

STATE OF MINNESOTA

IN SUPREME COURT

ADM-10-8003

OFFICE OF  
APPELLATE COURTS

MAY 17 2010

FILED

**ORDER ESTABLISHING DEADLINE FOR SUBMITTING  
COMMENTS ON PROPOSED AMENDMENTS  
TO THE RULES OF JUVENILE DELINQUENCY PROCEDURE**

The Supreme Court Juvenile Delinquency Rules Committee has proposed changes to the Rules of Juvenile Delinquency Procedure. This Court will consider the proposed changes without a hearing after soliciting and reviewing comments on the proposed changes. A copy of the committee's report containing the proposed changes is annexed to this order.

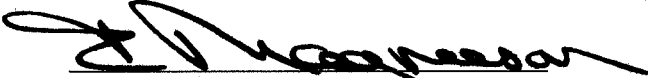
The committee's report and recommended amendments to the rules include changes to various timing requirements intended to comply with a policy adopted by the Judicial Council to coordinate and make uniform under-advisement time deadlines. In the future, the court will also need to consider coordination of the time deadlines in our state court procedural rules with changes in time deadlines recently adopted in the federal court rules. Due to budgetary constraints, we have instructed our rules advisory committees to limit their work to address only critical aspects of the rules at this time. Accordingly, some committees have not yet addressed these timing issues and will not do so for some time. To avoid a piecemeal approach, we will defer consideration of the time deadline amendments recommended in the attached report until a uniform approach is feasible. An opportunity to comment on proposed time deadline amendments will be provided at that time.

IT IS HEREBY ORDERED that any individual wishing to provide statements in support or opposition to the proposed changes shall submit twelve

copies in writing addressed to Frederick Grittner, Clerk of the Appellate Courts,  
305 Judicial Center, 25 Rev. Dr. Martin Luther King Jr. Boulevard, St. Paul,  
Minnesota 55155, no later than Friday, July 16, 2010.

Dated: May 17, 2010

BY THE COURT:



Eric J. Magnuson  
Chief Justice

**REPORT AND PROPOSED AMENDMENTS TO THE  
MINNESOTA RULES OF JUVENILE DELINQUENCY PROCEDURE**

**MINNESOTA SUPREME COURT  
JUVENILE DELINQUENCY RULES COMMITTEE**

**CX-01-926**

**May 10, 2010**

Honorable Michelle A. Larkin, Chair

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Shereen Askalani  
Hon. Tanya M. Bransford  
Cathy Celander  
Hon. Francis J. Connolly  
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Leslie J. Rosenberg  
Daniel Sadowski

Hon. Christopher Dietzen  
Supreme Court Liaison

Karen Kampa Jaszewski  
Staff Attorney

## **INTRODUCTION**

The Juvenile Delinquency Rules Committee met between February 2008 and April 2010 pursuant to the Minnesota Supreme Court's fourfold charge to:

1. Review case law relating to the Juvenile Delinquency Rules;
2. Review federal and state statutes relating to the Juvenile Delinquency Rules;
3. Monitor implementation of and consider requests for revision to the Juvenile Delinquency Rules; and
4. Submit to the Supreme Court recommendations for necessary revision of the Juvenile Delinquency Rules.

The following report summarizes the issues considered by the Committee and the recommended changes to the Juvenile Delinquency Rules of Procedure. The report is organized by topic and the proposed amendments are organized by rule number.

## **WORK PLAN**

At its last meeting, the Committee discussed the Chief Justice's directive that committee work be "restricted to address only changes that are immediately necessary." The Committee agreed that unless and until critical issues are presented to the Committee that would necessitate a meeting, the Committee will be on hiatus.

## **UNDER ADVISEMENT TIMELINES**

In 2008, the Judicial Council asked that each committee review their rules to bring the under-advisement timelines in line with new uniform timelines established in Judicial Council Under Advisement Policy No. 514. The Committee reviewed all of the Rules of Juvenile Delinquency Procedure that include a timeline for judicial decision-making "to reduce decision-making timelines to 3, 15, 30, and 90 days, in most cases" as recommended by the Judicial Council Policy. Proposed amendments to a number of rules resulted from that review and were intended to achieve the Policy's goal of providing practitioners with a simpler and more understandable set of timelines for judicial decision-making. In most instances, the Committee proposed the suggested timeline closest to the existing timeline (e.g., from 5 days to 3 days, from 14 days to 15 days). However, in a few rules, changing the timeline led to discussion about reorganization of the rule. Thus, the Committee is proposing some additional amendments to Rules 13.09, 15.02, 16.01, and 20.01 to better accomplish the goal of timely decision-making.

Rule 13.09. In discussing the appropriate Under Advisement timeline for Rule 13.09, currently a 7-day timeline for findings after trial, the Committee agreed that the rule should be updated to require detailed findings. The Committee determined that 3 days for decision plus 15 for written findings would be appropriate. The Committee then agreed that the rules should be amended to provide that the time for appeal runs from the issuance of the written findings. Thus the Committee proposes an amendment to Rule 16.01, subdivision 3, to provide that the timing of new trial motions is triggered when the court's "specific" trial findings are made under Rule 13.09. The amendment to Rule 16.01, subdivision 3, is only recommended if the proposed amendment to Rule 13.09 is adopted.

