

**Special Rules of Procedure Governing Proceedings
Under the Minnesota Commitment and October 1, 2016**

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**Special Rules of Procedure Governing Proceedings
Under the Minnesota Commitment and Treatment Acts**
With amendments effective October 1, 2016

RULE 1. GENERAL

- (a) **Scope.** The Special Rules shall apply in proceedings under the 1997 Minnesota Commitment and Treatment Act, Minn. Stat. ch. 253B, including its amendments, and Minn. Stat. ch. 253D, the Minnesota Commitment and Treatment Act: Sexually Dangerous Persons and Sexual Psychopathic Personalities.
- (b) **Rules Superseded.** The Special Rules shall supersede any other body of rules otherwise applicable (e.g., the Rules of Civil Procedure for the District Courts, Probate Court Rules, etc.) in conflict with these Special Rules.
- (c) **Citation.** These Special Rules may be cited as Commitment and Treatment Act Rules.

(Amended effective September 18, 2013.)

Advisory Committee Comment—1999

The Act, as codified under Minn. Stat. ch. 253B, is detailed and the practitioner must be familiar with both the Act and these rules.

RULE 2. COMPUTATION OF TIME

Except as provided by these Special Rules, the Minnesota Rules of Civil Procedure govern the computation of any time periods prescribed by Minn. Stat. ch. 253B or Minn. Stat. ch. 253D. If a respondent is represented by an attorney, whenever an act is required within a certain time after a written demand or service of a document upon a party or entity other than the court, time shall begin to run once both the party and the parties' attorneys have received notice of the document, regardless of the method of service, and shall not include weekends and holidays. The 72-hour absence that triggers the missing respondent procedures under Minn. Stat. § 253B.141, subd. 1, commences when the respondent was due to return to the facility and includes weekends and holidays.

(Amended effective September 18, 2013.)

Advisory Committee Comment—1999

These rules contemplate that service may be effected personally, by mail, or by fax. There are instances in the statute when a notice or a report does not need to be "given" to an attorney. The rule ensures that the attorneys know the basis of any hearing scheduled by the court upon receipt of a filed document. When

a party requests a hearing after notice that the treatment center or designated agency intends to take some action (as in the case of revocation of provisional discharge), this rule expands the period of time if the notice was mailed to the attorneys. If the notice was faxed, the time to request the hearing is not expanded.

RULE 3. SERVICE AND FILING; SIGNING OF DOCUMENTS

Whenever a person is required to give or serve any document under this chapter to any party, attorney, or entity other than the court, service shall be made in a manner provided under the Minnesota Rules of Civil Procedure and the General Rules of Practice for the District Courts. Attorneys for both parties must also be served whether or not service upon counsel is specifically required by statute.

Where electronic filing is authorized or required under Minnesota General Rules of Practice 14, documents shall be filed in accordance with that rule.

Notwithstanding Minn. Stat. § 253B.23, subd. 3a, a signature on an electronic document filed in a proceeding subject to these rules is valid if it complies with General Rules of Practice 14.04.

(Amended effective July 1, 2015.)

Advisory Committee Comment—1999

See comment to Rule 2.

RULE 4. CONSECUTIVE HOLD ORDERS PROHIBITED

A person held under a 72-hour emergency hold must be released by the facility within 72 hours unless a court order to hold the person is obtained. A consecutive hold order not issued by the district court is expressly prohibited, whether or not issued by the same physician or other authority.

Advisory Committee Comment—1999

See comment to Rule 2.

RULE 5. CASE CAPTIONS

Civil commitment proceedings shall be captioned in the name of the person subject to the petition as follows: *In the Matter of the Civil Commitment of: (Full Name of Respondent), Respondent.*

The same caption shall be used in proceedings before the judicial appeal panel established under Minnesota Statutes, section 253B.19, except that the designation in the caption of the committed individual as “Respondent” shall be omitted.

(Amended October 1, 2016.)

