

JUVENILE COURT

Minnesota Rules of Juvenile Delinquency Procedure

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**Pilot Project Provisions for E-Filing and E-Service in
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Minnesota Rules of Juvenile Delinquency Procedure

Rules effective May 1, 1983
With amendments effective December 1, 2012

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Rule 3. Right to Counsel

[For text of 3.01 to 3.07, see M.S. 2012, Volume 15]

3.08 Certificates of Representation

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

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

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

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

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

(Added December 12, 1998, for all juvenile actions commenced or arrests made on or after 12 o'clock midnight January 1, 1998; amended effective December 1, 2012.)

[For text of Comment--Rule 3, see M.S. 2012, Volume 15]

Rule 5. Detention

[For text of 5.01 to 5.03, see M.S. 2012, Volume 15]

5.04 Release or Continued Detention**Subdivision 1. For Child Taken Into Custody Pursuant to Court Order or Warrant.**

(A) *Detention Required.* Unless the court orders an earlier release, the child may be detained for thirty-six (36) hours after being taken into custody, excluding Saturdays, Sundays and holidays.

(B) *When Release is Mandatory.* Unless the time for the detention hearing is extended by twenty-four (24) hours pursuant to Rule 5.07, subdivision 7, the child shall be released no later than thirty-six (36) hours after being taken into custody, excluding Saturdays, Sundays and holidays, unless the court orders continued detention following a detention hearing commenced within that time period.

Subd. 2. For Child Taken Into Custody Without a Court Order or Warrant.

(A) *Exception Permitting Detention.* The officer taking a child into custody without a court order or warrant shall release the child unless the officer reasonably believes, after consideration of the factors set out in Rule 5.03, that:

- (1) the child would endanger self or others;
- (2) the child would not appear for a court hearing;
- (3) the child would not remain in the care or control of the person into whose lawful custody the child is released; or
- (4) the child's health or welfare would be immediately endangered.

There is a presumption that a child will not appear for a court hearing when the person to whom the child is to be released refuses to sign a written promise to bring the child to court.

(B) *Discretionary Release Any Time Before Detention Hearing.* The detaining authority has discretion to release a child any time before the detention hearing if other less restrictive measures would be adequate.

(C) *When Release is Mandatory.* Unless the time for the detention hearing is extended by twenty-four (24) hours pursuant to Rule 5.07, subdivision 7, the child shall be released no later than thirty-six (36) hours after being taken into custody, excluding Saturdays, Sundays and holidays, unless the court orders continued detention following a detention hearing commenced within that time period.

Subd. 3. Child Taken Into Custody and Placed in an Adult Jail or Municipal Lockup.

(A) *Generally.* The child shall be released no later than twenty-four (24) hours after being taken into custody, excluding Saturdays, Sundays and legal holidays, unless within that time period, a charging document has been filed with the court and the court has determined at a detention hearing that the child shall remain detained. If the court's decision at the detention hearing is that the child shall remain detained, the child shall be detained at a juvenile facility in accordance with Rule 5.02, subdivision 3. The court may extend the time for a detention hearing for good cause pursuant to Rule 5.07, subdivision 7 only if a charging document has been filed with the court within twenty-four (24) hours of the child being taken into custody, excluding Saturdays, Sundays and legal holidays.

(B) *Adult Jail or Municipal Lockup in a Standard Metropolitan Statistical Area.* If the jail or municipal lockup is in a standard metropolitan statistical area, the child shall be held no longer than six (6) hours after the child was taken into custody including Saturdays, Sundays and holidays unless a charging document has been filed with the court within that time period and the court has determined after a detention hearing that the child

shall remain detained. If the court's decision at the detention hearing is that the child shall remain detained, the child shall be detained at a juvenile facility in accordance with Rule 5.02, subdivision 3. The time for a detention hearing shall not be extended.

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. 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. If probable cause is determined on facts contained in a written document and the judge is not personally present to sign the determination, the document shall be presented to the judge for signature within two (2) business days. The judge shall be advised if a prior request for a probable cause determination was made and turned down relative to the same incident.