Rule 15.02. The Committee discussed Rule 15.02, subdivision 2, which contains the timelines for a Rule 15.05 dispositional order for out of custody and in-custody juveniles, respectively. The Committee discussed the difficulties associated with a county transfer case, where decision within the proposed timelines may not be possible. The consensus was that a reduction from 45 to 30 days would be appropriate for subdivision 2(A), to conform to the Under Advisement Policy, and 15 would remain the timeline in subdivision 2(B). Furthermore, a new clause (C) is proposed which would provide that the court shall enter a dispositional order “as early as practicable but within 90 days from the finding that the charges have been proved for a child not held in detention in cases involving a transfer of file under subdivision 4.”

The Committee also agreed that the timing provisions of Rule 15.02 should be changed to govern the timing of the disposition hearing, as opposed to just the dispositional order. The Committee also proposes connecting the remedy provisions in subdivision 3 (release and dismissal) to both the timing of the hearing and the timing of the order. The reason is that if the remedies are limited to the court’s failure to hold a timely hearing, there could be a situation in which the child has a timely disposition hearing, the court fails to enter a timely dispositional order, and the child remains in detention with no remedy. If the remedies are limited to the court’s failure to enter a timely dispositional order, there could be a situation in which the child is denied a timely disposition hearing, but the court could ultimately issue a timely dispositional order, leaving the child without a remedy for prejudice that may result from the delayed hearing. Accordingly, the Committee proposes amending subdivision 3 to provide the remedies of release and dismissal for violation of either the timing of the hearing or entry of the order.

The Committee also discussed whether changes were needed to the rule governing transfer cases, Rule 15.02, subdivision 4, but determined that if that rule needs to be addressed, that issue should be raised separately and not decided within the context of the under-advisement timeline review.

### **AN IMPORTANT NOTE ON RECOMMENDED TIMING CHANGES**

After the Committee had completed its work to conform the rules to the Under Advisement Policy, and agreed on the proposed changes needed to accomplish the policy’s goal, a request was made that certain committees consider whether to align their timing rules with recent changes to the federal rules. While the Juvenile Delinquency Rules Committee was not contacted directly with this request, the Committee was concerned that the potential change in timing in other rules of procedure could create a situation where the juvenile delinquency rules could end up out of synch rather than in synch with other rules, which was the goal of the changes the Committee approved in 2008 pursuant to the Under Advisement Policy.

For example, one change the Committee approved in a few rules was a switch from 14 days to 15; the federal rules now calculate in 7-day increments, which would favor a 14-day timeline. Because of the potential that the timing changes the Committee approved in 2008 were no longer necessary or desirable, a decision was made to hold off on filing the final report until more information was available regarding what other committees intended to do. Very soon, it appeared that at least one or two committees were taking steps to conform their rules to the federal rules. Therefore, the Committee asks that the Supreme Court first determine whether the

goal of timely and consistent decision-making will be furthered or hindered by the timing changes the Committee agreed to recommend. There are a number of proposed rules changes that only involve a change in timing. No other collateral changes were made. The proposed rules changes that are solely related to timing, and were recommended to conform to the Under Advisement Policy, are presented in red type for ease of identification. If the Supreme Court agrees that those timing changes are no longer necessary or desirable, the Committee would ask that those proposed rules changes not be adopted.

However, as discussed above, in the context of addressing timing changes, the Committee did recommend further changes to a number of rules, specifically Rules 13.09, 15.02, subdivisions 1-3, 16.01, subdivision 3, and 20.01, subdivision 4(E). The Committee would ask that the Supreme Court apply the same consideration to these rules regarding the timing changes. If the Supreme Court determines that the timing changes are unnecessary, the Committee would ask that the proposed changes in timing not be promulgated. However, the Committee still recommends the other changes proposed in those rules. For ease of identification in those four rules, the proposed timing changes are in red type, and the remaining proposed changes are in black type.

For example, it is important to distinguish the changes proposed for Rule 13.09, as well as Rule 16.01, subdivision 3, that go beyond changes in the actual timeline for decision-making. If the Court decides to leave the timelines for decision-making unchanged, which in Rule 13.09 involves a change from 7 days to 3 days, the Committee still recommends that the changes to Rule 13.09 requiring detailed findings be adopted, and that Rule 16.01, subdivision 3, be changed so the appeal is triggered by those detailed findings. However, the timeline for the written decision in Rule 13.09 could be a number other than 15, which was recommended solely because it was an acceptable timeline in the Under Advisement Policy. If the federal timing is now preferred, 14 days may be a more appropriate timeline for written decision in Rule 13.09.

Finally, as to the recommended changes to Rule 15.02, the change from 45 to 30 days in subdivision 1(A) was made solely to comply with the Under Advisement Policy, and is therefore shown in red type. All other changes are recommended for reasons other than the Under Advisement Policy. Thus the Committee recommends that all other changes be made, even if the Court determines that the change from 45 to 30 days is unnecessary.

## **JUVENILE PAYABLES**

The Committee considered a request by the Judicial Council that a rule be proposed to support the practice of allowing juveniles to pay a fine in lieu of appearing in court when charged with offenses on the Statewide Payables Lists. Currently, a comment to Rule 6 recognizes the practice, but the practice is not addressed directly in the rules. There are districts that do allow juveniles the option of paying a fine in certain cases in lieu of appearing in court. Thus the practice is already occurring to some degree.

