

STATE OF MINNESOTA  
IN SUPREME COURT  
ADM10-8049



**ORDER PROMULGATING AMENDMENTS  
TO THE MINNESOTA RULES OF CRIMINAL PROCEDURE**

In December 2021, the Minnesota County Attorneys Association (MCAA) filed an amicus brief in *In re Hope Coalition*, 977 N.W.2d 651 (Minn. 2022), suggesting changes to the Minnesota Rules of Criminal Procedure for the stated purpose of “adequately protect[ing] sexual assault victims’ right to privacy and privileged communications.” Brief for Amicus Curiae Minnesota County Attorneys Association at 23–24, *In re Hope Coalition*, No. A21-0880 (Minn. Dec. 28, 2021) (“MCAA Brief”). In particular, the MCAA proposed that the Minnesota Supreme Court Advisory Committee on the Rules of Criminal Procedure “consider a change to Minn. R. Crim. P. 22.01, subd. 2(c) to *require* a court to give notice to the victim before an order is entered,” and “consider a change to Minn. R. Crim. P. 28.04, subd. 2 that permits the State to initiate a pretrial appeal, without establishing critical impact, when the district court has improperly ordered” in camera review. MCAA Brief at 24.

After we issued our decision in *In re Hope Coalition*, we referred consideration of the changes suggested by the MCAA to the Minnesota Supreme Court Advisory Committee on the Rules of Criminal Procedure. In a report filed on July 17, 2023, the Advisory Committee recommended amendments to Minnesota Rule of Criminal Procedure 10.03, subdivision 1, and Minnesota Rule of Criminal Procedure 22.01, subdivision 2. Report and Proposed Amendments to the Minnesota Rules of Criminal Procedure at 5–6, No. ADM10-8049 (filed

July 17, 2023) (“July 17, 2023 Report”). The Advisory Committee recommended no change to Minnesota Rule of Criminal Procedure 28.04, subdivision 2. July 17, 2023 Report at 4.

By order filed on July 19, 2023, we established a period for the public to submit written comments in response to the report filed by the Advisory Committee. Order Establishing Public Comment Period on Proposed Amendments to the Minnesota Rules of Criminal Procedure, No. ADM10-8049 (Minn. filed July 19, 2023). During the public comment period, comments were submitted by Standpoint and the MCAA. The comment submitted by Standpoint suggested that the 7-day notice period in the proposed amendment to Rule 10.03 was too short. Written Comments Filed by Standpoint at 2, No. ADM10-8049 (filed Sept. 12, 2023) (“Standpoint Comments”). Both Standpoint and the MCCA suggested that the word “sought” be substituted for the word “obtained” in the proposed amendment to Rule 22.01 to clarify that filing a motion for privileged or confidential records is the beginning of the process, not the end. Standpoint Comments at 2; Written Comments Filed by Minnesota County Attorneys Association at 2, No. ADM10-8049 (filed Sept. 18, 2023) (“MCAA Comments”). We agree with both of these suggestions. Neither Standpoint nor the MCCA objected to the Advisory Committee’s recommendation that no change be made to Rule 28.04.

Standpoint and the MCAA also raised a concern that the new process may adversely impact the rights of victims and service providers. MCAA Comments at 1–2; Standpoint Comments at 1–2. We disagree. The proposed process ensures that the rights of all impacted persons—the State, the defendant, the provider and the victim—are protected just as much as

those rights are protected under the current process. Indeed, victims will get notice earlier in the process. The process will be more efficient.

Having carefully considered the Advisory Committee's recommendations and the public comments, we agree with the proposed amendments as modified.

IT IS HEREBY ORDERED that the attached amendments to Minnesota Rules of Criminal Procedure 10.03, subdivision 1, and 22.01, subdivision 2, are prescribed and promulgated as shown below. The amendments are effective as of July 1, 2024.

Dated: January 29, 2024

BY THE COURT:

A handwritten signature in black ink, appearing to read 'M. Chutich', written in a cursive style.

Margaret H. Chutich  
Associate Justice

## AMENDMENTS TO THE RULES OF CRIMINAL PROCEDURE

*[Note: In the following amendments, deletions are indicated by a line drawn through the words and additions are indicated by a line drawn under the words.]*

### Rule 10.03 Service and Notice of Motions; Hearing Date

#### Subd. 1. Service.

(a) In felony and gross misdemeanor cases, motions must be made in writing and served upon opposing counsel no later than 3 days before the Omnibus Hearing unless the court for good cause permits the motion to be made and served later.

(b) In misdemeanor cases, except as permitted in subdivision 2, motions must be made in writing and served—along with any supporting documents—on opposing counsel at least 3 days before the hearing and no more than 30 days after the arraignment unless the court for good cause permits the motion to be made and served later.

(c) A motion for privileged or confidential records of or about a victim must be served no later than 10 days before the hearing on the motion. The moving party must give notice to the record holder and the prosecution must give notice to the victim, so that either or both may object or otherwise respond. For purposes of this provision, the definition of “victim” in Minn. Stat. § 611A.01(b) applies.

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### Rule 22.01 For Attendance of Witnesses; For Documents

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#### Subd. 2. Documents.

(a) A subpoena may command a person to produce books, papers, documents, or other designated objects.

(b) The court may direct production in court of the books, papers, documents, or objects designated in the subpoena, including medical reports and records ordered disclosed under Rule 20.03, subd. 1, before the trial or before being offered in evidence, and may permit the parties or their attorneys to inspect them.

(c) A subpoena may not be served requiring the production of privileged or confidential records of or about a victim as defined in Minn. Stat. § 611A.01(b). ~~may be served on a third party only by court order. A~~ Such records may be sought by filing a motion, which for an order must comply with Rule 10.03, subd. 1(c). ~~Before entering the order, the court may require giving notice to the victim so that the victim can move to quash or modify the subpoena or otherwise object.~~