(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, 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.

Subd. 5. Release of Any Child at Any Time by the Court and Conditions of Release. Only the court may impose conditions of release. The court at any time may release a child and may impose one or more of the following conditions:

- (A) require the parent(s), legal guardian, legal custodian or child to post bail;
- (B) place restrictions on the child's travel, associations or place of abode during the period of the child's release; or
- (C) electronic home monitoring or any other conditions deemed reasonably necessary and consistent with factors for detaining the child.

Unless the time for the detention hearing is extended by twenty-four (24) hours pursuant to Rule 5.07, subdivision 7, all conditions of release which restrict the physical liberty of a child terminate after thirty-six (36) hours excluding Saturdays, Sundays and legal holidays unless a detention hearing has commenced and the court has ordered continued detention.

Subd. 6. Release to Custody of Parent or Other Responsible Adult. A child released from a place of detention shall be released to the custody of the child's parent(s), legal guardian, or legal custodian if deemed appropriate by the detaining authority. If these individuals are unavailable or deemed inappropriate, the detaining authority may release the child to a member of the extended family or kinship network or other suitable adult deemed appropriate by the detaining authority and acceptable to the child.

(Amended effective for all juveniles taken into custody and all juvenile delinquency actions commenced or children taken into custody after 12 o'clock midnight September 1, 2003; amended effective for all delinquency actions commenced or children taken into custody after 12 o'clock midnight January 1, 2008; amended effective December 1, 2012.)

[For text of 5.05 to 5.08, see M.S. 2012, Volume 15]

[For text of Comment--Rule 5, see M.S. 2012, Volume 15]

Rule 6. Charging Document

6.01 Generally

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

(Amended effective December 1, 2012.)

6.02 Tab Charge or Citation

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

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

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

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

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

(Amended December 12, 1998, for all juvenile actions commenced or arrests made on or after 12 o'clock midnight January 1, 1998; amended effective for all juveniles taken into custody and all juvenile delinquency actions commenced or children taken into custody after 12 o'clock midnight September 1, 2003; amended effective December 1, 2012.)

[For text of 6.03 to 6.08, see M.S. 2012, Volume 15]

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 for these offenses to get cases to court more promptly.

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 2002, section 260B.007, subdivision 16. 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 2002, section 260B.141, subdivision 1, 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 subds 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 published by the State Court Administrator on the Minnesota Judicial Branch Web site.

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

Rule 8. Pleas

[For text of 8.01 and 8.02, see M.S. 2012, Volume 15]

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.

(Amended effective for all juveniles taken into custody and all juvenile delinquency actions commenced or children taken into custody after 12 o'clock midnight September 1, 2003; amended effective December 1, 2012).

[For text of 8.04, see M.S. 2012, Volume 15]

[For text of Comment--Rule 8, see M.S. 2012, Volume 15]

Rule 15. Delinquency Disposition

[For text of 15.01 to 15.04, see M.S. 2012, Volume 15]

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, subdivision 1, clause (1) or (2).

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

Subd. 2. Considerations; Findings.

(A) The dispositional order made by the court shall contain written findings of fact to support the disposition ordered and shall set forth in writing the following information:

(1) why public safety and the best interests of the child are served by the disposition ordered;

(2) what alternative dispositions were recommended to the court and why such recommendations were not ordered; and

(3) if the disposition changes the place of custody of the child:

(a) the reasons why public safety and the best interest of the child are not served by preserving the child's present custody; and

(b) suitability of the placement, taking into account the program of the placement facility and assessment of the child's actual needs.

