

AMENDMENTS TO THE MINNESOTA RULES OF JUVENILE DELINQUENCY PROCEDURE

In the following amendments, deletions are indicated by a line drawn through the words and additions by a line drawn under the words.

1. Amend Rule 3.08 as follows:

Rule 3.08 Certificates of Representation

A lawyer representing a client in juvenile court, other than a public defender, shall file with the court administrator on the first appearance a certificate of representation.

Once a lawyer has filed a certificate of representation, that lawyer cannot withdraw from the case until all proceedings have been completed, except upon written order of the court pursuant to a written motion, or upon written substitution of counsel approved by the court ex parte.

A lawyer who wishes to withdraw from a case must file a written motion and serve it by mail or personal service upon the client and upon the prosecuting attorney; and the lawyer shall have the matter heard by the court. No motion of withdrawal will be heard within 10 days of a date certain for hearing or trial.

If the court approves the withdrawal, it shall be effective when the order has been served on the client and the prosecuting attorney by mail or personal service and due proof of such service has been filed with the court administrator.

Service on the prosecuting attorney under this rule may also be made by electronic means if authorized by Minnesota Supreme Court Order and if service is made in accordance with that order.

2. Amend Rule 5.04, subd. 4(B), as follows:

(B) *Application and Record.* The facts establishing probable cause to believe the offense(s) was committed and that the child committed the offense(s) shall be presented to the judge upon oath, either orally or in writing. Oral testimony shall be recorded and retained by the judge. ~~Written~~ Facts that are contained in a written document may be presented to the judge by telephone, facsimile, video, or other similar device. If probable cause is determined on ~~written~~ facts contained in a written document and the judge is not personally present to sign the determination,

the document shall be presented to the judge for signature within two (2) business days. The judge shall be advised if a prior request for a probable cause determination was made and turned down relative to the same incident.

3. Amend Rule 6.01 as follows:

Rule 6.01 Generally

A charging document is a petition, tab charge or a citation, and includes charging documents filed in paper form, or by electronic means authorized by the State Court Administrator.

4. Amend Rule 6.02 as follows:

Rule 6.02 Tab Charge or Citation

Subdivision 1. Generally. Juvenile petty offenses as defined by Minnesota Statutes, section 260B.007, subdivision 16, misdemeanors, juvenile traffic offenses and gross misdemeanors under Minnesota Statutes, chapter 169A may be charged by tab charge or citation. Before entering a plea of guilty or not guilty to alleged misdemeanor or gross misdemeanor charge(s), the child may demand that a petition be filed with the court. If a petition is demanded, the prosecuting attorney shall have thirty (30) days to file the petition unless the child is in custody. The prosecuting attorney shall have ten (10) days to file a petition if a demand is made by a child in custody or the child shall be released.

Subd. 2. Filing. Before a tab charge or citation may be filed with the court by the peace officer or attendance officer who issued the charges, it shall be endorsed by the prosecuting attorney to permit screening for diversion programs. A tab charge or citation may be filed in paper form, or by electronic means authorized by the State Court Administrator. Filing a tab charge or citation gives the juvenile court jurisdiction over the matter.

Subd. 3. Contents of Tab Charge or Citation. Tab charges or citations shall contain:

- (A) the name, address, date of birth, and race of the child;
- (B) the name and address of the parent, legal guardian or legal custodian of the child;
- (C) the offense charged and a reference to the statute or local ordinance which is the basis for the charge;
- (D) the time and place and county of the alleged offense; and

(E) other administrative information published by the State Court Administrator.

Subd. 4. Notice of Court Appearance. When a tab charge or citation is filed with the court, the court administrator shall promptly schedule the matter for hearing and send notices as provided by Rule 25.

5. Add a new paragraph at the end of the Comment to Rule 6 as follows:

The references to tab charges and citations filed by electronic means are intended to recognize that in some counties law enforcement has already begun to electronically file tab charges and citations in juvenile cases. It is understood that electronic filing of tab charges and citations is not available statewide at this time. The rule authorizes the practice in the locations where it currently exists, and authorizes the expansion of the practice as it becomes technologically feasible in other locations.

6. Amend Rule 8.03 as follows:

Rule 8.03 Plea of Not Guilty Without Appearance

Except when the child is in detention, the court may permit a written plea of not guilty or a plea of not guilty on the record to be entered by child's counsel without the personal appearance of the child, child's parent(s), legal guardian or legal custodian or their counsel. The child's counsel shall immediately furnish a copy of the written plea of not guilty to the prosecuting attorney, either personally or by mail. A copy of the written plea of not guilty may also be furnished to the prosecuting attorney by electronic means if authorized by Minnesota Supreme Court Order and if furnished in accordance with that order.

