

STATE OF MINNESOTA

IN SUPREME COURT

ADM10-8003

**ORDER PROMULGATING AMENDMENTS TO THE  
RULES OF JUVENILE DELINQUENCY  
PROCEDURE**

The Supreme Court Juvenile Delinquency Rules Committee has proposed amendments to the Rules of Juvenile Delinquency Procedure to accommodate the transition by the judicial branch to a more universal electronic court environment. Specifically, the committee recommends amendments to the rules to permit electronic filing, service, and signatures; to provide consistency and uniformity in the offense level designations in an electronic charging system; and, to update the rules, address legislative changes, and conform the rules to recent changes in the rules of appellate procedure.

In an order filed January 2, 2015, the court provided a public comment period on the proposed amendments to the Rules of Juvenile Delinquency Procedure. The court also scheduled a public hearing on March 17, 2015 to consider issues related to public access to judicial branch records that might be presented by the amendments recommended to these rules. One written comment was received, which discussed whether the amendments proposed by the committee on the Rules of Public Access to Records of the Judicial Branch would effect a change in the current level of public access to records in certain juvenile felony cases.

The court has carefully considered the committee's recommendations and the written comment.

Based on all of the files, records, and proceedings herein,

IT IS HEREBY ORDERED THAT:

1. The attached amendments to the Rules of Juvenile Delinquency Procedure be, and the same are, prescribed and promulgated to be effective as of July 1, 2015. The rules as amended shall apply to all cases pending on or filed on or after the effective date.

2. The inclusion of committee comments and amendments to the comments is for convenience and does not reflect court approval of the comments or the amendments to the comments.

3. The Supreme Court Juvenile Delinquency Rules Committee shall continue to serve and monitor the rules and these amendments during the expansion of electronic filing and electronic service in the district courts, and by April 1, 2016, shall report to the court concerning any additional or new amendments to the rules deemed necessary by the committee.

Dated: April 22, 2015

BY THE COURT:

Lorie S. Gildea  
Chief Justice

STATE OF MINNESOTA

IN SUPREME COURT

ADM10-8003

MEMORANDUM

PER CURIAM.

In July 2014, we directed the Supreme Court Juvenile Delinquency Rules Committee to consider whether amendments to the rules were needed to accommodate the transition by the judicial branch to a more universal electronic environment. The committee met several times in 2014, and on December 19, 2014, filed a report and recommendations for amendments to several rules. The court provided a public comment period, during which time one written comment was received.

The comment expressed concern regarding public access to juvenile delinquency records in cases in which the child is at least 16 years old and is alleged to have committed an offense that would be a felony if committed by an adult, referred to as “D-16” cases. Currently, D-16 cases are accessible to the public only at a courthouse; that, is remote internet access to these case records is not provided. *See Order Promulgating Amendments to the Minnesota Rules of Juvenile Delinquency Procedure*, ADM10-8003 (Minn. filed May 14, 2014). The amendments proposed to the court’s rules by the Juvenile Delinquency Rules Committee and by the Advisory Committee for the Rules of Public Access to Records of the Judicial Branch retain this level of access to public juvenile delinquency records.

The court adopts the committee's proposed amendments. The court has also amended Rule 31.01 for consistency with other court rules that address computation of time periods in the event of a closure of court facilities or the unavailability of court-authorized e-filing and e-service systems.

We appreciate the thorough and thoughtful work of the committee in completing this work in the time frame established to allow implementation of e-filing and e-service as recommended by the eCourtMN Steering Committee.

## AMENDMENTS TO THE RULES OF JUVENILE DELINQUENCY 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 3. Right to Counsel

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#### Rule 3.02 Appointment of Counsel

**Subdivision 1. Delinquency Felonies and Gross Misdemeanors.** In any delinquency proceeding in which the child is charged with a felony or gross misdemeanor, the court shall appoint counsel at public expense to represent the child, if the child can-not afford counsel and private counsel has not been retained to represent the child. If the child waives the right to counsel, the court shall appoint standby counsel to be available to assist and consult with the child at all stages of the proceedings.

**Subd. 2. Delinquency Misdemeanors.** In any delinquency proceeding in which the child is charged with a misdemeanor, the court shall appoint counsel at public expense to represent the child if the child can-not afford counsel and private counsel has not been retained to represent the child, and the child has not waived the right to counsel. If the child waives the right to counsel, the court may appoint stand-by counsel to be available to assist and consult with the child at all stages of the proceedings.

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#### Rule 3.04 Waiver of Right to Counsel

**Subdivision 1. Conditions of Waiver.** The following provision does not apply to Juvenile Petty or Traffic Offenses, which are governed by Rule 17. Any waiver of counsel must be made knowingly, intelligently, and voluntarily. Any waiver shall be in writing or on the record. The child must be fully and effectively informed of the child's right to counsel and the disadvantages of self-representation by an in-person consultation with an attorney, and counsel shall appear with the child in court and inform the court that such consultation has occurred. In determining whether a child has knowingly, voluntarily, and intelligently waived the right to counsel, the court shall look to the totality of the circumstances including, but not limited to: the child's age, maturity, intelligence, education, experience, ability to comprehend, and the presence of the child's parents, legal guardian, legal custodian or guardian ad litem appointed in the delinquency

proceeding. The court shall inquire to determine if the child has met privately with the attorney, and if the child understands the charges and proceedings, including the possible disposition, any collateral consequences, and any additional facts essential to a broad understanding of the case.

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### **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 prior to appearing.

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 on the prosecuting attorney, and on the client 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~~, and on the client by mail or personal service, and due proof of such service has been filed with the court administrator.

~~Service on the prosecuting authority 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.~~

### ***Comment--Rule 3***

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*Minn. R. Juv. Del. P. 3.02 provides for the appointment of counsel for juveniles in delinquency proceedings. A parent may not represent a child unless he or she is an attorney. In Gideon v. Wainwright, 372 U.S. 335 (1963), the U.S. Supreme Court held that the Sixth Amendment's guarantee of counsel applied to state felony criminal proceedings. In In re Gault, 387 U.S. 1 (1967), the Supreme Court extended to juveniles the constitutional right to counsel in state delinquency proceedings. Minnesota Statutes, section 260B.163, subd. 4 (2002) expands the right to counsel and requires that an attorney shall be appointed in any delinquency proceeding in which a child is charged with a felony or gross misdemeanor.*

\* \* \*

*Minn. R. Juv. Del. P. 3.02, subd. 2 requires a court to appoint counsel for a child charged with a misdemeanor in a delinquency proceeding unless that child affirmatively waives counsel as provided in Minn. R. Juv. Del. P. 3.04. Minn. R. Juv. Del. P. 3.02, subd. 3 requires the appointment of counsel or standby counsel in any proceeding in which out-of-home placement is proposed, and further limits those cases in which a child may waive the assistance of counsel without the appointment of standby counsel. In Argersinger v. Hamlin, 407 U.S. 25, 37 (1972), the Court held that “absent a knowing and intelligent waiver, no person may be imprisoned for any offense, whether classified as petty, misdemeanor or felony unless he was represented by counsel.” In Scott v. Illinois, 440 U.S. 367 (1979), the Court clarified any ambiguity when it held that in misdemeanor proceedings, the sentence the trial judge actually imposed, i.e. whether incarceration was ordered, rather than the one authorized by the statute, determined whether counsel must be appointed for the indigent.*

*\* \* \**

*Minnesota Statutes, section 260B.007, subd. 16, defines “juvenile petty offenses,” and ~~converts~~includes most offenses that would be misdemeanors if committed by an adult ~~into~~ petty offenses. Minn. R. Juv. Del. P. 3.02, subd. 5 and 17.02 explain when a juvenile petty offender is entitled to court-appointed counsel. If a child is charged as a juvenile petty offender, the child or the child’s parents may retain and be represented by private counsel, but the child does not have a right to the appointment of a public defender or other counsel at public expense. The denial of access to court-appointed counsel is based on the limited dispositions that the juvenile court may impose on juvenile petty offenders. Minnesota Statutes, section 260B.235, subd. 4 (2002). However, children who are charged with a third or subsequent juvenile alcohol or controlled substance offense are subject to out-of-home placement and therefore have a right to court-appointed counsel, despite their status as juvenile petty offenders. If the court is authorized to impose a disposition that includes out-of-home placement, then the provisions of Minn. R. Juv. Del. P. 3.02, subd. 5 and 17.02 are applicable and provide the child a right to counsel at public expense.*

## **Rule 4. Warrants**

### **Rule 4.01 Search Warrants Upon Oral Testimony**

Issuance of search warrants based on oral testimony is governed by Minnesota Rules of Criminal Procedure 33.04 and 36, except as modified by this Rule. If the focus of the warrant

pertains to a juvenile, the court may designate on the ~~face of the~~ warrant that it shall be filed in the juvenile court. When so designated, the ~~original warrant, the duplicate original~~ warrant, the certified transcript of the oral application for the warrant, any longhand verbatim record, and any related documents shall be deemed to be a juvenile court record under Rule 30.