Advisory Committee Comment—1999

A person subject to commitment proceedings is referred to as the respondent throughout these rules. The court and counsel shall be sensitive to the correct pronunciation of a respondent’s name.

Advisory Committee Comment—2016

An individual who is committed as mentally ill and dangerous, as a sexually dangerous person, or as a sexual psychopathic personality is committed indeterminately. In these cases, the process for a reduction in custody begins with a petition filed with the Commissioner of Human Services and heard by the special review board, which makes a recommendation to the Commissioner or the judicial appeal panel. To avoid confusion or inaccurate party designations in judicial appeal panel proceedings, the rule is amended to clarify that the party designation of respondent is removed from captions related to judicial appeal panel proceedings.

RULE 6. COMMENCEMENT

A proceeding for commitment or early intervention is commenced upon filing a petition with the District Court pursuant to Minn. Stat. ch. 253B or Minn. Stat. ch. 253D.

(Amended effective July 1, 2015.)

Advisory Committee Comment—1999

The committee has attempted to address concerns where conflicts occur between the county of financial responsibility (respondent’s residence) and the county where respondent is present, regarding who shall file the petitions, and to provide guidance in light of short statutory time constraints. The committee did not intend to remove discretion from the county attorney in the county where the respondent is present. If statutory conditions are present for commitment and the county attorney in the county where the respondent is present determines that a commitment is necessary and reasonable for the protection of the respondent or others, then the petition must be filed. Ultimate financial responsibility will be resolved in accordance with Minn. Stat. §§ 256G.01-.12.

See also Minn. Stat. § 253B.07, subd. 2a, when dealing with a person subject to Minn. R. Crim. P. 20.01 or 20.02. It is not the intent of the committee to

affect venue when the person is subject to a proceeding governed by Minn. R. Crim. P. 20.01 or 20.02 or Minn. R. Juv. Del. P. 20.01 or 20.02.

A petition for commitment as a sexual psychopathic personality or a sexually dangerous person may also be filed in a county where a related criminal conviction was entered. See Minn. Stat. § 253B.185, subd. 1.

Advisory Committee Comment—2015

Various statutes set forth where pre-petition screenings are conducted, where petitions are filed, and which county is the county of financial responsibility. See Minn. Stat. § 253B.23, subd. 1b (2014). The committee determined the statute supersedes the second paragraph of Rule 6 and as such, the second paragraph of the rule no longer serves a purpose.

RULE 7. PETITIONS

A petition filed pursuant to Minn. R. Crim. P. 20.01 or Minn. R. Juv. Del. P.20.01 is sufficient if it contains a judicial determination that the defendant is incompetent to stand trial or be sentenced for the offense. A petition filed pursuant to Minn. R. Crim. P. 20.02 or Minn. R. Juv. Del. P. 20.02 is sufficient if it contains a judicial determination that the defendant was found not guilty, by reason of mental illness or mental deficiency, of the crime with which the defendant was charged.

Advisory Committee Comment—1999

This rule clarifies that petitions pursuant to Minn. R. Crim. P. 20 or Minn. R. Juv. Del. P. 20 need not include all of the specific requirements of the law relating to petitions for judicial commitment, which arise from referrals to the pre-petition screening team. For example, an examiner's statement in support of commitment is not required, since the basis of the petition is a judicial determination.

RULE 8. SUMMONS

Once a petition has been filed, the court shall issue a summons to be personally served upon the respondent. The summons shall direct the respondent to appear at the times and places stated in the summons for psychiatric, psychological, and medical examination and court hearing. The summons shall state in bold print that an order to apprehend and hold the respondent may be issued if the respondent does not appear as directed. The court need not issue a summons if the respondent is already under a medical or judicial hold.

The court shall direct that a copy of the pre-petition screening report, the petition, and the examiner's supporting statement be personally served upon the respondent with the summons if issued, and that a copy be distributed or electronically transmitted through the E-Filing System to

the petitioner, the respondent's counsel, any person authorized by the respondent, and any other person as the court directs.

(Amended effective July 1, 2015.)