(B) When making a disposition, the court shall consider whether a particular disposition will serve established principles of dispositions, including but not limited to:

(1) Necessity. It is arbitrary and unjust to impose a disposition that is not necessary to restore law abiding conduct. Considerations bearing on need are:

(a) Public Safety. The risk to public safety, taking into account:

(i) the seriousness of the alleged offense in terms of community protection, including the existence of any aggravating factors recognized by the Minnesota Sentencing Guidelines, the use of a firearm, and the impact on any victim;

(ii) the culpability of the child in committing the alleged offense, including the level of the child's participation in planning and carrying out the offense and the existence of any mitigating factors recognized by the Minnesota Sentencing Guidelines;

(iii) the child's prior record of delinquency;

(iv) the child's programming history, including the child's past willingness to participate meaningfully in available programming; and

(b) Proportionality. The principle that the disposition be proportional, that is, the least restrictive action consistent with the child's circumstances.

(2) Best Interests. A disposition must serve the best interests of the child, but this does not supersede the requirement that the disposition be necessary. The promise of benefits in a disposition, or even the suggestion that a particular disposition is best for the child, does not permit a disposition that is not necessary.

(3) Out-of-Home Placement. Public policy mandates that the best interests of the child are normally served by parental custody. Where an out-of-home placement is being considered, the placement should be suitable to the child's needs. A placement that is not suited to the actual needs of the child cannot serve the child's best interests.

(4) Sanctions. Sanctions, such as post-adjudication placement in a secure facility, are appropriate where such measures are necessary to promote public safety and reduce juvenile delinquency, provided that the sanctions are fair and just, recognize the unique characteristics and needs of the child and give the child access to opportunities for personal and social growth. In determining whether to order secure placement, the court shall consider the necessity of protecting the public, protecting program residents and staff,

and preventing juveniles with histories of absconding from leaving treatment programs. Other factors that may impact on what sanctions are necessary include: any prior adjudication for a felony offense against a person, prior failures to appear in court, or prior incidents of running away from home.

(5) Local Dispositional Criteria. The disposition should reflect the criteria used for determining delinquency dispositions in the local judicial district.

Subd. 3. Duration. A dispositional order transferring legal custody of the child pursuant to Minnesota Statutes, section 260B.198, subdivision 1, paragraph (c), 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 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 being held in detention, the court may continue the case without adjudication for a period not to exceed ninety (90) days from the date of disposition. The court may extend the continuance for an additional successive period not to exceed ninety (90) days.

(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, subdivision 1, paragraph (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, subdivision 4(B) or (C), or juvenile court jurisdiction over the charges terminates.

(Amended effective for all juveniles taken into custody and all juvenile delinquency actions commenced or children taken into custody after 12 o'clock midnight September 1, 2003; amended effective December 1, 2012).

[For text of 15.06 to 15.08, see M.S. 2012, Volume 15]

[For text of Comment--Rule 15, see M.S. 2012, Volume 15]

Rule 25. Notice

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

Subdivision 1. Summons. A summons is a document personally served on a person directing that person to appear before the court at a specified time and place. If the person

summoned fails to appear, the court may issue an arrest warrant or, for the child, a warrant for immediate custody.

Subd. 2. Notice in Lieu of Summons. A notice in lieu of summons is a document mailed 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 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.

Subd. 3. Oral Notice on the Record. The court may schedule further proceedings by oral notice to all persons present. Oral notice on the record shall be sufficient notice to all persons present. Any person not present who is entitled to notice, shall receive written notice.

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

(A) *Service By Facsimile or Other Electronic Transmission.*

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

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

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

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

(Amended effective for all juveniles taken into custody and all juvenile delinquency actions commenced or children taken into custody after 12 o'clock midnight September 1, 2003; amended effective December 1, 2012.)

[For text of 25.02, see M.S. 2012, Volume 15]

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 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, 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 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.* On or before the date set for appearance, the person who served notice in lieu of summons by mail shall file a written statement with the court showing:

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

(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; and
- (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 with the court showing:

- (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; and
- (3) the reason why notice in lieu of summons was not sent by First Class Mail 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.

(Amended effective for all juveniles taken into custody and all juvenile delinquency actions commenced or children taken into custody after 12 o'clock midnight September 1, 2003; amended effective December 1, 2012).