#### **Rule 4.02 Search Warrants Upon Written Application**

Issuance of search warrants based upon written application is governed by Minnesota Statutes, sections 626.04 through 626.18 and Minnesota Rules of Criminal Procedure 33.04 and 33.05, except as modified by this Rule. If the focus of the warrant pertains to a juvenile, the court may designate on the ~~face of the~~ warrant that it shall be filed in the juvenile court. When so designated, the search warrant, warrant application, affidavit(s) or other supporting documents and inventories, including statements of unsuccessful execution and documents required to be served shall be deemed to be a juvenile court record under Rule 30.

#### **Rule 4.03 Warrants for Immediate Custody**

**Subdivision 1. Probable Cause Required.** Probable cause may be established as authorized by Rule 6.05~~by facts set forth in writing attached to the charging document, by facts set forth in the charging document, by affidavit(s) attached to the charging document, or by sworn testimony presented to the court on the record.~~

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**Subd. 8. When Executed.** A warrant may be executed at any time unless the judge who issues the warrant limits in writing on the warrant the time during which the warrant may be executed. If the offense is a delinquency misdemeanor, juvenile petty offense or juvenile traffic offense, the child may not be taken into custody on Sunday or between the hours of 10:00 p.m. and 8:00 a.m. on any other day except by direction of the judge.

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#### ***Comment--Rule 4***

*If the child fails to appear in response to a summons without reasonable cause, then the court may issue a warrant to take the child into immediate custody pursuant to Minn. R. Juv. Del. P. 4.03, subd. 2. See Minnesota Statutes, section 260B.154 (2002). Probable cause is required for every warrant issued. Before the court may issue a warrant, it shall make a finding of probable cause*



*based on the contents of the charging document, any supporting ~~affidavits~~ documents or sworn supplemental testimony to believe that the child committed an act governed by Minnesota Statutes, section 260B.007, subds. 6 or 16, or Minnesota Statutes, section 260B.225. In addition, the court must also find either that the summons was personally served on the child and the child failed to appear, that service will be ineffectual, or, for a delinquent child or child alleged to be delinquent, that there is a substantial likelihood that the child will not respond to a summons, or that the child or others are in danger of imminent harm. Minnesota Statutes, section 260B.154 (2002).*

*Minn. R. Juv. Del. P. 4.03, subd. 4 prescribes the contents of the warrant. When a child is taken into custody, a detention hearing shall commence pursuant to Minn. R. Juv. Del. P. 5.07 within thirty-six (36) hours, excluding Saturdays, Sundays, and holidays, or within twenty-four hours, excluding Saturdays, Sundays, and holidays, if the child is detained in an adult jail or municipal lockup.*

*Under Minn. R. Juv. Del. P. 4.03, subd. 5, a warrant may be executed only by a peace officer. Limitations on the manner of execution are the same as those set out in Minn. R. Crim. P. 3.03, subd. 3 for adults where the offense charged is a misdemeanor or non-criminal offense. The minor nature of delinquency misdemeanors, juvenile petty and juvenile traffic offenses should not ordinarily justify taking a child into immediate custody during the proscribed period of time.*

## **Rule 5. Detention**

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### **Rule 5.02 Definitions**

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**Subd. 4. Place of Detention for Juvenile Petty or Traffic Offenders.** A place of detention for a juvenile petty or traffic offender can be any one of the following places:

(A) a child's relative;

(B) a standby or temporary custodian ~~designated caregiver~~ under Minnesota Statutes, chapter ~~257A~~257B; or

(C) a shelter care facility.

\* \* \*

### **Rule 5.04 Release or Continued Detention**

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**Subd. 4. Probable Cause Determination.**

(A) *Time Limit.* The child shall be released no later than forty-eight (48) hours after being taken into custody without a court order or warrant signed by a judge, including the day the child was detained, Saturdays, Sundays and legal holidays, unless the court determines there is probable cause to believe the child committed the offense(s) alleged.

(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, or signed under penalty of perjury pursuant to Minnesota Statutes, section 358.116. Oral testimony shall be recorded and retained by the judge. Facts that are contained in a written document may be presented to the judge by telephone, ~~facsimile~~, video, or other ~~similar device~~ electronic means. If probable cause is determined on facts contained in a written document and the judge is not ~~personally present~~ available 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.

(C) *Approval of Prosecuting Attorney.* No request for a probable cause determination may proceed without approval by the prosecuting attorney. The person requesting the probable cause determination shall, under oath or signed under penalty of perjury pursuant to Minnesota Statutes, section 358.116, state that the prosecutor approves the request. If the prosecutor is unavailable, the court may make the probable cause determination if the matter should not be delayed.

(D) *Determination.* After the information is presented, the court shall determine whether there is probable cause to believe an offense(s) was committed and that the child committed the offense(s). If probable cause is found, the court may order continued detention pursuant to Rule 5, and release the child with conditions or with no conditions. A written determination of probable cause shall be filed with the court and a copy provided to the child and child's counsel.

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***Comment--Rule 5***

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*Minn. R. Juv. Del. P. 5.05, subd. 4 requires the court administrator to notify the office of the Public Defender that a child is in custody and the time of the detention hearing ~~and to provide facsimile copies of all reports transmitted to the court.~~ If a specific attorney has been assigned to represent the child, that attorney should receive notice. In jurisdictions where public defenders rotate, notice to the chief public defender would be sufficient. Minnesota data privacy laws do not restrict notification of counsel of a child's detention prior to the first appearance in court and appointment of counsel. The rules of professional responsibility and attorney client privilege adequately protect the privacy of the child.*

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## **Rule 6. Charging Document**

### **Rule 6.01 Generally**

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

### **Rule 6.02 ~~Tab Charge or Citation~~**

**Subdivision 1. Generally.** Juvenile petty offenses as defined by Minnesota Statutes, section 260B.007, subdivision 16, delinquency 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 screened endorsed by the prosecuting attorney ~~to permit screening for diversion program eligibility~~. A ~~tab charge or citation~~ may ~~may~~ be filed ~~in paper form, or~~ by electronic means authorized by the State Court Administrator when the technology is available, otherwise a citation may be filed in a paper form approved 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 e~~Citations shall contain:

- (A) the name, address, and 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) a designation of the case as a delinquency, a juvenile petty offense, or a juvenile traffic offense; and
- ~~(F)~~ 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.

### **Rule 6.03 Petition**

**Subdivision 1. Generally.** A child alleged to be delinquent because of a felony or gross misdemeanor offense (except gross misdemeanors under Minnesota Statutes, chapter 169A, which may be charged by ~~tab charge or citation~~) shall be charged by petition. A child alleged to be delinquent because of a misdemeanor offense may be charged by petition. A child charged with a juvenile petty offense or a juvenile traffic offense may be charged by petition.

**Subd. 2. Filing.** Each petition shall be signed by the prosecuting attorney before it is filed with the court. The signature of the prosecuting attorney shall be an acknowledgement that the form of the petition is approved and that reasonable grounds exist to support the petition. A delinquency petition may be filed without the prosecutor's signature if the prosecutor is unavailable and a judge determines that filing and the issuance of process should not be delayed. A petition must be filed by electronic means authorized by the State Court Administrator when the technology is available, otherwise a petition may be filed in paper form. Electronic signature of petitions is governed by Minnesota Rule of Criminal Procedure 1.06, subdivision 3.

**Subd. 3. Contents of the Delinquency Petition.** Every petition alleging a child is delinquent shall contain:

(A) a concise statement alleging the child is delinquent;

(B) a description of the alleged offense and reference to the statute or ordinance which was violated;

(C) ~~the applicable Minnesota Offense Code (MOC);~~

~~—(D) the name, date of birth, and address, ~~and~~ race of the child;~~

(E) the names and addresses of the child's parent(s), legal guardian, legal custodian, or nearest known relative;

(F) the name and address of the child's spouse; and

(G) other administrative information authorized by the Supreme Court Juvenile Delinquency Rules Committee and published by the State Court Administrator.