RULE 9. APPOINTMENT AND ROLE OF COUNSEL

(a) Appointment by the Committing Court. Immediately upon the filing of a petition for commitment or early intervention the court shall appoint a qualified attorney to represent the respondent at public expense at any subsequent proceeding under Minn. Stat. ch. 253B or Minn. Stat. ch. 253D. An attorney shall represent the respondent until the court dismisses the petition or the respondent is discharged from commitment, and the conclusion of any related appeal.

(b) Private Counsel. The respondent may employ private counsel at the respondent's expense. If private counsel is employed, the court shall discharge the appointed counsel.

(c) Withdrawal. In order to withdraw, counsel must file a motion and obtain the appointing court's approval. Upon approval of withdrawal, the court shall appoint substitute counsel for respondent.

(d) Duty of Counsel. Counsel for the respondent is not required to file an appeal, commence any proceeding, or advance a position asserted in a filing made by the respondent under Minn. Stat. ch. 253B or Minn. Stat. ch. 253D if, in the opinion of counsel, there is an insufficient basis for proceeding.

(Amended effective October 1, 2016.)

Advisory Committee Comment – 2016

The amendments regarding appointment of counsel ensure that committed individuals are continuously represented by counsel during commitment proceedings and during all times the individual is under commitment. No individual should be without counsel while under commitment.

The amendments regarding the duty of counsel recognize the challenges at times faced by counsel in representing individuals proposed for or subject to commitment by balancing counsel's ethical responsibility to ensure that arguments, positions, and pleadings are meritorious with the responsibility to be a vigorous advocate for the individual. When an individual is indeterminately committed, an important responsibility of counsel is to assist the individual in periodically petitioning for a reduction in custody to ensure neutral review of the individual's commitment status.

RULE 10. ATTORNEY-CLIENT PRIVILEGE

The content of attorney-client communications by telephone, mail, electronic means, or conference at the facility, shall not be monitored, censored, or made part of a respondent's medical record. The facility may open and inspect, but not read, a letter of package, and must do so in the respondent's presence.

(Amended effective July 1, 2015.)

RULE 11. EXAMINER'S LIST

The court administrator shall prepare and maintain a list of examiners. A statement of the manner and rate of compensation of examiners shall be attached to the list. Examiners shall be paid at a rate of compensation fixed by the court. If a party seeks appointment of an examiner not on the list, or at a rate of compensation exceeding that fixed by the court, the party shall seek approval of the court prior to appointment. Examiners in judicial appeal panel proceedings shall be appointed and compensated as provided in Minnesota Statutes, section 253B.19.

(Amended effective October 1, 2016.)

RULE 12. EXAMINER REPORTS

Each court-appointed examiner shall examine the respondent and prepare and file with the court a separate report stating the examiner's opinion and the facts upon which the opinion is based. The report shall address:

- (a) Whether the respondent is mentally ill, developmentally disabled, chemically dependent, mentally ill and dangerous to the public, a sexually dangerous person, or a sexual psychopathic personality;
- (b) Whether the examiner recommends commitment;
- (c) The appropriate form, location, and conditions of treatment, including likelihood of the need for treatment with neuroleptic medication; and
- (d) The respondent's capacity to make decisions about neuroleptic medication, if needed.

If the petition alleges that the respondent is mentally ill and dangerous to the public, the report shall also address whether there is a substantial likelihood that respondent will engage in acts capable of inflicting serious physical harm on another.

If the petition alleges that the respondent is a sexual psychopathic personality and/or a sexually dangerous person, the report shall address each element set out in Minn. Stat. § 253D.02, subs. 11 and 12 respectively, including an opinion as to the likelihood that the respondent will engage in future dangerous behavior.

In proceedings before the judicial appeal panel, the examiner report shall address the criteria relating to the type or types of reduction in custody requested in the petition for reduction in custody.

The court shall distribute or electronically transmit through the E-Filing System a copy of the examiner's report to the county attorney, the respondent, and respondent's attorney immediately upon receiving the report. In judicial appeal panel proceedings, the report shall also be distributed to the attorney for the commissioner of human services.