The Committee expressed their concerns over adopting a rule authorizing juvenile payables, especially as applied to juvenile alcohol or drug offenses. At a minimum, the Committee believed that any such rule should require a waiver of rights as stated in Rule 17.06. Also, there were concerns that if juvenile payables are authorized, the courts will not impose the

mandatory dispositions under Minn. Stat. § 260B.235, subd. 6, which are required for a third or subsequent alcohol, controlled substance, or juvenile petty offense.

Another concern raised was the possibility that a parent or grandparent may be paying the citation on behalf of the juvenile without the juvenile's knowledge. However, it was also acknowledged that for a number of offenses, it is a burden on parents to take time off and appear in court for what may be a relatively short and uncontroversial hearing. A suggestion was made, in consideration of a parent's right to participate under Rule 2.04, subdivision 3, that any rule authorizing payables should require both the juvenile's and a parent's signature or acknowledgement.

Members also questioned whether there would still be a possibility to petition juveniles into court on status offenses without making the case a delinquency matter. There was an additional concern that even if they could, juveniles might pay these citations before the county attorney has a chance to file a petition. Members questioned whether court administration could catch these, which is unclear at this point and will be even less certain as the handling of citations moves to the Minnesota Court Payment Center.

The members discussed whether, with all those stated concerns, they still wanted to recommend a rule change that would authorize juvenile payables. The Committee discussed whether it was acceptable to allow a certain population of juveniles to handle their cases without being seen in court. It was noted that parents may still intervene if they want services. A question was raised as to whether any proposed rule could refer to the mandatory court dispositions provided in statute. But it was clear that any rule that allows payables will in effect allow those juveniles to avoid the mandatory intervention required by statute.

A member noted that in some instances officers using a ticket writer are incorrectly setting adult court dates. Thus the problem of the court not seeing every juvenile the court is supposed to see already exists.

Members also discussed whether the court could impose an enhanced disposition on a subsequent offense if the prior adjudications resulted from these uncounseled pleas. It was noted that juveniles are not entitled to counsel on the first petty offenses, only on the offense where out-of-home placement is an option. Furthermore, it was noted that such repeat offenders would eventually end up in court, and the defense could argue against out-of-home placement based on the fact that the prior offenses were handled without counsel and without an appearance in court.

The Committee then considered whether authorizing juvenile payables would destroy beneficial diversion programs like the *Teen Drive Wright Program*.<sup>1</sup> In current practice, court staff screen some cases for diversion and screen for juveniles with too many prior offenses. There were concerns that authorizing juvenile payables would affect that practice. Staff noted

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<sup>1</sup> The *Teen Drive Wright Program* is the result of a collaborative effort between representatives from the Office of the Wright County Attorney, Wright County Court Services (probation), and the Wright County Bench to develop and implement a diversion program that preserves judicial resources while educating parents and juveniles regarding traffic-safety issues specific to teenage drivers.

that those practices will not be commonplace any longer anyway as the handling of citations is transferred from local courts to the Court Payment Center.

A question was raised as to whether the uniform citation currently addresses juveniles and the rights they are waiving by paying a citation and whether there is a space for parents to sign. In light of the current initiative to establish a Uniform Citation, it is suggested that consideration be given to including any necessary juvenile-specific language.

Ultimately, the Committee agreed that a rule addressing juvenile payables is needed, noting that there are some juveniles who may only commit minor offenses, and that the reality is that the court will not see those juveniles. However, the Committee was persuaded that it was unlikely any prior payable petty offenses could be the basis for enhancement of a subsequent offense or relied on to justify out-of-home placement. Therefore, the Committee decided to move forward and discuss what the rule should provide.

First the Committee discussed the fact that the information provided to the juvenile should include a full and accurate statement of the rights being waived. It should also refer to the mandatory dispositional requirements for a third or subsequent offense and the need to appear in court for a third or subsequent offense. Finally, the rule should require a universal form that contains the waiver and plea language as well as a requirement of a parent's signature or acknowledgement.

The Committee understands that the request from Judicial Council to consider a rule governing juvenile payables was made as part of the Access and Service Delivery initiatives aimed at increasing efficiencies and saving costs. The Committee further understands that the recommended rule changes may not fully meet those goals. However, given the strict statutory provisions regarding the consequences of repeat violations, and the provisions permitting parental involvement at the disposition stage, the Committee was unwilling to go further with the rule. If the Supreme Court would like the Committee to reconsider this issue, and to propose a rule with more flexibility, the Committee will do so.

## **COMPETENCY HEARINGS**

The Committee considered the difference between Minn. R. Juv. Del. P. 20.01 and Minn. R. Crim. P. 20.01. The juvenile rules automatically require a competency hearing, but the criminal rule only calls for a hearing if a party files a written objection to the examiner's report. The Committee discussed the practice in juvenile court and many noted that they like the hearing because it often leads to resolution of the matter, but agreed that setting a contested hearing is not necessary in all cases. Thus the Committee recommends amending Rule 20.01, subdivision 4(A), so that only a review hearing is required, and that a contested hearing will be set only if requested. Furthermore, since the Committee was in the process of reviewing the timelines in the rules, it noticed there was no timeline for decision in Rule 20.01, subdivision 4. The Committee therefore recommends a 15-day timeline for written decision, under subdivision 4(E).