**Subd. 4. Separate Counts.** A petition may allege separate counts, whether the alleged delinquent acts arise out of the same or separate behavioral incidents.

**Subd. 5. Contents of Petition Alleging Juvenile Petty Offender or Juvenile Traffic Offender.** Every petition alleging a child is a juvenile petty offender or alleging a child is a juvenile traffic offender shall contain:

(A) a concise statement alleging that the child is a juvenile petty offender or a juvenile traffic offender;

(B) the name, address, date of birth, and for juvenile traffic offenders, the drivers license number of the child, if known;

(C) the name and address of the parent(s), legal guardian, or legal custodian of the child;

(D) a description of the offense charged and reference to the statute or ordinance which is the basis for the charge;

(E) ~~the applicable Minnesota Offense Code (MOC);~~

~~—(F) the date, county, and place of the alleged offense; and~~

(G) other administrative information authorized by the Supreme Court Juvenile Delinquency Rules Committee and published by the State Court Administrator.

## **Rule 6.04 Amendment**

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### **Subd. 2. Prohibited.**

(A) A charging document alleging a child is delinquent shall not be amended to allege a child is in need of protection or services.

(B) A charging document alleging a juvenile petty or traffic offense shall not be amended to allege the child is delinquent.

(C) A petition alleging that a child is in need of protection or services shall not be amended to allege a delinquency, juvenile petty offense or juvenile traffic offense.

## **Rule 6.05 Probable Cause**

**Subdivision 1. Establishing Probable Cause.** The facts establishing probable cause may be set forth in writing in the charging document ~~or police reports may be attached to the charging document.~~ No police reports or other supporting documents may be attached to the charging document at the time of filing to establish probable cause. ~~If police reports are attached to the charging document to establish probable cause, the child shall have the right to demand a statement establishing probable cause with specificity. Once demanded, the prosecuting attorney shall have ten (10) days to file with the court and serve on opposing counsel, the specific statement of probable cause.~~ Probable cause may also be established presented by subsequently filed police reports, sworn affidavits, or written statements signed under penalty of perjury pursuant to Minnesota Statutes, section 358.116, attached to a charging document or by sworn testimony presented to the court. If police reports are subsequently filed in support of the charging document to establish probable cause, the child shall have the right to demand a statement establishing probable cause with specificity. Once demanded, the prosecuting attorney shall have ten (10) days to file with the court and serve on opposing counsel, the specific statement of probable cause. If testimony is presented, a verbatim record of the proceedings shall be made and a transcript of the proceedings prepared and filed with the court.

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### ***Comment--Rule 6***

*Previously, this rule only related to petitions in juvenile court. Due in large part to the high volume of gross misdemeanor alcohol related driving offenses, the law was amended to permit tab charges and citations for these offenses to get cases to court more promptly. In 2015, all references to tab charges were removed from the rules to eliminate tab charges as a valid method of charging in juvenile cases.*

~~A citation is defined as a writ issued out of a court of competent jurisdiction or an order issued by police commanding the person named to appear on a designated day and respond to a particular violation. It is most commonly used for minor offenses such as traffic violations. Some "tickets" issued by police are called "citation," some are called "complaint," and some are called "tab charge." The terms have become interchanged in everyday use.~~

~~—In its revision of juvenile statutes, the legislature also expanded the list of offenses that may be charged by tab charge rather than petition in juvenile court. See Minnesota Statutes, section 260B.007, subd. 16 (2002). A tab charge is a brief statement entered upon the records by the clerk of the offense charged and citation to the statute, rule, regulation, ordinance or other provision of the law a child is alleged to have violated. The tab charge serves as a substitute for a petition. Tab charges may be used for any misdemeanor and for gross misdemeanors under Minnesota Statutes, chapter 169A. Adults have the right to demand a formal complaint in place of a tab charge. If a demand for a formal complaint is made by an adult charged with a gross misdemeanor alcohol offense, the prosecutor must file the complaint within 48 hours if the defendant is in custody, and within 10 days if not in custody. These rules have afforded juveniles the right to demand a petition where the child is charged with a misdemeanor(s) or gross misdemeanor(s).~~

Minn. R. Juv. Del. P. 6.06, subd. 2 provides that the court administrator shall promptly schedule the matter for hearing when a charging document is filed with the court.

Minn. R. Juv. Del. P. 6.03, subd. 2 provides that a petition shall be signed by the prosecuting attorney before it is filed with the court. Minnesota Statutes, section 260B.141, subd. 1 (2002) provides that any reputable person having knowledge of a child who is a resident of this state, who appears to be delinquent, may petition the juvenile court.

Minn. R. Juv. Del. P. 6.03, subs. 3 and 5 set forth the necessary contents of the petition. A sample petition form as well as a listing of the administrative content approved by the Juvenile Delinquency Rules Committee ~~will be~~ have been published by the State Court Administrator on the Minnesota Judicial Branch website. The reference to the Minnesota Offense Code was removed from this rule in 2015 in recognition of the possible transition away from the use of MOC codes and to another coding system that will serve the same purpose. Although the reference to the MOC codes was removed from the rules, the MOC code is still required as part of the "other administrative information" that was approved by the committee and published by the State Court

Administrator. Any changes regarding what is required for coding purposes will be addressed in that document.

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 and petitions is not available statewide at this time. The rule authorizes and requires electronic filing the practice in the locations where the technology is available, it currently exists, and anticipates ~~authorizes the expansion of the practice as it becomes technologically feasible in other locations~~ as facilitated by State Court Administration. Juvenile citations filed in paper form currently vary statewide. It is anticipated that a statewide standard will be created for use in juvenile cases, in consultation with justice agency partners, which will either be similar to or a modification to the current adult standard commonly referred to as the Statewide Standard Citation. When a statewide standard for juvenile citations is created, it will be published on the Minnesota Judicial Branch Statewide Standard Citation website and communicated statewide. Once the juvenile standard citation is available, its use will be mandatory in juvenile cases.

## **Rule 7. Arraignment**

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### **Rule 7.04 Hearing Procedure**

**Subdivision 1. Initial Procedure.** At the commencement of the hearing, the court shall on the record:

- (A) verify the name, age, ~~race,~~ and residence of the child who is charged;
- (B) determine whether all necessary persons are present and identify those present for the record;
- (C) determine whether notice requirements have been met and if not, whether the affected persons waive notice;
- (D) determine whether the child is either represented by counsel or waives counsel in the manner provided by Rule 3;
- (E) if the child appears without counsel, and the court determines the child has properly waived the child's right to counsel, the court shall advise the child of all trial rights and other rights provided by these rules;



(F) explain to the child and the child's parent(s), legal guardian or legal custodian, if present, the child's right to remain silent in this and subsequent appearances before the court; and

(G) if two or more children are charged jointly with the same offense, advise the child of the danger of dual representation pursuant to Rule 3.03.

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## **Rule 8. Pleas**

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### **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.~~

### **Rule 8.04 Plea of Guilty**

**Subdivision 1. Waiver of Right to Trial.** The court shall not accept a child's plea of guilty until first determining, the following, under the totality of the circumstances, and based on the child's statements, whether on the record or contained in a written document signed by the child and the child's counsel:

\* \* \*

(D) *Right to Counsel.* If a child charged with a misdemeanor in a delinquency matter remains without counsel or with only standby counsel, that the child understands the continued right to be represented by counsel, and understands that counsel:

(1) could give the child further information and advice on the child's rights and on the choice to plead guilty or not guilty to the offenses in the charging document; and

(2) could assist the child during a trial, to protect all rights of the child that arise in the course of a trial;

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## Rule 10. Discovery

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### Rule 10.07 Taking Depositions

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**Subd. 3. Transcription, Certification and Filing.** When the testimony is fully transcribed, the person before whom the deposition was taken shall certify on the deposition that the witness was duly sworn and that the deposition is a verbatim record of the testimony given by the witness. That person shall then ~~securely seal the deposition in an envelope endorsed with~~ secure the deposition, noting the title of the case and marked “Deposition of (here insert name of witness)” and shall promptly file it under seal with the court in which the case is pending ~~or send it by registered or certified mail to the court administrator thereof for filing.~~ The deposition must not be unsealed or disclosed except by court order. Upon the request of the child’s counsel or the prosecuting attorney, documents and other things produced during the examination of a witness, or copies thereof, shall be marked for identification and annexed as exhibits to the deposition, and may be inspected and copied by the child’s counsel and the prosecuting attorney. The person taking the deposition shall mark the exhibits, and after giving opposing counsel an opportunity to inspect and copy them, return the exhibits to the person producing them. The exhibits may then be used in the same manner as if annexed to the deposition.

