

STATE OF MINNESOTA  
IN SUPREME COURT  
ADM10-8049



**ORDER PROMULGATING AMENDMENTS  
TO THE MINNESOTA RULES OF CRIMINAL PROCEDURE**

In a report filed on May 15, 2023, the Minnesota Supreme Court Advisory Committee on the Rules of Criminal Procedure recommended that Minn. R. Crim. P. 27.03, subd. 4, be modified to require the district courts to assess a defendant’s ability to pay before imposing a sentence that includes a financial obligation, including fines, fees, or surcharges. Report and Proposed Amendments to the Minnesota Rules of Criminal Procedure, No. ADM10-8049 (filed May 15, 2023).

By order filed on June 27, 2023, we established a period for the public to file written comments in response to the report filed by the committee. Order Establishing Public Comment Period on Proposed Amendments to the Minnesota Rules of Criminal Procedure, No. ADM10-8049 (Minn. filed June 27, 2023). No comments were filed.

Having carefully considered the joint proposal of the State Public Defender, Minneapolis City Attorney, St. Paul City Attorney, and the Ramsey County Attorney, and the committee’s recommendations, we agree with the proposed amendment as modified. The new subpart (F) is a substantive change to the rule. The other modifications to the rule are for clarity only and do not change the operation of the rule.

IT IS HEREBY ORDERED that the attached amendments to Minnesota Rules of Criminal Procedure are prescribed and promulgated as shown below. The amendments are effective as of January 1, 2024.

Dated: November 15, 2023

BY THE COURT:

A handwritten signature in black ink that reads "Natalie E. Hudson". The signature is written in a cursive, flowing style.

Natalie E. Hudson  
Chief Justice

## AMENDMENTS TO THE RULES OF CRIMINAL 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 27.03. Sentencing Proceedings

\* \* \*

#### Subd. 4. Sentencing. ~~When pronouncing sentence the court must:~~

(A) When pronouncing a sentence, the court must ~~State~~ precisely state the terms of the sentence.

(B) When pronouncing a sentence, the court must ~~S~~state the number of days spent in custody in connection with the offense or behavioral incident being sentenced. That credit must be deducted from the sentence and term of imprisonment and must include time spent in custody from a prior stay of imposition or execution of sentence.

(C) If the court imposes a departure from the sentencing guidelines, the court must make findings of fact supporting the departure when pronouncing a sentence. The grounds for departure must be: (a) stated in the sentencing order; or (b) recorded in the departure report as provided by the sentencing guidelines commission and attached to the sentencing order required under subdivision 7. The sentencing order and any attached departure report must be filed with the commission within 15 days after sentencing.

(D) If the court is considering a departure from the sentencing guidelines, and no contested sentencing hearing was held, and no notice was given to the parties that the court was considering a departure, the court must allow either party to request a sentencing hearing.

(E) If the court stays imposition or execution of sentence:

- (1) The court must state the length of the stay when pronouncing the sentence.
- (2) In felony cases, the court must tell the defendant that noncustodial probation time will not be credited against a future prison term if the stay is revoked.
- (3) If lawful conduct could violate the defendant's terms of probation, the court must tell the defendant what that conduct is.
- (4) A written copy of the terms of probation must be given to the defendant at sentencing or as soon as possible afterwards.
- (5) The court must inform the defendant that if the defendant disagrees with the probation agent concerning the terms and conditions of probation, the defendant may return to court for clarification.

(F) Before sentencing, the defendant may provide the court with information regarding the defendant's ability to pay a financial obligation, including but not limited to information regarding the defendant's income, resources, expenses, other financial obligations, and any special circumstances. The court must consider any information provided by the defendant before

imposing a financial obligation as part of a sentence. Restitution is governed by Minn. Stat. ch. 611A and not this rule.