[For text of 25.04, see M.S. 2012, Volume 15]

Comment--Rule 25

Pursuant to Minnesota Statutes 1994, section 260.141, subdivision 1, 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 acknowledgment or by personal service. The legislature has since amended Minnesota Statutes, section 260.141, subdivision 1, to comport with this rule. Minnesota Laws 1996, chapter 408, article 6, sections 3 and 12; see Minnesota Statutes 2002, section 260B.152, subdivision 1.

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 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.

Rule 27. Motions

[For text of 27.01, see M.S. 2012, Volume 15]

27.02 Service of Motions

Subdivision 1. When Required. Every written motion along with any supporting affidavits 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. Service by mail shall be complete upon mailing to the last known address of the person to be served. Service may be made by electronic means if authorized by an order of the Minnesota Supreme Court and if service is made in accordance with that order; service by electronic means is complete as provided in that order.

Subd. 3. Time. Any motion required by this rule to be served, along with any supporting affidavits, 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.

(Amended effective December 1, 2012).

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.

**PILOT PROJECT PROVISIONS FOR E-FILING AND
E-SERVICE
IN JUVENILE DELINQUENCY MATTERS**

Effective December 1, 2012

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TEXT

**PILOT PROJECT PROVISIONS FOR E-FILING AND E-SERVICE IN
JUVENILE DELINQUENCY MATTERS**

1a. Who May Electronically File and Serve.

During the Pilot Project, attorneys, government agencies, and parties designated by the State Court Administrator in consultation with the district court may, upon registering with the electronic filing service provider designated by the State Court Administrator ("Designated Provider"), electronically file documents other than charging documents¹ with the district courts designated by the State Court Administrator ("Districts Courts"). Electronic filing and electronic service shall be accomplished through the Designated Provider's Internet-accessible electronic filing and service system ("E-Filing System").

Registered attorneys, government agencies, and parties may electronically serve documents on other registered attorneys, government agencies, and parties in juvenile cases provided that the attorney, government agency, or party to be served has designated an e-mail address for receiving electronic service in the E-Filing System.

The District Courts may electronically file and serve any orders, notices, or other documents in juvenile cases provided that the attorney, government agency, or party to be served has designated an e-mail address for receiving electronic service in the E-Filing System.

(Added effective December 1, 2012.)

¹ Electronic filing of charging documents is addressed in Paragraph 1c.

1b. What Documents May Be Electronically Transmitted; Alternative Method.

In addition to motions required to be served and filed under Minn. R. Juv. Del. P. 27, notices sent to counsel under Minn. R. Juv. Del. P. 25, and documents specifically authorized by court rule to be served by electronic means, other documents may be electronically filed, provided, or made available under this Order. Such documents include, but are not limited to: (a) detention reports under Minn. R. Juv. Del. P. 5.05 subd 4; (b) predisposition reports under Minn. R. Juv. Del. P. 15.03 subd 4; (c) certification study reports under Minn. R. Juv. Del. P. 18.04 subd 4; and (d) extended jurisdiction juvenile study reports under Minn. R. Juv. Del. P. 19.03 subd 4. Additionally, if authorized by the State Court

Administrator in consultation with the District Court, the documents described in clauses (a)-(d) may be electronically filed with the District Court or provided or made available to government agencies via Court Integration Services. Court Integration Services facilitates application-to-application electronic exchange of data between the court and its business partners; government agencies may register for Court Integration Services under the process established by the State Court Administrator.

(Added effective December 1, 2012.)

1c. Electronic Filing of Charging Documents.

If technologically feasible and if authorized by the State Court Administrator, citations, tab charges and petitions may be filed electronically via Court Integration Services. For electronically filed petitions, the signature of the prosecuting attorney under Minn. R. Juv. Del. P. 6.03 subd 2, must comply with the electronic signature standard approved by the State Court Administrator, and the facts establishing probable cause under Minn. R. Juv. Del. P. 6.05 subd 1, must be set forth in the electronically filed petition, rather than in attached police reports or affidavits.

(Added effective December 1, 2012.)