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## Rule 14. Continuance for Dismissal

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### Rule 14.05 Emergency Order

The court by warrant may direct any officer authorized by law to bring the child forthwith before the court for the hearing of the motion if the court finds from affidavit, written statements signed under penalty of perjury pursuant to Minnesota Statutes section 358.116, or testimony that:

(A) there is probable cause to believe the child committed a material violation of the agreement;  
and

(B) there is a substantial likelihood that the child otherwise will not attend the hearing.

In any case, the court may issue a summons instead of a warrant to secure the appearance of the child at the hearing.

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#### **Rule 14.07 Termination of Agreement; Dismissal**

If no motion by the prosecuting attorney to terminate the agreement is pending, the agreement is terminated and the charging document shall be dismissed ~~by order of the court~~ one month after expiration of the period of suspension specified by the agreement. If such a motion is then pending, the agreement is terminated and the charging document shall be dismissed by order of the court upon entry of a final order denying the motion. Following a dismissal under this subdivision, no further juvenile proceedings may be brought against the child for the offense involved.

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### **Rule 15. Delinquency Disposition**

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#### **Rule 15.02 Timing**

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**Subd. 4. Transfer of File.** If the matter is to be transferred to the child's county of residence for disposition, the court shall order a continuance and direct the court administrator to transfer the file to the juvenile court in the child's home county within five (5) days of the finding that the offense(s) charged have been proved. Venue transfers in juvenile court are governed by Minnesota Statutes, section 260B.105, except that case records and documents transferred electronically from one county to another within the court's case management system need not be certified. For convenience of the participants, the court which accepts a plea may determine the disposition for the court which will supervise the child's probation, if the transferring court has conferred with the receiving court and there is agreement regarding the disposition.

### **Rule 15.03 Predisposition Reports**

\* \* \*

**Subd. 4. Filing and Inspection of Reports.** The person making the report shall file the report three (3) days prior to the time scheduled for the disposition hearing and the reports shall be available for inspection and copying by the child, the child's counsel, the prosecuting attorney and counsel for the parent(s), legal guardian or legal custodian of the child. ~~The court administrator should not otherwise disclose the report~~ shall not be disclosed to the public except by court order.

\* \* \*

### **Rule 15.05 Dispositional Order**

**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(1) or (2)~~ 7.

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

\* \* \*

**Subd. 3. Duration.** A dispositional order transferring legal custody of the child pursuant to Minnesota Statutes, section 260B.198, subdivision 1(~~ε~~3) shall be for a specified length of time. The court may extend the duration of a placement but only by instituting a modification proceeding pursuant to Rule 15.08. Orders for probation shall be for an indeterminate length of time unless otherwise specified by the court and shall be reviewed by the court at least annually.

#### **Subd. 4. Continuance without Adjudication.**

(A) *Generally.* When it is in the best interests of the child and not inimical to public safety~~the protection of the public~~ to do so, the court may continue the case without adjudicating the child. The court may not grant a continuance without adjudication where the child has been designated an extended jurisdiction juvenile.

(B) *Child Not in Detention.* If the child is not held in detention, the court may continue the case without adjudication for a period not to exceed one hundred eighty (180) ~~ninety (90)~~ days from the date of disposition. The court may extend the continuance for an additional successive period not to exceed one hundred eighty (180) ~~ninety (90)~~ days with the consent of the prosecutor and only after the court has reviewed the case and entered its order for the additional continuance without a finding of delinquency.

(C) *Child in Detention.* If the child is held or is to be held in detention, the court may continue the case without adjudication and enter an order to hold the child in detention for a period not to exceed fifteen (15) days from the date of disposition. If the child is in detention, this continuance must be for the purpose of completing any consideration, or any investigation or examination ordered pursuant to Rule 15.03, subdivision 1. The court may extend this continuance and enter an order to hold the child in detention for an additional successive period not to exceed fifteen (15) days.

(D) *Dispositions During Continuance.* During any continuance without adjudication of delinquency, the court may enter a disposition order pursuant to Minnesota Statutes, section 260B.198, subdivisions 1, except clause (4) ~~(a) or (b)~~.

(E) *Adjudication after Continuance.* Adjudicating a child for an offense after initially granting a continuance without adjudication is a probation revocation and must be accomplished pursuant to Rule 15.07.

(F) *Termination of Jurisdiction.* A probation revocation proceeding to adjudicate the child on any allegation initially continued without adjudication must be commenced within the period prescribed by Rule 15.05, subdivisions 4 (B) or (C), or juvenile court jurisdiction over the charges terminates.

\* \* \*

## **Rule 15.07 Probation Violation**

**Subdivision 1. Commencement of Proceedings.** Proceedings for revocation of probation may be commenced based upon a written report showing probable cause to believe the juvenile has violated any conditions of probation. Based upon the report, the court may issue a warrant as provided by Rule 4.03, or the court may schedule a review hearing and provide notice of the hearing

as provided in Rule 25. If the juvenile fails to appear in response to a summons, the court may issue a warrant.

(A) *Contents of Probation Violation Report.* The probation violation report and supporting affidavits, or written statements signed under penalty of perjury pursuant to Minnesota Statutes, section 358.116, if any, shall include:

- (1) the name, date of birth and address of the child;
- (2) the name and address of the child's parent(s), legal guardian, or legal custodian;
- (3) the underlying offense or offenses and date(s) of offense for which violation of probation is alleged; and
- (4) a description of the surrounding facts and circumstances upon which the request for revocation is based.

(B) *Notice.* The court shall give notice of the admit/deny hearing on the probation violation to all persons entitled to notice pursuant to Rule 25.

\* \* \*

### **Rule 15.08 Other Modifications**

\* \* \*

**Subd. 3. Motion for Modification.** All modification proceedings shall be commenced by the filing of a motion or petition to modify the disposition. The motion for modification shall be in writing and shall be served and filed along with accompanying affidavits~~attachments~~, if any, in accordance with Rule 27. The motion or its attachments shall state the proposed modification and the facts and circumstances supporting such a modification.

\* \* \*

**Subd. 5. Good Cause.** Within ten (10) days of filing a motion or written request, the court shall determine from the written request or motion and accompanying affidavits~~attachments~~, if any, whether there is good cause to believe that a modification of the disposition is warranted under Rule 15.08, subdivision 8. If the court finds that good cause exists the court shall schedule a modification hearing within ten (10) days of such finding and issue a notice in lieu of summons or a summons in accordance with Rule 15.08, subdivision 6(A). If the court finds that good cause does not exist, the court shall issue an order denying the motion or written request for modification.

\* \* \*

## Rule 16. Post-trial Motions

### Rule 16.01 Post-trial Motions

\* \* \*

**Subd. 2. Basis of Motion.** A motion for a new trial shall be made and heard on the files, exhibits and minutes of the court. Pertinent facts that would not be a part of the minutes may be shown by affidavit or written statement signed under penalty of perjury pursuant to Minnesota Statutes, section 358.116, except as otherwise provided by these rules. A full or partial transcript of the court reporter's notes of the testimony taken at the trial or other verbatim recording thereof may be used on the hearing of the motion.

\* \* \*

**Subd. 4. Time for Serving Affidavits or Written Statements.** When a motion for new trial is based on affidavits or written statements signed under penalty of perjury pursuant to Minnesota Statutes section 358.116, they shall be served with the notice of motion. The prosecuting attorney shall have ten (10) days after such service in which to serve responsive affidavits documents. The period may be extended by the court upon an order extending the time for hearing under this rule. The court may permit reply affidavits documents.

## RULE 17. JUVENILE PETTY OFFENDER AND JUVENILE TRAFFIC OFFENDER

\* \* \*

### Rule 17.05 Arraignment

\* \* \*

**Subd. 3. Hearing Procedure.** Children alleged to be juvenile petty offenders or juvenile traffic offenders may be arraigned as a group and shall be arraigned individually and confidentially upon request. At the start of the arraignment, the court shall inform the child(ren) of the following rights and possible dispositions:

\* \* \*

(F) *For a Juvenile Petty Offender.*

(1) the dispositions that may be imposed pursuant to Minnesota Statutes, section 260B.235, subdivisions 4, 5 and 6 if the child pleads guilty or, after a trial, the court finds that the allegations of the charging document have been proven beyond a reasonable doubt; and

(2) if the offense is a second misdemeanor-level juvenile petty offense, the possibility that any same or similar offense will be charged as a misdemeanor in a delinquency petition;

\* \* \*

### **Rule 17.10 Transfer to Adult Court of Juvenile Traffic Matter**

\* \* \*

**Subd. 2. Method of Transfer.** The court shall transfer the case by ~~forwarding~~transferring all documents in the court file to adult court together with the order to transfer.