(Amended effective October 1, 2016.)

RULE 13. MEDICAL RECORDS

- (a) **Medical Records—Defined.** For purposes of these rules, “medical records” are records and reports prepared by medical, healthcare, and/or scientific professionals that relate to the past, present, or future physical or mental health or condition of an individual, including but not limited to medical histories, examinations, diagnoses and treatment, pre-petition screening reports, court-appointed examiner's reports prepared pursuant to [Rule 12](#) of these rules, and any other records designated by the presiding judge as medical records for purposes of this rule.
- (b) **Access to Respondent's Medical Records.** The county attorney, respondent, respondent's attorney, court-appointed examiner, guardian ad litem, substitute decision-maker, and their agents and experts retained by them shall have access to all of the respondent's medical records and the reports of the court-appointed examiners. The records and reports may not be disclosed to any other person without court authorization or the respondent's signed consent. Except for a preliminary hearing, each party shall disclose to the other party or parties as soon as possible in advance of the hearing which of the respondent's medical records the party intends to introduce at the hearing. In judicial appeal panel proceedings, such disclosure shall be no later than three business days before a scheduled hearing or as provided in the panel's scheduling order.

(Amended effective October 1, 2016.)

Advisory Committee Comment—2015

Rule 13(b) is language retained, substantially unchanged, from the former Rule 13. The only modification concerns the elimination of a specified time frame for the disclosure of all medical records that parties intend to introduce at the hearing. The advisory committee believes that parties should continue to aspire to meet the former 24-hour deadline whenever possible, but recognizes that frequently, in practice, attorneys and parties do not receive respondent's medical records until immediately before the hearing. Accordingly, the disclosures should be made as soon as possible after receiving the records.

*The amendments to Rule 13 are not intended to modify or limit the right of a respondent to request a protective order excluding from examiner review medical records which are not relevant or germane to the present mental and/or physical condition of the respondent in accordance with the procedures established in *In re D.M.C.*, 331 N.W.2d 236 (Minn. 1983).*

RULE 14. LOCATION OF HEARING, RULES OF DECORUM, ALTERNATIVE METHODS OF PRESENTING EVIDENCE

The judge or judicial officer shall assure the decorum and orderliness of any hearing held pursuant to Minn. Stat. ch. 253B or Minn. Stat. ch. 253D. The judge or judicial officer shall afford to respondent an opportunity to be dressed in conformity with the dignity of court appearances.

A hearing may be conducted or an attorney for a party, a party, or a witness may appear by telephone, audiovisual, or other electronic means if the party intending to use electronic means notifies the other party or parties at least 24 hours in advance of the hearing and the court approves. If a witness will be testifying electronically, the notice must include the name, address, and telephone number where the witness may be reached in advance of the hearing. This rule does not supersede Minn. Stat. §§ 595.02-.08 (competency and privilege). Respondent's counsel will be physically present with the respondent. The court shall insure that the respondent has adequate opportunity to speak privately with counsel, including, where appropriate, suspension of the audio recording or allowing counsel to leave the conference table to communicate with the client in private.

(Amended effective July 1, 2015.)

RULE 15. EVIDENCE

The court may admit all relevant, reliable evidence, including but not limited to the respondent's medical records, without requiring foundation witnesses.

(Amended effective September 18, 2013.)

RULE 16. RIGHTS OF PATIENTS

In every order for commitment, the committing court shall order that the Rights of Patients, provided at Minn. Stat. § 253B.03, Minn. Stat. § 253D.17, and Minn. Stat. § 253D.18, be incorporated in the order by reference.

(Amended effective September 18, 2013.)

RULE 17. PETITION TO DETERMINE NEED FOR CONTINUED CARE

Upon the filing of a petition to determine the need for continued care pursuant to Minn. Stat. § 253B.17, the court shall cause the hearing to be held within 14 days of filing. The hearing may be continued for up to 30 days upon a showing of good cause. The court shall give the respondent, respondent's attorney, county attorney, guardian ad litem, and substitute decision maker, as well as such other interested persons as the court may direct, at least 10 days' notice of the date and time of the hearing.