## **JUVENILE PETITION WITH REQUIRED DATA ELEMENTS**

In 2007, Rule 6.03 was amended to require that juvenile delinquency petitions contain certain data elements, and the State Court Administrator published a list of data elements to be included on all juvenile petitions. In light of that rule, the Juvenile Delinquency Petition template needed to be reformatted to incorporate the required elements. The Committee reviewed drafts and provided input as the State Court Administrator's Office worked to develop a new petition. With the approval of the Committee, the petition template has been posted on the court's public website and is available for use by county attorneys statewide.

### **STATE'S RIGHT OF APPEAL**

The Committee also discussed a proposal to expand the state's right of appeal in juvenile cases to conform to the criminal rules. A search of surrounding states indicates that those states have conformity between their juvenile and adult appeal rules. The argument in support of this proposal is that it promotes a fair and open process and system. Currently, there remains some level of secrecy because there is not much review of district court decisions. It was argued that expanded review of judicial decisions would inspire more confidence in the juvenile system and give district court judges more direction. The proposal leaves all of the burdens on the state, but aims to guarantee a fair hearing and an opportunity to be heard.

Part of the proposal was to match the Extended Jurisdiction Juvenile appeals to the adult rule. It was noted that because appeal is part of the trial process, arguably the adult appeal rules already apply in EJJ cases. Members noted that some changes included in the proposal were significant and expanded the rights of appeal to misdemeanors, which is beyond what is allowed under the criminal rules. The proponents of the changes argued that it is not the level of offense that should be the dividing factor since the goal in juvenile cases is to provide services appropriate for the child, not the level of offense. The proponents also argued that because of the broad discretion in juvenile court, there would be a high standard of review. Thus the proposed changes would not change the day-to-day workings of juvenile court, but would ensure that egregious mistakes are caught. Furthermore, it was noted that the variations in adjudications are wide and without more specific guidance for district courts, the results can be unfair to juveniles.

The Committee discussed the fact that while the concept may be supportable as to certain individual cases, it would be a significant change that could not be decided without more time and consideration. It was noted that the appellate bench is already overwhelmed and if the system is not in jeopardy, the Committee should be very careful about changing it. Juvenile court is intentionally different, the amount of discretion given to judges is purposeful, and although that may result in unfairness on occasion, appeals by the state in juvenile matters are disfavored in case law. Furthermore, concerns were raised that the Committee member from the public defender's appellate office was out of the country and her opinion would be very valuable to the discussion. Members questioned whether any changes in this area are immediately necessary or whether they could wait in light of the member's absence, and in light of the Chief Justice's request that committees not address issues unless necessary.

The proponents noted that there are public safety concerns raised in cases where the district court's decision fails to adequately address the juvenile's needs and thus there are urgencies that justify change in this area and the public would support it. For example, where DNA collection and offender registration should be happening and is not, the public would support efforts to ensure that the district court is doing all it should to protect public safety.

The members noted that even though the changes are meant for only the egregious cases, the reality is that if the rules are changed, they will be used and appeals will dramatically increase. Furthermore, the proposal was very broad and further research was deemed necessary. The Committee therefore decided to take no action on the proposal at this time. Unless this issue is referred back to the Committee as one that requires immediate action, the Committee will not meet again solely to continue the discussion of this issue.

## MISCELLANEOUS

Cameras in the Courtroom. The Committee weighed in on the General Rules Committee's review of the rules governing cameras in the courtroom. The Committee opposed any changes to those rules, and submitted comments to the General Rules Committee and the Supreme Court on the issue.

Dismissal Rules. The Committee discussed and approved adding two new rules, Rules 6.07 and 6.08, to provide for a dismissal procedure similar to that in the Rules of Criminal Procedure.

Continuance without Adjudication. The Committee considered a number of issues regarding the procedure under Minn. Stat. § 260B.198, subd. 7, most of which have been discussed in past years: 1) Whether courts, at the end of a successful continuance without adjudication, should close the file or dismiss the charges. Because the Judicial Branch had referred this issue to legislature, no further action was taken. 2) Whether to request that the Sentencing Guidelines revert to a prior calculation method and assign points based only on adjudications, not findings. The Committee agreed to make this request of the Sentencing Guidelines Commission, and the Chair appeared at a Commission meeting to discuss the request. The Commission approved the requested change, it was included in their final report to the legislature in 2009, and became effective in August 2009. 3) Whether there is any way to extend the 6-month continuance period currently authorized by statute and/or whether a request should be made to the legislature to extend the time period. As to this final issue, the Committee discussed whether that was even an appropriate request considering the Committee's charge, and determined it was not.

Review of Rule 28. The Committee discussed the impact of the new Rule 28, which requires service of all orders along with a notice of filing. When the rule first took effect there was some concern about the amount of work generated. Committee members reported that the new rule has been very beneficial, ensuring that counsel is served with all orders, and court administration members reported that although compliance with the rule is an expense, it has been manageable. With that feedback, the Committee determined that it would not consider any changes to Rule 28 at this time.

Juvenile Expungement Procedure. The lack of a clear juvenile expungement procedure was discussed periodically during the past two years at Committee meetings, but was tabled because the issue was being presented to the legislature. The Committee will revisit the issue as needed when it begins meeting again.

