

TO: Judge Dailey

FROM: SB 21-059 Subcommittee (Sheryl Berry, Kandace Gerdes, Kevin McGreevy)

DATE: December 17, 2021

RE: Effect of SB 21-059 on Colo. Crim. P. Rules

The subcommittee was asked to review SB 21-059 and determine whether it necessitated any modification to the rules of criminal procedure. The subcommittee met *via* Webex on December 17, 2021. At that meeting, the following was discussed and recommended:

- The subcommittee noted differences between SB 21-059 and the Colorado Rules of Criminal Procedure, as it relates to venue and sentencing. The subcommittee does not believe the differences rise to a conflict that would necessitate a change to the Colorado Rules of Criminal Procedure.
- The subcommittee concludes that SB 21-059 could implicate a discussion as to Crim. P. 5 and 7. In particular C.R.S. § 19-2.5-609, sets a different deadline to request a preliminary hearing:
 - CRS § 19-2.5-609(1)(a): “The juvenile or the prosecution shall file a written motion for a preliminary hearing not later than fourteen days after the advisement hearing.”
 - Crim. P. 5(a)(4)(I): Within 7 days after the defendant is brought before the county court for or following the filing of the felony complaint in that court, either the prosecutor or the defendant may request a preliminary hearing.
 - Crim. P. 7(h)(1): In cases in which a direct information was filed ... [e]xcept 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.
 - Although there are different deadlines, the subcommittee points out that Colo. R. Juv. P. 1 directs the reader that “[p]roceedings in delinquency shall be conducted in accordance with the Colorado Rules of Criminal Procedure, except as otherwise provided by statute or by these rules.”
 - Therefore, it is the subcommittee’s opinion that Crim. P. 5 and 7 do not necessitate a need to discuss a rule change, as it would serve to needlessly complicate the Crim. P. rules, as the juvenile rules necessarily direct the reader to the statute and Crim P.
- The subcommittee recommends that the Juvenile Rules Committee (and any subcommittee therein) first review SB 21-059 to determine if the Rules of Juvenile Procedure and/or the Colorado Rules of Criminal Procedure should be modified.¹ If so, this subcommittee will be willing to review any recommendations and present our findings to the Rules Committee for its consideration.

¹ The Juvenile Rules Committee met on October 8, 2021, and the agenda included SB 21-059, noting the pending reorganization was on hold pending new juvenile justice members, then a subcommittee.