(Amended effective September 18, 2013.)

RULE 18. RECOMMITMENT

For recommitments pursuant to Minn. Stat. § 253B.13, the court shall reference the immediately preceding commitment file in the file on the new petition.

(Amended effective July 1, 2015.)

RULE 19. TERMINATION OF EARLY INTERVENTION

Any petition for involuntary commitment filed at the termination of court-ordered early intervention under Minn. Stat. § 253B.065 shall be treated as a petition for initial commitment.

(Amended effective July 1, 2015.)

Advisory Committee Comment—2015

Rule 19 is amended for clarity only, and the amendment does not denote a change in law.

RULE 20. TERMINATION OF COMMITMENT

The court shall order termination of the commitment when the commitment expires, or upon a direct discharge by the treatment facility, or upon a discharge by the Commissioner of Human Services. Terminations of indeterminate commitments are governed by Minnesota Statutes, section 253B.18 (persons who are mentally ill and dangerous) and chapter 253D (persons who are sexually dangerous or with sexual psychopathic personalities).

The order shall also discharge the court-appointed attorney.

(Amended effective October 1, 2016)

Advisory Committee Comment—1999

Minn. Stat. § 253B.12, subd. 1(e), provides for an order terminating the commitment if a 60-90 day report is not timely filed or if the report describes the respondent as not in need of further institutional care and treatment. There is no similar provision for terminating the commitment if the report required by Minn. Stat. § 253B.16 is not filed or if there is a final discharge under Minn. Stat. § 253B.16 or if a provisional discharge expires under Minn. Stat. § 253B.15, subd. 9. This rule insures a formal termination of the proceeding and discharge of the respondent's court-appointed attorney.

RULE 21. PUBLIC ACCESS TO RECORDS

- (a) Except as provided in these Special Rules, the Rules of Public Access to Records of the Judicial Branch, or as limited by court order, all court files relating to civil commitment shall be available to the public for inspection, copying, printing or downloading.
- (b) The prepetition screening report, court-appointed examiner's report, and all medical records filed with or received by the court shall not be disclosed to the public except by express order of the district court. This provision shall not limit the ability of any party, witness, or the court to mention the contents of the prepetition screening report, court-appointed examiner's report and medical records in open court or in otherwise publicly accessible pleadings or documents. Any reference at a public hearing or in an otherwise public document to confidential reports or medical records shall not render the reports or medical records available to the public, or create a sufficient basis for making the reports or records available to the public.
- (c) Where electronic filing is authorized or required under General Rules of Practice 14, the pre-petition screening report, court-appointed examiner's report, and all medical records filed with the court must be designated as confidential by the filing party. Upon discovery by court administration staff that any pre-petition screening reports, court-appointed examiner reports, or medical records have not been designated as confidential by the filing party, the court administrator shall designate the document as confidential and notify the filer of the change in designation.
- (d) The court may, sua sponte, or upon motion and hearing, issue an order prohibiting public access to civil commitment case records that are otherwise accessible to the public only if the court finds that exceptional circumstances exist.
- (e) Except when authorized by order of the presiding judge or the Minnesota Supreme Court, there shall be no public access to case records of proceedings seeking commitment of a minor. The petition for commitment of a minor must be designated as confidential by the filing party. Upon discovery by court administration staff that the petition for civil commitment of a minor has not been designated as confidential by the filing party, court administration staff shall designate the petition as confidential and notify the filer of the change in designation.

(Amended effective July 1, 2015.)

Advisory Committee Comment—2015

This rule is amended to clarify public access issues with civil commitment case records. Generally, civil commitment case records are publicly accessible. Rule 4, subdivision 2, of the Rules of Public Access to Records of the Judicial Branch sets forth the procedures for when a court may restrict access to public case records.