Restrictions on Public Access to Audio. The Committee responded to a concern that the delinquency rules need to be updated in response to an amendment to Rule 4 of the Rules of Access to Records of the Judicial Branch regarding access to audio recordings. After reviewing the amendments to the Rules of Access, the Committee proposes that a sentence be added to Rule 30.02, subdivision 1, to clarify that access to tapes and electronic recordings are governed by the Rules of Access.

Postconviction Relief. The Committee discussed a proposal that the rules governing postconviction relief be amended. The issue identified was the lack of effective appellate review that results from the inability to make a record at the district court when the public defender does not receive the file within the time period allowed for post-trial motions. The Committee weighed the need for effective appellate review against the policy for prompt resolution of juvenile matters. The Committee questioned whether changing the juvenile delinquency rules was the best approach or whether appellate rules changes were needed. It was determined that the interplay between the juvenile delinquency rules, the appellate rules, and the civil procedure rules needed some clarification before the Committee could make any decisions regarding major changes to the juvenile delinquency rules. The Committee does propose adding “ineffective assistance of child’s counsel” as a ground for a new trial motion under Rule 16.01, subdivision 1(H). However, the remaining issues were tabled indefinitely.

Stipulated Facts Trial. The Committee discussed and approved recommending a rule to govern a stipulated facts trial, to mirror Minnesota Rule of Criminal Procedure 26.01. The Committee proposes adding a new subdivision 3 to Rule 13.03 to establish the procedure.

File Copy Requests. The Committee considered whether it should amend Rule 30.02 to specifically allow file copies to be provided to an adult subject of a juvenile file upon request. After discussion the Committee decided to leave Rule 30.02 as it is and leave it to the districts to determine whether an adult can receive a copy of his/her juvenile file through local policy or case-by-case decisions.

Service of Petitions. The Committee considered a request that the rules governing service of juvenile petitions be changed to make the county responsible for service. However, because the issue seemed to be confined to one location, the Committee agreed that no change to the rules was warranted.

Rule 21.03. The Committee discussed a proposal to amend Rule 21.03 in light of the list of appealable final orders that is now contained in the rule. Specifically, the Committee agreed that paragraphs 2 and 3 in subdivision 1 of the rule can be deleted entirely as they are now unnecessary. The Committee also proposes omitting the specific references to statutes in subdivision 1(A)(2) and (3) because: (1) the current reference is incomplete in that several

unreferenced subdivisions of Minn. Stat. § 260B.198 contain dispositional requirements, the violation of which could be a basis for appeal; and (2) there is no reference to the relevant dispositional statutes in other subparts of subdivision 1 (e.g., (4) juvenile petty or juvenile traffic offender proceedings, (7) E.J.J. proceedings, or (9) dispositional modifications). Thus the Committee recommends deleting the references to specific statutes in order to be consistent, and to avoid the risk of an incomplete listing and the need to change the rules if statutes are modified.

Probation Extension. The Committee discussed a request from one county to consider a rule that would allow for an automatic extension of probation for juveniles. The Committee noted that a rule may not be appropriate since it is a statute that provides for such an extension in adult cases. Furthermore, some types of juvenile probation cannot be extended. Upon further research and consideration, it was determined that the court has no authority to extend jurisdiction in stay-of-adjudication cases, and that the question of probation extension is outside the scope of the Committee's work. Thus the item was removed from the Committee's agenda.

Transcripts. The Committee considered a proposal to align the juvenile delinquency rules with the criminal rules so that parties are allowed to stipulate to a transcript of a videotape or audiotape exhibit rather than requiring the court reporter to prepare a transcript for appeal. If the parties cannot agree, a transcript may still be ordered from the court reporter. The Committee approved a proposed change to Rule 21.03, subdivision 2(B)(3)(c), that mirrors the 2010 criminal rules language.

Disclosure Issues. The Committee also considered a proposal to conform the juvenile delinquency rules to the criminal rules as it relates to disclosure requirements. A motion was made to amend Rule 10.04, subdivision 1(A), to require the prosecutor to disclose any defense witness statements, and to amend Rule 10.05, subdivision 1(C)(3) to require the child's counsel to disclose any prosecution witness statements. The motion to amend the juvenile rules to conform to the criminal rules carried. However, the Committee was unable to agree on proposed language to effectuate the change. The proposal was intended to broaden the child's disclosure responsibility, but there was concern that the proposed change to Rule 10.04, subdivision 1(A), could be interpreted as limiting the state's disclosure responsibility. Having decided that the Committee will be on hiatus unless presented with requested rules changes that are "immediately necessary," further consideration of the language necessary to implement the agreed upon amendment is on hold until the Committee is required to meet again.

Criminal Rules Cross-References. Finally, the Committee recommends a number of amendments needed to provide correct cross-references to the Rules of Criminal Procedure, which were revised effective January 1, 2010.

