

AMENDMENTS TO THE RULES OF CRIMINAL PROCEDURE

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

1. Amend Rule 23.05 as follows:

Rule 23.05 Procedure in Petty Misdemeanor Cases

Subd. 1. No Right to Jury Trial. No right to a jury trial exists in a misdemeanor charge certified as a petty misdemeanor under Rule 23.04.

Subd. 2. Right to Public Defender Representation ~~Appointed Counsel~~. Upon certification of a misdemeanor as a petty misdemeanor, the defendant is not entitled to representation by the public defender. In cases that require the defendant's consent to certification, and the prosecutor moves for certification, the judge must advise an unrepresented defendant of the right to apply for a public defender. ~~A defendant charged with a misdemeanor offense certified as a petty misdemeanor cannot qualify for court appointed counsel unless the offense involves moral turpitude. In these cases the defendant must qualify financially prior to appointment.~~

Subd. 3. General Procedure. A defendant charged with a petty misdemeanor violation is presumed innocent until proven guilty beyond a reasonable doubt. Except as otherwise provided in Rule 23, the procedure in petty misdemeanor cases must be the same as for misdemeanors punishable by incarceration.

Subd. 4. Failure to Appear. If a defendant charged with a petty misdemeanor, or a misdemeanor on the Statewide Payables List that is certified as a petty misdemeanor, fails to appear or respond as directed on the citation or complaint, a guilty plea and conviction may be entered, the payable fine amount no greater than the maximum fine for a petty misdemeanor, and any applicable fees and surcharges may be imposed, and the matter referred to collections. Conviction must not be entered until 10 days after the failure to appear.

Subd. 5. Withdrawal of Plea. A defendant convicted under subdivision 4 may move under Rule 15.05 to withdraw the guilty plea and vacate the conviction.

2. Delete the following form from the Appendix of Forms:

Form 47 Application for Public Defender