Rule 21(b) is amended to remove the requirement for the court administrator to maintain confidential documents in a separate section or file as this requirement is no longer applicable with electronic records. As authorized by these rules and Rule 8, subdivision 5(b) of the Rules of Public Access to Records of the Judicial Branch, all medical records, whether submitted to the court or admitted into evidence, are confidential and shall not be accessible to the public except by express order of the district court. Rule 21(c) establishes the duty of the filing party to properly classify medical records as confidential when filed in the E-Filing System. Medical records introduced and admitted into evidence during a hearing remain confidential even if referenced at a public hearing or in an otherwise public document.

There may be times when otherwise public documents should be kept confidential and Rule 21(d) reminds court users that an order restricting public access may be requested by motion or may issue upon the court's own initiative. However, an order granting such relief must include specific findings that support the order granting the request. Pursuant to Minnesota General Rules of Practice 14.06, a Registered User electronically filing a document that is not accessible to the public is responsible for designating that document as confidential in the E-Filing System at the time of filing. A Registered User is defined in Minnesota General Rules of Practice 14.01.

The Rules of Public Access to Records of the Judicial Branch clarify that civil commitment case records are publicly accessible at courthouses, to ensure that court administration can ensure confidentiality is preserved when appropriate. Rule 21(e) contains provisions intended to satisfy the public need for safety and oversight, while safeguarding the privacy interests of minors who may become or who are civilly committed. The collateral consequences of public accessibility to civil commitment records can have long-term impact on minor respondents and adversely impact treatment. Rule 21(e) clarifies that case records of any civil commitment of a minor respondent shall not be publicly accessible absent a district court order or order or directive of the Minnesota Supreme Court or its designee.

RULE 22. STAYED ORDERS (MENTALLY ILL AND DANGEROUS TO THE PUBLIC, SEXUALLY DANGEROUS PERSONS, AND SEXUAL PSYCHOPATHIC PERSONALITIES)

Stayed orders for commitment as mentally ill and dangerous to the public, sexually dangerous person, or a sexual psychopathic personality may be issued only by agreement of the parties and approval by the court.

**RULE 23. EVALUATION AND FINAL HEARINGS IN CASES GOVERNED BY
MINN. STAT. § 253B.18**

- (a) For persons who have been committed as mentally ill and dangerous to the public, the head of the treatment facility shall file the report required by Minn. Stat. § 253B.18. The evaluation may be conducted at a secure treatment facility or at a correctional facility. If transport is needed, the court shall designate the agency responsible to do it.
- (b) Prior to making the final determination with regard to a person initially committed as mentally ill and dangerous to the public, the court shall hold a hearing. The head of the treatment facility, or his or her designee, shall file the report required by Minn. Stat. § 253B.18, subd. 2. The hearing for final determination shall be held within 14 days of the court's receipt of the report from the head of the treatment facility or within 90 days of the date of initial commitment, whichever is earlier, unless continued by agreement of the parties, or by the court for good cause shown. As its final determination, the court may, subject to Minn. R. Crim. P. 20.01, subd. 4:
- (1) Discharge the respondent's commitment;
 - (2) Commit the respondent as mentally ill only, in which case the respondent's commitment shall be deemed to have commenced upon the date of initial commitment, for purposes of determining the maximum length of the determinate commitment; or
 - (3) Commit the respondent for an indeterminate period as mentally ill and dangerous to the public.
- (c) At the request of the respondent, the court shall appoint an examiner of the respondent's choice for purposes of the hearing required by this rule.
- (d) The written report of the head of the treatment facility pursuant to Minn. Stat. § 253B.18, subd. 2, shall address the criteria for commitment and whether there has been any change in the respondent's condition since the commitment hearing. The report shall provide the following information:
- (1) the respondent's diagnosis;
 - (2) the respondent's present condition and behavior;
 - (3) the facts, if any, that establish that the respondent continues to satisfy the statutory requirements for commitment;
 - (4) a description of treatment efforts and response to treatment by the respondent during hospitalization;
 - (5) the respondent's prognosis;
 - (6) the respondent's individual treatment plan;
 - (7) an opinion as to whether the respondent is in need of further care and treatment;
 - (8) an opinion as to the program or facility best able to provide further care and treatment, if needed;
 - (9) an opinion as to whether respondent is dangerous to the public or himself. All supportive data and documentation shall be submitted with the report.