**Subd. 3. Effect of Transfer.** Upon transfer, jurisdiction of the juvenile court is deemed not to have attached and the adult court shall proceed with the case as if it had never been in juvenile court.

\* \* \*

## **Rule 18. Certification of Delinquency Matters**

### **Rule 18.01 Application**

\* \* \*

**Subd. 2. First Degree Murder Acquisition.** The district court has original and exclusive jurisdiction in criminal proceedings concerning a child alleged to have committed murder in the first degree after becoming sixteen (16) years of age. Upon the filing of a complaint or indictment charging a sixteen (16) or seventeen (17) year old child in adult court proceedings with the offense of first degree murder, juvenile court jurisdiction terminates for all proceedings arising out of the same behavioral incident.

\* \* \*

### **Rule 18.04 Certification Study**

\* \* \*

**Subd. 4. Filing and Access to Reports.** The person(s) making a study shall file a written report with the court and provide copies to the prosecuting attorney and the child's counsel four (4) days, excluding Saturdays, Sundays, and legal holidays, prior to the time scheduled for the hearing. ~~The court administrator report shall not otherwise be disclosed to the public the report~~ except by court order.



\* \* \*

## **Rule 19. Extended Jurisdiction Juvenile Proceedings and Prosecution**

\* \* \*

### **Rule 19.03 Extended Jurisdiction Juvenile Study**

\* \* \*

**Subd. 4. Filing and Access to Reports.** The person(s) making a study shall file a written report with the court and provide copies to the prosecuting attorney and the child's counsel four (4) days, excluding Saturdays, Sundays, and legal holidays, days prior to the time scheduled for the hearing. The ~~court administrator report~~ shall not be otherwise disclosed to the public ~~the report~~ except by court order.

\* \* \*

### **Rule 19.04 Hearings on Extended Jurisdiction Juvenile Proceedings**

#### **Subdivision 1. In General.**

(A) *Limited Public Access.* The court shall exclude the general public from extended jurisdiction juvenile proceedings and shall admit only those persons who, in the discretion of the court, have a direct interest in the case or the work of the court including victims. The court shall open the hearings to the public in extended jurisdiction juvenile proceedings where the child is alleged to have committed an offense or has been proven to have committed an offense that would be a felony if committed by an adult and the child was at least sixteen (16) years of age at the time of the offense, except that the court may exclude the public from portions of an extended jurisdiction juvenile proceedings hearing to consider psychological material or other evidence that would not be accessible to the public in an adult proceeding.

\* \* \*

#### **Subd. 2. Initial Appearance and Probable Cause Determination.**

\* \* \*

(B) At the initial appearance hearing, the court shall:

(1) verify the name, age, ~~race,~~ and residence of the child who is the subject of the matter;

(2) determine whether all necessary persons are present, and identify those persons for the record;

(3) appoint counsel if not previously appointed;

(4) determine whether notice requirements have been met and if not whether the affected persons waive notice;

(5) schedule further hearings including: a probable cause hearing, unless waived; the contested hearing required by Rule 19.04, subdivision 3; and a pre-hearing conference if requested; and

(6) order studies pursuant to Rule 19.03, if appropriate.

\* \* \*

#### **Rule 19.07 Order**

\* \* \*

**Subd. 4. Venue Transfer.** When the court deems it appropriate, taking into account the best interest of the child or of society, or the convenient administration of the proceedings, the court may transfer venue of the case to the juvenile court of the county of the child's residence. With the consent of the receiving court, the court may also transfer the case to the juvenile court of the county where the child is found or the county where the alleged offense occurred. The transfer shall be processed in the manner provided by Minnesota Statutes, section 260B.105, except that case records and documents transferred electronically from one county to another within the court's case management system need not be certified. The receiving court thereafter has venue for purposes of all proceedings under Rules 19.10 (disposition and sentencing upon conviction in extended jurisdiction juvenile proceedings) and 19.11 (revocation of stay of adult criminal sentence).

\* \* \*

#### **Rule 19.09 Extended Jurisdiction Juvenile Prosecution and Procedure for Seeking an Aggravated Adult Criminal Sentence**

\* \* \*

**Subd. 2. Notice and Procedure for Seeking an Aggravated Adult Criminal Sentence.**

(A) *Notice.* Within seven (7) days after filing of a designation of the proceeding as an extended jurisdiction juvenile prosecution by the court or prosecutor, or at such later time if permitted by the court upon good cause shown and upon such conditions as will not unfairly prejudice the child, the prosecutor shall ~~serve and file~~ and serve on the child's attorney written notice of intent to seek an aggravated adult criminal sentence as defined in Minnesota Rules of Criminal Procedure 1.04(d). The notice shall include the grounds or statutes relied upon and a summary statement of the factual basis supporting the aggravated adult criminal sentence.

\* \* \*

**Rule 19.10 Disposition**

\* \* \*

**Subd. 3. Limitation on Certain Extended Jurisdiction Juvenile Dispositions.** If an extended jurisdiction juvenile prosecution, initiated by designation by the prosecuting attorney, results in a guilty plea or a conviction for an offense other than a presumptive commitment to prison under the Minnesota Sentencing Guidelines or a felony committed using a firearm, the court shall only impose one or more dispositions under Minnesota Statutes, section 260B.198. But if the child has ~~pleaded~~ pled guilty and consents, even if the plea or the conviction is for an offense other than a presumptive commitment under the guidelines, the court may also impose a stayed adult criminal sentence under Rule 19.10, subdivision 1.

**Subd. 4. Venue.** If the child's county of residence is not the same county where the offense occurred, venue of the case may be transferred as provided by Minnesota Statutes, section 260B.105, except that case records and documents transferred electronically from one county to another within the court's case management system need not be certified. The conditions under which the execution of any adult sentence are stayed shall be determined by the juvenile court having jurisdiction to impose and supervise any juvenile court disposition. The stayed adult sentence may be pronounced by the judge who presided over the trial or who accepted a plea of guilty. If venue for the juvenile disposition is being transferred to the child's county of residence, ~~prior to making the transfer,~~ the transferring court shall prepare and ~~file with~~ provide to the receiving court, a copy of the juvenile's file, including any plea and sentencing transcript, if any, and the adult stayed sentence form or order.

**Subd. 5. Record of Proceedings.**

(A) A verbatim record shall be made of all plea and sentencing proceedings.

(B) A record of the adult stayed sentence shall also be recorded in a sentencing form or order that, at a minimum, contains:

(1) the child's name;

(2) case number;

(3) for each count:

(a) if the child pled guilty to or was found guilty of the offense:

(i) the offense date;

(ii) a citation to the offense statute;

(iii) the precise terms of the adult criminal sentence, and that execution has been stayed;

(iv) the level of sentence; and

(v) the amount of time spent in custody, if any; or

(b) if the child did not plead guilty to or was not found guilty of the offense, that the child was acquitted or the count was dismissed; and

(4) the signature of the sentencing judge.

~~—Where venue is transferred as provided in subdivision 4, a copy of the sentencing form or order shall be filed with the transferring court.~~

**Rule 19.11 Revocation**

**Subdivision 1. Commencement of Proceedings.**

\* \* \*

(B) *Contents of Warrant and Summons.* Both the warrant and summons shall contain the name of the probationer, a description of the stayed sentence sought to be revoked, and the signature of the issuing judge or judicial officer of the district court, ~~and shall be accompanied by the written report upon which it was based.~~ The amount of any bail or other conditions of release may be set by the issuing judge or judicial officer and ~~endorsed~~ stated on the warrant. The warrant shall direct that the probationer be brought promptly before the court. The warrant shall direct that the probationer be brought before a judge or judicial officer without unnecessary delay, and in any event not later than thirty-six (36) hours after the arrest exclusive of the day of

arrest. The summons shall summon the probationer to appear at a stated time and place to respond to the revocation charges.

\* \* \*

## **Rule 20. Child Incompetent to Proceed and Defense of Mental Illness or Mental Deficiency**

### **Rule 20.01 Proceeding when Child is Believed to be Incompetent**

\* \* \*

**Subd. 3. Proceedings.** The prosecuting attorney, the child's counsel or the court shall bring a motion to determine the competency of the child if there is reason to doubt the competency of the child during the pending proceedings.