7. Amend Rule 15.05, subd. 1, as follows:

Subdivision 1. Adjudication and Disposition. On each of the charges found by the court to be proved, the court shall either:

(A) adjudicate the child delinquent pursuant to Minnesota Statutes, section 260B.198, subdivision 1; or

(B) continue the case without adjudicating the child delinquent and order a disposition pursuant to Minnesota Statutes, section 260B.198, subdivisions 1~~(a)~~~~or~~ ~~(b)~~(1) or (2).

The adjudication or continuance without adjudication shall occur at the same time and in the same court order as the disposition.

8. Amend the Title to Rule 25.01 as follows:

Rule 25.01 Summons, Notice in Lieu of Summons, Oral Notice on the Record, Service by Facsimile or Other Electronic Transmission and Notice by Telephone

9. Amend Rule 25.01, subd. 4, as follows:

Subd. 4. Detention Hearings: Service by Facsimile or Other Electronic Transmission or Notice by Telephone Permitted.

(A) Service By Facsimile or Other Electronic Transmission.

(1) Notice to Defense Counsel; Defense Counsel Access to Child and Reports. If a child is detained pending a detention hearing in a place of detention other than home detention or at home on electronic home monitoring, the court administrator shall give the Office of the Public Defender or the child's attorney, if privately retained, notice that the child is in custody, and notice of the detention hearing. The court administrator shall also provide to the Office of the Public Defender or the child's attorney copies of the reports filed with the court by the detaining officer and the supervisor of the place of detention. Defense counsel shall have immediate and continuing access to the child. The notice in lieu of summons and copies of the reports may be provided by facsimile transmission or hand delivery if mailed notice would not be effective given the time remaining before the detention hearing.

(2) Notice to Prosecuting Attorney. If mailed notice in lieu of summons would not be effective given the time remaining before the detention hearing, notice in lieu of summons may be provided by facsimile transmission or hand delivery.

(3) Notice to Defense Counsel and the Prosecuting Attorney may also be provided by electronic means if authorized by Minnesota Supreme Court Order and if notice is provided in accordance with that order.

(B) Notice By Telephone. If the child, child's attorney, prosecuting attorney, child's parent(s), legal guardian(s) or legal custodian(s) or spouse of the child has not received notice of the time and place of the detention hearing and effective service by mail or facsimile transmission or hand delivery of the notice in lieu of summons is not possible, the court administrator may provide notice of the time and place of the detention hearing by telephone call.

10. Amend Rule 25.03, subd. 1, as follows:

Subdivision 1. First Notice by Mail. After a charging document has been filed, the court administrator shall schedule a hearing as required by these rules. A notice in lieu of summons shall be served by first class mail on the following:

- (A) child and parent(s) or person(s) with custody of the child; and
- (B) child's counsel, prosecuting attorney, spouse of child and their counsel.

The court may waive notice to the parent(s), legal guardian, legal custodian, or spouse of the child if it would be in the child's best interest to proceed without their presence. Notice may also be served by electronic means if authorized by Minnesota Supreme Court Order and if notice is served in accordance with that order.

11. Add a new paragraph at the end of the Comment to Rule 25 as follows:

The amendments to Rule 25 that allow for service on counsel by electronic means if authorized by an order of the Minnesota Supreme Court are intended to facilitate a pilot project on electronic service and filing in certain pilot districts, and are designed to be a model for the implementation of electronic filing and service if the pilot project is made permanent and statewide. The rule makes service by electronic means effective in accordance with the rule for the pilot project. Personal service or service by mail on the child and others of documents such as summonses, subpoenas and warrants is still required under the rules that govern those documents, and electronic service is not an authorized means of service.

12. Amend Rule 27.02, subd. 2, as follows:

Subd. 2. How Made. The moving party shall serve the other parties. If the other parties are represented by counsel, the moving party shall serve the other parties' counsel unless the court orders otherwise. Service of motions may be made by personal service or by mail. Service by mail shall be complete upon mailing to the last known address of the person to be served. Service may be made by electronic means if authorized by an order of the Minnesota Supreme Court and if service is made in accordance with that order; service by electronic means is complete as provided in that order.

13. Add a Comment to Rule 27 as follows:

Comment--Rule 27

The amendment to Rule 27 that allows for service on counsel by electronic means if authorized by an order of the Minnesota Supreme Court is intended to facilitate a pilot project on electronic service and filing in certain pilot districts, and

is designed to be a model for the implementation of electronic filing and service if the pilot project is made permanent and statewide. The rule makes service by electronic means effective in accordance with the rule for the pilot project.