In the Supreme Court of Iowa

FILED
AUG 30 2012

Request for Public Comment Regarding Proposed New Rule of Juvenile Procedure 8.36—Qualification and Training to Represent Parents in Juvenile Court	)	**Order**

The supreme court requests public comment on a proposed new rule of juvenile procedure 8.36. This rule would establish standards for practice, a minimum experience requirement, and a separate continuing legal education requirement for attorneys representing parents in juvenile court proceedings.

This proposed rule was originally conceived by the Parents Representation Task Force, co-chaired by Judge Susan Christensen of the Fourth District and State Public Defender Samuel Langholz. During the current administrative term, the supreme court has considered the rule and suggested modifications to it. The supreme court thanks the Task Force for its important contributions in this area of the law.

Under the proposed rule, before representing a parent in a juvenile court proceeding, an Iowa attorney would have to agree to follow certain practice standards. Additionally, the attorney would have to meet a prior experience requirement. The requirement could be met in one of several alternative ways—by mentoring under an experienced juvenile court attorney for at least five hours, observing juvenile court proceedings for at least five hours, having practiced in juvenile court for at least forty hours, having obtained a certain certification, or completing a clinical program in law school in the field. Additionally, the attorney would have to complete a five-hour basic training class on the core substantive and procedural law used in child welfare

proceedings in juvenile court and, thereafter on an annual basis, five hours of continuing legal education in the juvenile law area. (These hours could be counted toward the annual CLE requirement for Iowa attorneys.) Finally, the attorney would have to file an appropriate annual certification with the district court administrator of all districts in which the attorney represents parents in juvenile court proceedings.

It is expected that federal funding will be available to support the required classes so they can be offered to attorneys around the state at nominal or no cost.

The supreme court seeks public comment on the proposed rule 8.36 prior to taking further action on it. The supreme court welcomes comments on all aspects of the proposed rule and the accompanying practice standards, but is especially interested in commenters' views on the following:

1. Should there be a separate set of prerequisites for representing parents in juvenile court? To date, the judicial branch has not imposed additional requirements (beyond bar membership and the general ethical duties) for practicing in a particular area. Yet parental termination and child-in-need-of-assistance cases implicate important constitutional rights.
2. Are the proposed requirements reasonable and appropriate and will they lead to improved representation of parents in juvenile court? For example, are five hours of annual juvenile law CLE needed? Will the proposed requirements deter some attorneys from practicing in the area? Is this an important concern?
3. Is annual self-reporting and certification by attorneys to district court administrators the best way to administer the program? The possibility has been raised that the office of professional regulation

could track attorneys' compliance with any separate juvenile practice CLE requirement. However, the Office of Professional Regulation reports that this would cost a significant amount of money to implement, and the cost would be spread among all Iowa attorneys, whether they practice in the area or not.

4. Even if OPR is not involved, would it be better to require annual certifications to be filed with the state court administrator rather than district court administrators? Or should attorneys representing parents be required to file a notice of appearance at the outset of each case that certifies their compliance with rule 8.36?

Copies of the proposed rule and the accompanying practice standards can be found at www.iowacourts.gov/Supreme_Court/Orders/. In addition, copies are available at the office of the Clerk of the Supreme Court.

Any interested organization, agency, or person may submit written comments. Comments about a proposed rule must refer to the specific rule number (for example, rule 8.36(2)) and the specific numbered line or lines to which the comments are directed. Comments sent by email must be emailed to **rules.comments@iowacourts.gov**, must state "**Proposed New Rule of Juvenile Procedure 8.36**" in the subject line of the email, and must be sent **as an attachment to the email in Microsoft Word format**. Instead of submission by email, comments may be delivered in person or mailed to the Clerk of the Supreme Court, 1111 East Court Avenue, Des Moines, Iowa, 50319. **The deadline for submitting comments is 4:30 p.m. on October 29, 2012**.

Dated this 30th day of August, 2012.

THE SUPREME COURT OF IOWA

By Mark S. Cady

Mark S. Cady, Chief Justice