The motion shall set forth the facts constituting the basis for the motion but the child's counsel shall not divulge communications in violation of the attorney-client privilege. The bringing of the motion by the child's counsel does not waive the attorney-client privilege. Any such motion may be brought over the objection of the child. Upon such motion, the court shall suspend the proceedings and shall proceed as follows:

\* \* \*

(D) *Report of Examination.* Within sixty (60) days, the examiner shall ~~send~~file a written report ~~to the judge who ordered such examination, with the court, and the court shall provide a copy to the~~ prosecuting attorney and the child's counsel. The report contents shall not be otherwise disclosed until the hearing on the child's competency. The report shall include:

- (1) A diagnosis of the mental condition of the child;
- (2) If the child is mentally ill or mentally deficient, an opinion as to:
  - (a) whether the child can understand the proceedings and participate in the defense;
  - (b) whether the child presents an imminent risk of serious danger to another person, is imminently suicidal, or otherwise needs emergency intervention;
  - (c) whether the child requires any treatment to attain competency and if so, the appropriate treatment alternatives by order of choice, the extent to which the child can be treated as an outpatient and the reasons for rejecting such treatment if institutionalization is recommended; and

(d) whether, with treatment, there is a substantial probability that the child will attain competency and if so, when the child is expected to attain competency and the availability of inpatient and outpatient treatment agencies or facilities in the local geographical area;

(3) a statement of the factual basis upon which the diagnosis and opinion are based; and

(4) if the examination could not be conducted because the child is unwilling to participate, a statement to that effect with an opinion, if possible, as to whether the child's unwillingness was the result of mental illness or deficiency.

\* \* \*

**Subd. 5. Effect of Finding on Issue of Competency to Proceed.**

(A) *Finding of Competency.* If the court determines that the child is competent to proceed, the proceedings against the child shall resume.

(B) *Finding of Incompetency.* If the offense is a misdemeanor, juvenile petty matter offense, or juvenile traffic offense, and the court determines that the child is incompetent to proceed, the matter shall be dismissed. If the offense is a gross misdemeanor, and the court determines that the child is incompetent to proceed, the court has the discretion to dismiss or suspend the proceedings against the child except as provided by Rule 20.01, subdivision 7. If the offense is a felony, and the court determines that the child is incompetent to proceed, the proceedings against the child shall be further suspended except as provided by Rule 20.01, subdivision 7.

(1) If the court determines that the child is mentally ill or deficient so as to be incapable of understanding the proceedings or participation in the defense, the court shall order any existing civil commitment continued. If the child is not under commitment, the court may direct civil commitment proceedings be initiated, and the child confined in accordance with the provisions of the Minnesota Commitment Act, Chapter 253B.

(2) If it is determined that commitment proceedings are inappropriate and a petition has been filed alleging the child is in need of protection or services (CHIPS), the court shall order such jurisdiction be continued. If the child is not under CHIPS jurisdiction, the court may order the child held for up to seventy-two (72) hours and direct CHIPS proceedings to be initiated.

(3) If it is determined that neither commitment proceedings nor CHIPS proceedings are appropriate, the child shall be released to the child's parent(s), legal guardian or legal custodian under conditions deemed appropriate to the court.

**Subd. 6. Continuing Supervision by the Court.** In felony and gross misdemeanor cases in which proceedings have been suspended, the person charged with the child's supervision, such as the head of the institution to which the child is committed, shall report to the trial court on the child's mental condition and competency to proceed at least every six (6) months unless otherwise ordered. The court shall provide a copy ~~Copies~~ of the reports ~~shall also be sent~~ to the prosecuting attorney and to the child's counsel.

Unless the charging document against the child has been dismissed as provided by Rule 20.01, subdivision 7, the trial court, child's counsel and the prosecuting attorney shall be notified of any proposed institutional transfer, partial institutionalization status, and any proposed termination, discharge, or provisional discharge of the juvenile protection case. The prosecuting attorney shall have the right to participate as a party in any proceedings concerning such proposed changes in the child's commitment or status.

\* \* \*

## **Rule 20.02 Defense of Mental Illness or Mental Deficiency at the Time of the Offense**

### **Subdivision 1. When Raised.**

(A) If the child intends to raise mental illness or mental deficiency as a defense, the child's counsel shall advise the court and prosecuting attorney in writing ~~at~~before the omnibus hearing or no less than ten (10) days before the trial, whichever is earlier. The notice shall provide the court and prosecuting attorney with a statement of particulars showing the nature of the mental illness or mental deficiency expected to be proved and the names and addresses of witnesses expected to prove it.

\* \* \*

### **Subd. 4. Disclosure of Reports and Records of Child's Mental Illness or Mental Deficiency Examinations.**

(A) *Order for Disclosure.* If a child raises the defense of mental illness or mental deficiency, the trial court, on motion of the prosecuting attorney and notice to the child's counsel may order the child to furnish either to the court or to the prosecuting attorney copies of all medical reports and hospital and medical records previously or thereafter made concerning the mental illness or mental deficiency of the child and relevant to the issue of the defense of mental illness or mental deficiency. If the copies of the reports and records are furnished to the court for in camera review,

the court shall inspect them to determine their relevancy. If the court determines they are relevant, they shall be delivered to the prosecuting attorney. Otherwise, they shall be returned to the child. If the child is unable to comply with the court order, a subpoena duces tecum may be issued.

\* \* \*

**Subd. 5. Report of Examination.** At the conclusion of the examination, a written report of the examination shall be ~~forwarded to the judge who ordered the examination~~ filed with the court, and the court shall provide a copy to the prosecuting attorney and to the child's counsel. The ~~report court administrator~~ shall not be otherwise disclosed to the public ~~the report~~ except by court order. The report of the examination shall contain:

(A) A diagnosis of the child's mental illness or mental deficiency as requested by the court;

(B) If so directed by the court, an opinion as to whether, because of mental illness or deficiency, the child at the time of the commission of the offense charged was laboring under such a defect of reason as not to know the nature of the act constituting the offense with which child is charged or that it was wrong;

(C) Any opinion requested by the court that is based on the examiner's diagnosis;

(D) A statement of the factual basis upon which the diagnosis and any opinion are based; and

(E) If the examination cannot be conducted by reason of the child's unwillingness to participate, the report shall so state and shall include, if possible, an opinion as to whether the unwillingness of the child was the result of mental illness or deficiency.

\* \* \*

### **Rule 20.03 Simultaneous Examinations**

The court may order a civil commitment examination under Minn. Stat. ch. 253B, or successor statute, a competency examination under Rule 20.01, and an examination under Rule 20.02 to all be conducted simultaneously.



## Rule 21. Appeals

\* \* \*

### Rule 21.03 Appeal by Child

\* \* \*

#### Subd. 2. Procedure for Appeals.

(A) *Orders Revoking Extended Jurisdiction Juvenile Status and Orders Revoking the Stayed Adult Sentence of an Extended Jurisdiction Juvenile.* Probationer appeals under Rule 21.03, subdivision 1(A)(11) and (12) shall be governed by the procedure provided for appeal from a sentence by Minnesota Rules of Criminal Procedure 27.04, subdivision 3(4) and 28.05.

(B) *All Other Appealable Orders.* All other juvenile appeals shall proceed as follows:

(1) *Time for Taking an Appeal.* An appeal shall be taken within thirty (30) days after service of the notice of filing of the appealable order upon the child's counsel by the court administrator as provided in Rule 28.

(2) *Notice of Appeal and Filing.* The appellant shall file the following documents with the clerk of the appellate courts:

(a) a notice of appeal naming the party taking the appeal, identifying the order being appealed, and listing the names, addresses, and telephone numbers of all counsel;

(b) proof of service of notice of appeal on the adverse party, the district court administrator, and the court reporter;

(c) a ~~certified~~ copy of the judgment or order appealed from; and

(d) ~~two copies of~~ the statement of the case as provided for by Minnesota Rules of Civil Appellate Procedure 133.03.

When the disposition is ordered in a county other than the one in which the child pled guilty or was found to have committed the offense(s), the appellant shall serve notice of appeal on the prosecuting attorney, ~~district~~ court administrator, and court reporter in the county where the child pled guilty or was found to have committed the offense(s) as well as the prosecuting attorney, ~~district~~ court administrator, and court reporter where the disposition was ordered. Proof of service of notice of appeal on all of these persons shall be filed with the clerk of the appellate courts.

Whether a filing fee is required shall be determined pursuant to Minnesota Rules of Civil Appellate Procedure 103.01, subdivision 3. A cost bond is not required.

Except for the timely filing of the notice of appeal, if a party fails to comply with these rules, the validity of the appeal may not be affected except as deemed appropriate by the court of appeals.

