

STATE OF MINNESOTA

IN SUPREME COURT

C1-84-2137

**ORDER AMENDING RULES
OF CRIMINAL PROCEDURE**

On November 17, 2008, the Supreme Court promulgated Minn. R. Crim. P. 1.06 as a temporary rule effective in Carver, Kandiyohi, Olmsted, and St. Louis counties for participants in the eCharging/e-filing pilot project. The Court also ordered Minnesota Justice Information Services (MNJIS) to file a report within six months after the start date of the eCharging/e-filing pilot project addressing an assessment of the functionality of the technology used in the pilot project, an analysis of the signature standard as promulgated in temporary Rule 1.06, subd. 3(b), and a general report of the successes achieved and any barriers encountered during the six-month period. MNJIS filed a report on September 18, 2009. The Court published the report for public comment on October 27, 2009.

The MNJIS report contained several recommendations, including a recommendation that the Court adopt a permanent statewide rule with an effective date of January 1, 2010. MNJIS later submitted a letter requesting that as an alternative to enactment of a statewide rule by January 1, 2010, the Court authorize the addition of several more pilot sites to Rule 1.06 so that the pilot project could be expanded while the Court received and considered public comment. On December 18, 2009, the Court issued

an order expanding the scope of the pilot to include the following counties: Freeborn, Goodhue, Isanti, Lyon, Otter Tail, and Rice.

During the public comment period, the Court was informed by State Court Administration staff that there were workflow issues and local business practices in one of the pilot counties that could have an impact upon statewide implementation of eCharging/e-filing, and that these workflow issues required further study. The Court delayed action on the MNJIS report until State Court Administration staff and MNJIS staff were able to resolve the issues.

Now, therefore, the court being fully advised in the premises,

IT IS HEREBY ORDERED:

1. Minn. R. Crim. P. 1.06 is amended and promulgated as a permanent Rule of Criminal Procedure effective statewide as of July 15, 2010.
2. The inclusion of Advisory Committee comments is made for convenience and does not reflect court approval of the comments.
3. The Court refers to the Advisory Committee on Rules of Criminal Procedure the following issues:
 - a. Whether it is necessary to require both biometric identification and electronic notarization when a law enforcement officer affixes his or her signature to the electronic complaint.

- b. Whether a judge should be permitted to edit the electronic complaint before affixing an electronic signature.

Dated: June ____, 2010

BY THE COURT:

Eric J. Magnuson
Chief Justice

AMENDMENTS TO THE RULES OF CRIMINAL PROCEDURE

Note: Throughout these amendments, unless otherwise indicated, deletions are indicated by a line drawn through the words, and additions are underlined.

1. Amend Rule 1.06 as follows:

Rule 1.06 Use of Electronic Filing for Charging Documents

Subd. 1. Definitions.

(1) Charging Document. A “charging document” is a complaint, indictment, citation, or tab charge.

(2) E-filing. “E-filing” is the electronic transmission of the charging document to the court administrator.

Subd. 2. Authorization. E-filing may be used to file with the court administrator in a criminal case any charging document except an indictment.

Subd. 3. Signatures.

(1) How Made. If the charging document is e-filed, all signatures required under these rules must be affixed electronically ~~if the charging document is e filed.~~ Any individual required to sign the charging document under these rules can choose to print the charging document and sign it manually. Once any individual prints the charging document and affixes a manual signature, all subsequent signatures must be affixed manually, and the printed copy is the original and must be filed with the court.

(2) Signature Standard. Each signature affixed electronically must comply with the electronic signature standard approved by the State Court Administrator, except that electronic signatures affixed by law enforcement officers serving as the complainant must be authenticated using biometric identification.

(3) Effect of Electronic Signature. A printed copy of a charging document showing that an electronic signature was properly affixed under paragraph (2) prior to the printout is prima facie evidence of the authenticity of the electronic signature.

Subd. 4. Electronic Notarization. If the probable cause statement in an e-filed complaint is made under oath before a notary public, it must be electronically notarized in accordance with state law.

Subd. 5. Paper Submission. E-filed documents are in lieu of paper submissions. An e-filed document should not be transmitted to the court administrator by any other means unless the court requests a printed copy.

~~**Subd. 6. Scope and Effective Date.** This is a temporary rule effective in the following counties for participants in the eCharging/e filing pilot project: Carver, Freeborn, Goodhue, Isanti, Kandiyohi, Lyon, Olmsted, Otter Tail, Rice and St. Louis. The rule is effective until November 30, 2010, unless earlier abrogated by Supreme Court order.~~

2. Permanently adopt paragraphs 5 through 7 of the comments to Rule 1:

The signatures of the following persons must be affixed electronically when a complaint is e-filed pursuant to Rule 1.06:

- *the complainant, as required under Rule 2.01, subd. 1;*
- *the judge, court administrator, or notary public before whom a complaint is made upon oath, as required under Rule 2.01, subd. 2;*
- *the prosecutor, as required under Rule 2.02; and*
- *the judge, indicating a written finding of probable cause, as required under Rule 4.03, subd. 4.*

There are currently no signature requirements in the rules for citations or tab charges.

It is anticipated that if a complaint is commenced electronically, any actor in the chain (e.g., prosecutor or judge) could choose to print the complaint and proceed by filing a hard copy. If paper filing occurs, Rule 1.06, subd. 3, clarifies that any signatures affixed electronically and shown on the hard copy complaint are valid so long as the signatures were affixed in compliance with the electronic signature standard under paragraph (2).

Electronic Notarization, as required under Rule 1.06, subd. 4, is governed by Minnesota Statutes, chapters 358 and 359.