCLJuCR 2.3(a)(6), SCLJuCR 3.4(4) AND SCLJuCR 4.4.

ISSUE: The Attorney General's Office drafts proposed orders for first-set Termination, Guardianship and Fact-Finding hearing orders. Parties often present oral arguments on what specific language should be included in the first-set Termination, Guardianship and Fact-Finding hearing order. This proposed rule also seeks to have pattern language and deadlines in the orders. This proposed rule also seeks to have the names of witnesses, contact information of witnesses, the opinions that will be offered and the basis for that opinion disclosed in petitions.

REASON: Arguing in court over the deadline specifics creates longer hearings and uncertainty as to what will be included. This proposed rule seeks to identify the deadlines and language to be included in the first-set order and eliminate the need for litigating standard language in first-set orders. The disclosure of witnesses, their contact information, the opinion offered and the basis of that opinion will aid in preparation for shelter care hearings, fact-findings and trials. In turn, early preparation will help lessen continuances and fewer continuances will help lessen court congestion.

PROPOSED NEW LOCAL RULE UNDER SCLJuCR 2.3(a)(6), SCLJuCR 3.4(4) AND SCLJuCR 4.4:

1. DCYF shall disclose the witnesses and exhibits intended to use at trial and fact-finding in the petition. The petition shall disclose the name, contact information, the opinion that will be offered and basis for that opinion.
2. DCYF shall provide updated discovery at least once monthly prior to the trial and fact-finding date to the Parent's Attorney, Child's attorney, Guardian ad Litem and the Parent if not represented, with copies of its records and files within one week of entry of the first set fact-finding order and first set trial order. Thereafter, DCYF shall provide updated discovery at least once monthly prior to the trial or fact-finding date and two weeks prior to the trial or fact-finding date.
3. All motions regarding discovery violations shall be made at least 10 days prior to the trial date.
4. A list of witnesses, including the witness name and/or the specific agency name, and the nature of the testimony expected of each witness along with contact information shall be provided by the Department at least 45 days

prior to a Termination or Guardianship trial and immediately should they be discovered after the 45 day cutoff; and at least 30 days prior to a Fact-Finding and immediately should they be discovered after the 30 day cutoff.

5. The Department shall provide current and accurate contact information for all contracted providers, contracted people and contracted organizations that work with parents, legal guardians and youth. This disclosure shall occur within 15 days of receipt of a Notice of Appearance and shall continue when the contractor begins working or communicating with the parent, legal guardian and youth. The duty to disclose current and accurate contact information continues as new contracted providers, people and organizations begin working with parents, legal guardians and youth.

If the provider is no longer employed with the organization, the Department shall provide the current and accurate contact information for the contact person at the agency.

6. A list of exhibits identifying specific documents and a copy of any proposed exhibits shall be exchanged at least 21 days prior to trial.
7. The parties shall disclose expert witnesses and a report from the expert and other information required of those experts under CR 26(b)(5). This disclosure shall be 40 days prior to trial for DCYF, and 20 days prior to trial for the parents, legal guardians and youth. DCYF may make a motion for the addition of rebuttal witnesses if necessary.