(3) *Transcript of Proceedings and Transmission of the Transcript and Record.* The Minnesota Rules of Civil Appellate Procedure shall govern the transcription of the proceedings and the transmission of the transcription and record to the court of appeals except as modified here:

(a) Within ten (10) days of filing the notice of appeal, appellant shall order the necessary transcript and notify the court reporter that the transcript is due within thirty (30) days of the court reporter's receipt of the appellant's request for transcript.

(b) For parties represented by the state public defender, payment for transcripts will be made after receipt of the transcripts.

(c) If the parties have stipulated to the accuracy of a transcript of videotape or audiotape exhibits and made the transcript part of the district court record, it becomes part of the record on appeal, and it is not necessary for the court reporter to transcribe the exhibits. If no such transcript exists, a transcript need not be prepared unless expressly requested by the appellant or the respondent. If the exhibit must be transcribed, the court reporter need not certify the correctness of this transcript.

(4) *Briefs.* The Minnesota Rules of Civil Appellate Procedure shall govern the form and filing of briefs except as modified here:

(a) Extended Jurisdiction Juvenile and Certification Determinations.

(i) The appellant shall serve and file the appellant's brief and ~~appendix~~addendum within thirty (30) days after delivery of the transcript by the reporter. If the transcript is obtained prior to appeal or if the record on appeal does not include a transcript, then the appellant shall serve and file the appellant's brief and ~~appendix~~addendum within thirty (30) days after the filing of the notice of appeal.

(ii) The appellant's brief shall contain a statement of the procedural history.

(iii) The respondent shall serve and file the respondent's brief and ~~appendix~~addendum, if any, within thirty (30) days after service of the brief of appellant.

(iv) The appellant may serve and file a reply brief within fifteen (15) days after service of the respondent's brief.

(b) Briefs For Cases Other Than Extended Jurisdiction Juvenile and Certification Determinations.

(i) The appellant shall serve and file the appellant's brief and ~~appendix~~addendum within forty-five (45) days after delivery of the transcript by the reporter. If the transcript is obtained prior to appeal or if the record on appeal does not include a transcript, then the appellant shall serve and file the appellant's brief and ~~appendix~~addendum within forty-five (45) days after the filing of the notice of appeal.

(ii) The appellant's brief shall contain a statement of the procedural history.

(iii) The respondent shall serve and file the respondent's brief and ~~appendix~~addendum, if any, within thirty (30) days after service of the brief of appellant.

(iv) The appellant may serve and file a reply brief within fifteen (15) days after service of the respondent's brief.

\* \* \*

#### **Subd. 4. Release of Child.**

(A) *Motion for Release Pending Appeal.* When release is not addressed in the motion for a stay, application for release pending appeal shall be made to the trial court. If the trial court refuses to release a child pending appeal, or imposes conditions of release, the trial court shall state the reasons on the record. Thereafter, if an appeal is pending, a motion for release or for modification of the conditions of release pending review may be made to the court of appeals. The motion shall be determined upon such ~~documents papers, affidavits,~~ and portions of the record as the parties shall present. The court of appeals may order the release of a child with or without conditions, pending disposition of the motion. The motion shall be determined on an expedited basis.

\* \* \*

### **Rule 21.04 Appeal by Prosecuting Attorney**

**Subdivision 1. Scope of Appeal.** The prosecuting attorney may appeal as of right from:

(A) sentences or dispositions imposed or stayed in extended jurisdiction juvenile cases;

(B) denial of a motion for certification or denial of a motion for designation as an extended jurisdiction juvenile prosecution;

(C) denial of a motion to revoke extended jurisdiction juvenile status following an admission of a violation of probation or a determination that a violation of probation has been proven;

(D) denial of a motion to revoke the stay of the adult sentence of an extended jurisdiction juvenile following an admission of a violation of probation or a determination that a violation of probation has been proven;

(E) pretrial orders, including suppression orders; ~~and~~

(F) orders dismissing the charging document for lack of probable cause when the dismissal was based solely on a question of law; and

(G) a continuance ordered in contravention of Minnesota Statutes, section 260B.198, subd. 7.

Appeals from disposition or sentence shall only include matters that arose after adjudication or conviction. In addition to all powers of review presently existing, the appellate court may review the sentence or disposition to determine whether it is consistent with the standards set forth in Rule 15.05, subdivisions 2 and 3.

\* \* \*

### **Subd. 3. Procedure for Appeals.**

\* \* \*

(C) Prosecutorial appeals under Rule 21.04, subdivision 1(E) shall proceed as follows:

(1) *Time for Appeal.* The prosecuting attorney may not appeal until all issues raised during the evidentiary hearing and pretrial conference have been determined by the trial court. The appeal shall be taken within twenty (20) days after notice of entry of the appealable order is served upon the prosecuting attorney by the ~~district~~ court administrator. An appeal by the prosecuting attorney under this rule bars any further appeal by the prosecuting attorney from any existing orders not included in the appeal. No appeal of a pretrial order by the prosecuting attorney shall be taken after jeopardy has attached. An appeal under this rule does not deprive the trial court of jurisdiction over pending matters not included in the appeal.

(2) *Notice of Appeal and Filing.* Rule 21.03, subdivision 2(B) shall govern notice of appeal and filing of an appeal by the prosecuting attorney ~~except that the prosecuting attorney must file a statement of the case as provided for by Minnesota Rules of Civil Appellate Procedure 133.03. In addition, if~~ a transcript of the proceedings is necessary, the prosecuting attorney must file a copy of the request for transcript with the clerk of the appellate court.

(3) *Briefs.* The Minnesota Rules of Civil Appellate Procedure shall govern the form and filing of briefs except as modified here:

(a) Within fifteen (15) days of delivery of the transcripts, appellant shall file the appellant's brief with the clerk of the appellate courts together with proof of service upon the respondent.

(b) The appellant's brief shall contain a statement of the procedural history.

(c) Within eight (8) days of service of appellant's brief upon respondent, the respondent shall file the respondent's brief with the appellate court clerk together with proof of service upon the appellant.

\* \* \*

## Rule 25. Notice

### Rule 25.01 Summons, Notice in Lieu of Summons, Oral Notice on the Record, Service by ~~Faersimile Or Other~~ Electronic Transmission and Notice by Telephone

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**Subd. 2. Notice in Lieu of Summons.** A notice in lieu of summons is a document mailed, or electronically transmitted as authorized by the State Court Administrator, by the court administrator to a person who is directed to appear in court at a specified time and place. If a person appears pursuant to the mailed or electronically transmitted notice, the person waives the right to personal service of the summons. If the person fails to appear, the court shall not issue a warrant until personal service is made or attempted unless grounds exist under Rule 4.03.

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**Subd. 4. Detention Hearings: Service by ~~Faersimile or Other~~ Electronic Transmission or Notice by Telephone Permitted.**

(A) *Service By ~~Faersimile 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 ensure that the child, child's attorney, prosecuting attorney, child's parent(s), legal guardian(s) or legal custodian(s), or spouse of the child receives ~~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~~electronic transmission, mailed notice, 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 electronic transmission, 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.

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### **Rule 25.03 Procedure for Notification**

**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, or electronically transmitted as authorized by the State Court Administrator, 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.~~

**Subd. 2. Personal Service.** If the child and/or parent(s) fail to appear in response to one or more notices in lieu of summons served by mail or electronic transmission, a summons may be served personally in the manner provided by Minnesota law. The summons shall advise the person served that a failure to appear may result in the court issuing a warrant for arrest.

**Subd. 3. Warrant for Arrest or Immediate Custody.** A warrant for arrest or immediate custody may be issued by the court for a child or parent(s) who fail to appear in response to a summons which has been personally served or where reasonable efforts at personal service have been made.

**Subd. 4. Timing.** A summons shall be personally served at least five (5) days before the hearing. A notice in lieu of summons shall be mailed or electronically transmitted at least eight (8) days before the hearing. These times may be waived by a person or by the court for good cause shown.

**Subd. 5. Proof of Service.**

(A) *Personal Service.* On or before the date set for appearance, the person who served a summons by personal service shall file a written statement with the court showing:

- (1) that the summons was served;
- (2) the person on whom the summons was served; and
- (3) the date, time, and place of service.

(B) *Service by Mail or Electronic Transmission.* On or before the date set for appearance, the person who served notice in lieu of summons by mail or electronic transmission shall enter in the court record~~file a written statement with the court showing:~~

- (1) the name of the person to whom the summons or notice was ~~sent~~mailed;
- (2) the date the summons or notice was ~~sent~~mailed; and
- (3) whether the summons or notice was sent by first class mail, certified mail, or electronic transmission.