2. Registration and Designation of E-Mail Address for Service.

An attorney, government agency, or party is registered with the Designated Provider when they have entered into a subscriber agreement with the Designated Provider and obtained an E-Filing System user identification and password generated according to the Designated Provider's protocols. Registered attorneys, government agencies, or parties electronically filing documents shall diligently monitor the E-Filing System filing queue, and designate in the E-Filing System an e-mail address for receiving electronic service, as directed by the District Court. Registered attorneys, government agencies, and parties who have used the E-Filing System for a case shall maintain a designated e-mail address for receiving electronic service until all applicable appeal periods have expired for the case.

(Added effective December 1, 2012.)

3. Document Format.

Documents filed electronically shall be in the format required by Minn. Gen. R. Prac. 14.03.

(Added effective December 1, 2012.)

4. Effect of Electronic Filing or Service.

A document electronically filed or served by the District Court or a registered attorney, government agency, or party under this order has the same legal effect as an original document filed or served in paper form.

(Added effective December 1, 2012.)

5. Signatures.

a. **Applicability of General Rules of Practice.** The provisions of Minn. Gen. R. Prac. 14.04, clauses (a) through (d) apply to all documents electronically filed and served using the E-Filing System.

b. **Certification; Retention.** By electronically filing or submitting a document using the E-Filing System, the registered attorney, government agency, or party filing or serving is certifying compliance with the signature requirements of the applicable rules, and the signatures on the document shall have the same legal effect as the signatures on the original document. A registered attorney, government agency, or party electronically filing or serving a document using the E-Filing System shall maintain the original document bearing actual signatures, if in paper form, or electronic signatures if the original is in electronic

form and shall make the original document available upon reasonable request of the District Court, the signatories, or other parties.

(Added effective December 1, 2012.)

6. Time of Filing; Fees.

A document that is electronically filed under these provisions is deemed to have been filed with the court administrator on the date and time of its transmittal to the District Court through the E-Filing System, and the filing shall be stamped with this date and time subject to acceptance by the court administrator. If the filing is not subsequently accepted by the court administrator (e.g., for nonpayment of all applicable fees, attempted filing into the wrong case, or clearly incorrect venue as indicated in the caption), the date stamp shall be removed and the document electronically returned to the person who filed it. The District Court shall establish procedures for payment of any applicable fees electronically.

(Added effective December 1, 2012.)

7. Effective Date of Service; Timing; Proof.

a. **Service via E-Filing System.** Except when service is otherwise prohibited, service by authorized electronic means using the court's E-Filing System as defined by Minn. Gen. R. Prac. 14 is complete:

(1) upon completion of the electronic transmission of the document(s) to the E-Filing System if the E-Filing System service command is used; and

(2) upon acceptance of the electronic filing by the court, as provided in Rule 14, if the E-Filing System joint service and filing command is used.

b. **Technical Errors; Relief.** A motion for relief because of a technical error may be made, and relief may be granted, as provided in Minn. Gen. R. Prac. 14.01(f).

c. **Proof of Service; Timing.** Proof of service of documents served using the E-Filing System is governed by Minn. Gen. R. Prac. 14.05. The timing and proof of service requirements of Minn. R. Juv. Del. P. 25.03 subds 4 and 5 that apply to service by mail also apply to electronic service.

(Added effective December 1, 2012.)

8. Sealed and Confidential Documents.

Minn. Gen. R. Prac. 14.06 governs electronic filing of sealed and confidential documents, except that during this pilot, a document to be filed under seal or as confidential may be filed in paper form if required or permitted by the court, and a motion to file a document in paper form under seal or as confidential may, but is not required to be, filed and served electronically.

(Added effective December 1, 2012.)

9. Records: Official; Appeal; Certified Copies.

Minn. Gen. R. Prac. 14.07 applies to documents electronically filed under this Order.

(Added effective December 1, 2012.)

10. Access to Documents.

A document electronically filed or served under these provisions shall be accessible as provided in the applicable court rules and statutes, including the Rules of Public Access to Records of the Judicial Branch.

(Added effective December 1, 2012.)