- (e) At the hearing, the court shall consider all competent evidence relevant to the respondent's present need for continued commitment. The burden of proof at the hearing is upon the proponent of indeterminate commitment to establish by clear and convincing evidence that the statutory requirements for commitment under Minn. Stat. ch. 253B continue to be met.

(Amended effective July 1, 2015.)

Advisory Committee Comment—1999

This rule is intended to require final resolution, with due diligence, of the commitment process of a respondent who is mentally ill and dangerous to the public, a sexually dangerous person, or a sexual psychopathic personality. An initial hearing should not be "reviewed" years later. The rule is not intended to dictate where a committed person should be confined. If a commitment is sustained upon review and the individual is still subject to commitment to the Commissioner of Corrections the balance of the sentence is to be served in a correctional institution.

Advisory Committee Comment—2015

Rule 23 is amended to conform to the statutory abrogation of the initial commitment period and review hearing for respondents committed as sexually dangerous persons and/or persons with a sexual psychopathic personality. All such commitments are now for an indeterminate period of time under Minn. Stat. § 253D.07, subd. 4. The amendment is not intended to modify or limit the rights of respondents committed under petitions filed prior to the statutory change of section 253B.18. See 2011 Minn. Laws, ch. 102, art. 3, § 1 (effective May 28, 2011).

RULE 24. EXPEDITING TRANSCRIPTS FOR CHAPTER 253B OR CHAPTER 253D APPEALS

In addition to satisfying the requirements of the Rules of Civil Appellate Procedure, any party initiating an appeal of an order entered under Minn. Stat. ch. 253B or Minn. Stat. ch. 253D shall, at or before the date of filing the notice of appeal, (a) serve on each court reporter who recorded the proceedings a copy of the notice of appeal and a request for transcripts the appellant deems necessary for the appeal and (b) file with the notice of appeal a copy of the request(s) for transcripts, along with an affidavit of service of the request(s) on opposing counsel, the court administrator of the court that issued the order appealed, and the court reporter or reporters, unless at the time of filing the notice of appeal all transcripts necessary for the appeal have already been transcribed. The transcript request(s) shall require completion of the transcripts no more than 25 days after the filing of the notice of appeal, unless the 25th day falls on a Saturday, Sunday or a holiday, in which case the transcripts shall be completed on the next business day. The Court of Appeals may modify the deadline for completion of the transcripts if necessary. Failure of an appellant who intends to order a transcript to serve on the court reporter(s) a request for transcripts the appellant deems necessary for the appeal at the date of filing the notice of appeal does not deprive the Court of Appeals of jurisdiction over the appeal, but extends the time for the Court of

Appeals to hear the appeal by the period of delay between the filing of the appeal and service of the transcript request(s).

(Amended effective September 18, 2013.)

RULE 25. SUBPOENA FOR PRODUCTION OF RECORDS

Where a party in a proceeding under Minn. Stat. ch. 253B or Minn. Stat. ch. 253D uses a subpoena to obtain production of records, the advance-service and advance-notice requirements under Minn. R. Civ. P. 45.02(a) and 45.04(a)(5) shall be 24 hours, rather than seven days.

(Amended effective September 18, 2013.)

RULE 26. TREATMENT PROVIDER ACCESS TO RECORDS

Following an order for commitment and during the pendency of that commitment, at the request of the head of a treatment facility or program to which a respondent is committed, the county attorney may provide to the facility or program electronic or paper copies of any documents received into evidence as part of the commitment proceedings and, if requested and it exists, the transcript of those proceedings. Any costs associated with obtaining the transcript shall be paid by the treatment facility or program.

(Adopted effective October 1, 2016)