~~(C) Notice of Detention Hearing: Service by Facsimile Transmission.~~ The person providing notice of a detention hearing by facsimile transmission shall ~~file a written statement with the court showing:~~

- ~~(1) the name, address and facsimile number of the person to whom the notice was sent by facsimile transmission;~~
- ~~(2) the time and date the facsimile transmission was sent or the efforts to do so;~~
- ~~(3) the reason why notice was not sent by First Class Mail.~~

~~(D)~~ *Notice of Detention Hearing: Telephone Call.* The person providing notice of a detention hearing by telephone call shall file a ~~written statement~~document with the court ~~showing or~~ make an entry in the court record stating:

(1) the name, address and telephone number of the person who was contacted with notice of the detention hearing;

(2) the date and time of the telephone call or the efforts to do so;

(3) the reason why notice in lieu of summons was not sent by First Class Mail or other authorized means and, in the case of the child's attorney or the prosecuting attorney, why the notice in lieu of summons was not sent by facsimile transmission.

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#### ***Comment--Rule 25***

*Pursuant to Minnesota Statutes, section 260.141, subd. 1 (1994), notices of juvenile court proceedings were to be made by personal service or if made pursuant to Minn. R. Civ. P. 4.02, by mail with an acknowledgement returned to the court. That was not the practice throughout the state. This rule is written to reflect the common practice of simply mailing the notice (called a notice in lieu of summons) and charging document by first class mail. If those served do not appear in response to the notice, the court can proceed with personal service of a summons and follow up with a warrant if there is still a failure to appear. Appearance rates are generally high with just a mailed notice and the costs of process are significantly increased by mailed service with acknowledgement or by personal service. The legislature has since amended Minnesota Statutes, section 260.141, subd. 1 to comport with this rule. 1996 Minn. Laws Ch. 408, Art. 6, ~~Sees. §§ 3 and 12~~; see Minn. Stat. § 260B.152, subd. 1 (2002). The rule also recognizes that notice may be sent by electronic transmission where authorized.*

*This rule allows for notice of a detention hearing to be provided by ~~facsimile transmission or telephone call~~ when, given the time remaining before the detention hearing, mailed or electronically transmitted notice in lieu of summons would not be effective. Notice by ~~facsimile transmission or telephone~~ is not permitted for any other type of hearing.*

*Historically, there have been some informal service methods for service of the prosecuting attorney and the public defender by each other and by the court, which were instituted for efficiency and cost-effectiveness. However, where the rules require a specific method of service, these informal methods of service may not be used. See City of Albert Lea v. Harrer, 381 N.W.2d 499 (Minn. Ct. App. 1986) (stating, “[t]he clerk and the city attorney cannot agree to ignore the rules”).*

*In the appendix of these rules are samples of a notice in lieu of summons and a summons.*



~~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.~~

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## **Rule 27. Motions**

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### **Rule 27.02 Service of Motions**

**Subdivision 1. When Required.** Every written motion along with any supporting ~~affidavits~~documents shall be served on the child, the child's counsel, the prosecuting attorney and the parent(s), legal guardian or legal custodian of the child.

**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, or electronically as authorized or required by Rule 14 of the General Rules of Practice for the District Courts. Service by mail shall be complete upon mailing to the last known address of the person to be served. Service by authorized electronic means through the E-Filing System as defined by Rule 14 of the General Rules of Practice for the District Courts is complete upon completion of the electronic transmission of the document(s) to the E-Filing System. ~~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.~~

**Subd. 3. Time.** Any motion required by this rule to be served, along with any supporting ~~affidavits~~documents, shall be served at least three (3) days before it is to be heard unless the court

for good cause shown permits a motion to be made and served less than three (3) days before it is to be heard.

~~*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.~~

**Rule 30. Records**

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**Rule 30.02 Availability of Juvenile Court Records**

**Subdivision 1. By Statute or Rule.** Juvenile Court records shall be available for inspection, copying and release as required by statute or these rules. Access to all reporter’s tapes and electronic recordings shall be governed by the Rules of Public Access to Records of the Judicial Branch. Other than for criminal justice and other government agencies, juvenile delinquency records in proceedings that are public under Minn. Stat. § 260B.163, subd. 1, shall not be remotely accessible, as defined in Rule 8, subdivision 2(~~d~~) of the Minnesota Rules of Public Access to ~~Judicial Records of the Judicial Branch~~, but may be made accessible in either electronic form or paper form at the court facility as permitted by ~~subdivision 2(a) of that Rule 8~~. Criminal justice and other government agencies shall have access to juvenile court records as permitted by Rule 8, subdivision 4 of the Minnesota Rules of Public Access to ~~Judicial Records of the Judicial Branch~~.

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**Subd. 3. Court Order Required.**

(A) *Person(s) with Custody or Supervision of the Child, and Others.* The court may order juvenile court records to be made available for inspection, copying, disclosure or release, subject to such conditions as the court may direct, to:

(1) a representative of a ~~state or~~ private agency providing supervision or having custody of the child under order of the court; or

(2) any individual for whom such record is needed to assist or to supervise the child in fulfilling a court order; or

(3) any other person having a legitimate interest in the child or in the operation of the court.

(B) *Public.* A court order is required before any inspection, copying, disclosure or release to the public of the record of a child. Before any court order is made the court must find that inspection, copying, disclosure or release is:

(1) in the best interests of the child; or

(2) in the interests of public safety; or

(3) necessary for the functioning of the juvenile court system.

(C) *Disclosure Prohibited.* The record of the child shall not be inspected, copied, disclosed or released to any present or prospective employer of the child or the military services.

~~(D) *Disclosure Limited.* The inspection, copying, disclosure, or release of the juvenile records listed below is limited pursuant to the identified Rules of Juvenile Delinquency Procedure:~~

~~—— (1) —— Predisposition report ([Rule 15.03](#), subd. 4);~~

~~—— (2) —— Juvenile certification study ([Rule 18.04](#), subd. 4);~~

~~—— (3) —— Extended jurisdiction juvenile study ([Rule 19.03](#), subd. 4); and~~

~~—— (4) —— Competency examination ([Rule 20.02](#), subd. 5).~~

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## **Rule 31. Timing**

### **Rule 31.01 Computation**

Unless otherwise provided by statute or specific Minnesota Rules of Juvenile Delinquency Procedure, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period shall be included, unless it is a Saturday, a Sunday, ~~or a legal holiday, a day on which weather or other conditions result in the closing of the office of the court administrator of the court where the action is pending or where filing or service is either permitted or required to be made electronically, or a day on which unavailability of the computer system used by the court for electronic filing and service makes it impossible to accomplish service or filing, in which case the period runs until the end of the next day that is not one of the aforementioned days~~ ~~in which event the period runs until the end of the next day which is not a Saturday, a Sunday or legal holiday.~~ When a period of time prescribed or allowed is three days or

less, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation. As used in these rules, “legal holiday” includes New Year’s Day, Martin Luther King’s Birthday, Washington’s and Lincoln’s Birthday (Presidents’ Day), Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, the day after Thanksgiving Day, Christmas Day, and any other day appointed as a holiday by the President or Congress of the United States or by the State, and a day that the United States Mail does not operate.

**Rule 31.02 Additional Time after Service by Mail or Electronic Service Late in the Day**

Whenever a person has the right or is required to do an act within a prescribed period after the service of a notice or other paper and the notice or other paper is served by mail, three (3) days shall be added to the prescribed period. If service is made by electronic means and accomplished after 5:00 p.m. Minnesota time on the day of service, one additional day shall be added to the prescribed period.

**Rule 32. Electronic Service, Filing, and Signature**

**Rule 32.01 Service**

Except where personal service is required by these rules, service shall be made by any means authorized by law, including electronically as authorized or required by Rule 14 of the General Rules of Practice for the District Courts. Any notices or copies required to be provided under these rules may also be provided electronically as authorized or required by Rule 14 of the General Rules of Practice for the District Courts.

**Rule 32.02 Filing**

Except as otherwise specified in these rules, documents may be filed electronically as authorized or required by Rule 14 of the General Rules of Practice for the District Courts. Notwithstanding Rule 14 of the General Rules of Practice for the District Courts, documents prepared and presented to the court during a court proceeding, including but not limited to a signed guilty plea petition or signed waiver of counsel, are not required to be filed electronically.

**Rule 32.03 Signature**

Any signature required under these rules may be applied electronically.