Respectfully Submitted,

JUVENILE DELINQUENCY  
RULES COMMITTEE

## PROPOSED AMENDMENTS TO THE RULES OF JUVENILE DELINQUENCY PROCEDURE

*Note: Throughout these proposals, deletions are indicated by a line drawn through the words, and additions are underlined. A double underline indicates that the proposed text, if approved by the Court, should also be underlined in the final publication.*

**1. Amend the Comments to Rule 3, paragraph 15, as follows:**

*In State v. Rubin, the court described the type of "penetrating and comprehensive examination" that must precede a "knowing and intelligent" waiver and strongly recommended the appointment of counsel "to advise and consult with the defendant as to the waiver." See also ABA Standards of Criminal Justice, Providing Defense Services, sections 5.7.3 (1980); Minn. R. Crim. P. ~~5.025.04~~. Minn. R. Juv. Del. P. 3.04, subd. 1 prescribes the type of "penetrating and comprehensive examination" expected prior to finding a valid waiver. Prior to an initial waiver of counsel, a child must consult privately with an attorney who will describe the scope of the right to counsel and the disadvantages of self representation. Following consultation with counsel, any waiver must be in writing and on the record, and counsel shall appear with the child to assure the court that private consultation and full discussion has occurred.*

**2. Amend the Comments Rule 3, paragraph 18, as follows:**

*Minn. R. Juv. Del. P. 3.06 prescribes the standard to be applied by the court in determining whether a child or the child's family is sufficiently indigent to require appointment of counsel. The standards and methods for determining eligibility are the same as those used in the Minn. R. Crim. P. ~~5.025.04~~, subs. 3-5.*

**3. Amend Rule 4.01 as follows:**

Rule 4.01 Search Warrants Upon Oral Testimony

Issuance of search warrants based on oral testimony is governed by Minnesota Rules of Criminal Procedure ~~33.0633.04~~ 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.

**4. Amend Rule 5.07, subd. 6, as follows:**

**Subd. 6. Order.**

(A) *Release.* The child shall be released if the findings required by Rule 5.07, subdivision 5 are not made.

(B) *Detention.* If the findings required by Rule 5.07, subdivision 5 are made, the court may order continued detention or release with the posting of bail or bond and other

conditions deemed appropriate by the court. An order stated on the record shall also be reduced to writing by the court within ~~five (5)~~three (3) days of entry of the order.

(C) *Notice of Next Hearing.* On the record, the court shall advise all persons present of the date, time, and place of the next hearing. If persons entitled to participate at the next hearing are not present, the court shall provide those persons with notification of the next hearing by written notice of hearing. If the child is released, the child may be required to sign a promise to appear.

**5. Amend Rule 5.08, subs. 1 and 2, as follows:**

**Rule 5.08 Detention Review**

**Subdivision 1. Informal Review.** An informal review of detention shall be made by the court every eight (8) days, excluding Saturdays, Sundays, and holidays, of the child's detention. If the circumstances justifying detention have not changed, detention may be continued. If the circumstances justifying detention have changed, detention may be modified with consent of the child, child's counsel, and the prosecuting attorney. An order stated on the record shall also be reduced to writing by the court within ~~five (5)~~three (3) days of entry of the order.

**Subd. 2. Formal Review.** The court may schedule a formal review of detention at any time.

(A) *Request by Child, Child's Counsel or Prosecuting Attorney.* If the court finds a substantial basis exists for the request to schedule a hearing to review detention, a hearing shall be scheduled as soon as possible, and at least within eight (8) days of the request.

(B) *Notice.* The person requesting a formal review shall make the request by motion as provided in Rule 27.

(C) *Relevant Evidence.* Subject to constitutional limitations and privileged communications, the court may admit any evidence, including reliable hearsay and opinion evidence that is relevant to the decision regarding continued detention of the child.

(D) *Continued Detention.* The court may continue the child in detention if the court makes findings pursuant to Rule 5.07, subdivision 5. An order stated on the record shall also be reduced to writing by the court within ~~five (5)~~three (3) days of entry of the order.

**6. Amend Rule 6.05, subd. 3, as follows:**

**Subd. 3. Motion to Dismiss for Lack of Probable Cause.** The child may bring a motion to dismiss the charging document for lack of probable cause. The probable cause determination is governed by the procedure set out in Minnesota Rules of Criminal Procedure ~~11.03~~11.04.

7. **Add a new subdivision 3 to Rule 6.06 as follows:**

Subd. 3. Payment of Citation in Lieu of Court Appearance. When a child is charged by citation with an offense or offenses listed on the Statewide Payables List, the child may enter a plea of guilty before the scheduled arraignment date by paying the fine amount established by the Judicial Council, and any applicable fees and surcharges, and by submitting a Plea and Waiver Form signed or acknowledged by the child and the child's parent.

The Plea and Waiver Form shall advise the child that payment constitutes a plea of guilty and an admission (a) that the child understands the nature of the offense alleged; (b) that the child makes no claim of innocence; (c) that the child's conduct constitutes the offense(s) to which the child is pleading guilty; (d) that the plea is made freely, under no threats or promises, and (e) that the child has the following rights which the child voluntarily waives:

- (1) the right to the appointment of counsel if the child is subject to out-of-home placement as provided in Minnesota Statutes, section 260B.235, subdivision 6;
- (2) the right to trial;
- (3) the presumption of innocence until the prosecuting attorney proves the charges beyond a reasonable doubt;
- (4) the right to remain silent;
- (5) the right to testify on the child's own behalf;
- (6) the right to confront witnesses against oneself;
- (7) the right to subpoena witnesses;

The Plea and Waiver Form shall also advise the child that mandatory disposition requirements for a third or subsequent offense may require an appearance in court and may result in the imposition of certain dispositions including, but not limited to, those provided in Minn. Stat. § 260B.235, subd. 6.

The Plea and Waiver Form shall be developed and maintained by the State Court Administrator and provided to law enforcement for distribution along with citations issued to juveniles.

8. **Add a new Rule 6.07 as follows:**

**Rule 6.07 Dismissal by Prosecuting Attorney**

The prosecuting attorney may in writing or on the record, stating the reasons therefor, dismiss a petition or citation without leave of court and an indictment with leave of court.

9. **Add a new Rule 6.08 as follows:**

**Rule 6.08 Dismissal by Court**

If there is unnecessary delay by the prosecution in bringing a respondent to trial, the court may dismiss the petition, citation or indictment.

**10. Amend the Comments to Rule 6, paragraph 4, as follows:**

*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. ~~Certain offenses may be resolved without a court appearance by mailing or delivering to the court administrator a payable fine which has been predetermined by the court. Each judicial district may establish a list a minor offenses which may be settled by paying a fine. It is recommended that the list be made part of or considered by the district in establishing its dispositional criteria.~~*

**11. Add a new subdivision 3 to Rule 13.03 as follows:**

**Subd. 3. Trial on Stipulated Facts.** By agreement of the child and the prosecuting attorney, a determination of the child's guilt may be submitted to and tried by the court based on stipulated facts. Before proceeding in this manner, the child shall acknowledge and waive the rights to testify at trial, to have the prosecution witnesses testify in open court in the child's presence, to question those prosecution witnesses, and to require any favorable witnesses to testify for the child in court. The agreement and the waiver shall be in writing or orally on the record. Upon submission of the case on stipulated facts, the court shall proceed as in any other trial pursuant to Rule 13.

**12. Amend Rule 13.09 as follows:**

**Rule 13.09 Findings**

Within ~~seven (7)~~three (3) days of the conclusion of the trial, the court shall ~~find~~make a general finding that the allegations in the charging document have or have not been proved beyond a reasonable doubt. The court shall dismiss the charging document if the allegations have not been proved. AnThe order finding that the allegations of the charging document have been proved shall ~~also~~ state the child's name and date of birth; and the date and county where the offense was committed. ~~The court shall dismiss the charging document if the allegations have not been proved.~~Within fifteen (15) days of the conclusion of the trial, the court shall in addition specifically find the essential facts that support a general finding that the allegations in the charging document have been proved beyond a reasonable doubt in writing. If an opinion or memorandum of decision is filed, it is sufficient if the findings of fact appear therein. If the court omits a finding on any issue of fact essential to sustain the general finding, it shall be deemed to have made a finding consistent with the general finding. Findings may be made on the record, but must be ~~followed up in~~reduced to writing within the ~~seven (7)~~fifteen (15) days required herein. ~~For good cause, the court may extend the time for filing written findings for an additional seven (7) days.~~



**13. Amend Rule 15.02 as follows:**

**Rule 15.02 Timing**

Subdivision 1. Hearing. After the court ~~finds~~ makes a general finding that ~~charges~~ the allegations in the charging document have been proved beyond a reasonable doubt, the court may conduct a disposition hearing immediately or continue the matter for a disposition hearing at a later time as follows:-

(A) for a child not held in detention, within ~~thirty~~ (30) days from the finding that the allegations in the charging document have been proved beyond a reasonable doubt; or

(B) for a child held in detention within fifteen (15) days from the finding that the allegations in the charging document have been proved beyond a reasonable doubt; or

(C) in cases involving a transfer of the file under subdivision 4, for a child not held in detention, as early as practicable but within ninety (90) days from the finding that the allegations in the charging document have been proved beyond a reasonable doubt.

Subd. 2. Order. The court shall enter a dispositional order pursuant to Rule 15.05: within three (3) days of the disposition hearing. For good cause, the court may extend the time to enter a dispositional order to fifteen (15) days from the disposition hearing.

~~(A) within forty five (45) days from the finding that the charges have been proved for a child not held in detention; or~~

~~—— (B) within fifteen (15) days from the finding that the charges have been proved for a child held in detention.~~

Subd. 3. Delay. For good cause, the court may extend the time period to ~~enter a dispositional order~~ conduct a disposition hearing for one additional period of thirty (30) days for a child not held in detention or fifteen (15) days for a child held in detention. Except in extraordinary circumstances, if the court fails to conduct a disposition hearing or enter a dispositional order for a child held in detention within the time limits prescribed by this rule, the child shall be released from detention. If a disposition hearing is not conducted or a dispositional order for a child is not entered within the time limits prescribed by this rule, the court may dismiss the case.

Subd. 4. Transfer of File. If the matter is to be transferred to the child's county of residence for disposition, the court shall direct the court administrator to transfer the file to 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. 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.

**14. Amend Rule 15.08, subd. 5, as follows:**

**Subd. 5. Good Cause.** Within ~~ten (10)~~fifteen (15) days of filing a motion or written request, the court shall determine from the written request or motion and accompanying affidavits, 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)~~fifteen (15) 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.

**15. Amend Rule 16.01, subd. 1, by adding a clause (H) as follows:**

**Rule 16.01 Post-trial Motions**

**Subdivision 1. Grounds.** The court, on written motion of the child's counsel, may grant a new trial on any of the following grounds:

- (A) if required in the interests of justice;
- (B) irregularity in the proceedings of the court or in any court order or abuse of discretion by the court, if the child was deprived of a fair trial;
- (C) misconduct of the prosecuting attorney;
- (D) accident or surprise which could not have been prevented by ordinary prudence;
- (E) material evidence, newly discovered, which with reasonable diligence could not have been found and produced at the trial;
- (F) errors of law occurring at the trial and objected to at the time or, if no objection is required, assigned in the motion; ~~or~~
- (G) the finding that the allegations of the charging document are proved is not justified by the evidence or is contrary to law; or
- (H) ineffective assistance of child's counsel.

**16. Amend Rule 16.01, subd. 3(A), as follows:**

**Subd. 3. Time for Motion.**

(A) *Generally.* Notice of a motion for a new trial shall be served within fifteen (15) days after the ~~finding that the allegations of the charging document are proved~~court's specific findings are made pursuant to Rule 13.09. The motion shall be heard within thirty (30) days after the ~~finding that the allegations of the charging document are proved~~court's specific findings are made pursuant to Rule 13.09 unless the time for the hearing is extended by the court for good cause shown within the thirty (30) day period.

**17. Amend Rule 17.04 as follows:**

**Rule 17.04 The Charging Document and Notice of Arraignment**

A child shall be charged as a juvenile petty offender or juvenile traffic offender pursuant to Rule 6 with proper notice given pursuant to Rule 25. The time for an arraignment shall be the same as that for a delinquency proceeding, and the child may resolve the case by paying a citation in lieu of appearing at arraignment as provided in Rule 6.

**18. Amend Rule 17.09, subd. 2, as follows:**

**Subd. 2. Adjudication and Disposition.** Within ~~forty five (45)~~thirty (30) days from the finding that the allegations of the charging document are proved, the court shall:

(A) *For a Juvenile Petty Offender.* Adjudicate the child a juvenile petty offender and order a disposition pursuant to Minnesota Statutes, section 260B.235, subdivisions 4, 5 and 6.

(B) *For a Juvenile Traffic Offender.* Adjudicate the child a juvenile traffic offender and order a disposition pursuant to Minnesota Statutes, section 260B.225, subdivision 9.

The order may be in writing or on the record. If the order is on the record, the child may request written findings, and the court shall make and file written findings within ~~seven (7)~~fifteen (15) days of the request. The court administrator shall serve the written findings as provided in Rule 28.

**19. Amend Rule 17.09, subd. 4, as follows:**

**Subd. 4. Other Modifications.** Other modification proceedings shall be conducted in the same manner as delinquency modification proceedings pursuant to Rule 15.08 except that the court may not order a delinquency disposition. For a juvenile petty offender, the court may order a disposition pursuant to Minnesota Statutes, section 260B.235, subdivisions 4, 5 and 6 and for a juvenile traffic offender, the court may order a disposition pursuant to Minnesota Statutes, section 260B.225, subdivision 9. The modification order may be in writing or on the record. If the order is on the record, the child may request written findings, and the court shall make and file written findings within ~~seven (7)~~fifteen (15) days of the request.

**20. Amend Rule 18.05, subd. 3, as follows:**

**Subd. 3. Probable Cause Determination.**

(A) *Timing.* Unless waived by the child or based upon an indictment, a hearing and court determination on the issue of probable cause shall be completed within ~~fourteen (14)~~fifteen (15) days of filing the certification motion. The court may, on the record, extend this time for good cause.

(B) *Standard.* A showing of probable cause to believe the child committed the offense alleged by the delinquency petition shall be made pursuant to Minnesota Rules of Criminal Procedure 11.

(C) *Presumption.* Upon a finding of probable cause, the court shall determine whether the presumption for certification under Rule 18.06, subdivision 1 applies.

(D) *Waiver*. The child may waive a probable cause hearing and permit a finding of probable cause without a hearing, provided that the child does so knowingly, voluntarily, and intelligently on the record after being fully and effectively informed of the right to a probable cause hearing by counsel.

**21. Amend Rule 18.07, subd. 1, as follows:**

**Rule 18.07 Order**

**Subdivision 1. Decision, Timing, and Content of Order Following Waiver of Certification Hearing and Stipulation to Certification Order.** When a child waives the right to a certification hearing and stipulates to certification, the court shall, within ~~five~~~~(5)~~three (3) days of that hearing, file an order with written findings of fact and conclusions of law that states:

(A) that adult court prosecution is to occur on the alleged offense(s) specified in the certification order;

(B) a finding of probable cause in accordance with Rule 18.05, subdivision 3, unless the accused was presented by means of an indictment;

(C) findings of fact as to:

(1) the child's date of birth; and

(2) the date of the alleged offense; and

(D) if the child is currently being detained, that:

(1) the child be detained in an adult detention facility; and

(2) the child be brought before the appropriate court (as determined pursuant to Rule 18.08) without unnecessary delay, and in any event, not more than thirty-six (36) hours after filing of the certification order, exclusive of the day of filing, Sundays, or legal holidays, or as soon thereafter as a judge is available.

**22. Amend Rule 18.08, subd. 2(B), as follows:**

**Subd. 2. Child in Detention.** If the child is detained at the time certification is ordered:

(A) If the alleged offense was committed in the same county where certification is ordered, juvenile court jurisdiction terminates immediately and the prosecuting attorney shall file an appropriate adult criminal complaint at or before the time of the next appearance of the child that is stated in the certification order pursuant to Rule 18.07, subdivision 2(A)(4).

(B) If the alleged offense was committed in a county other than where certification is ordered, juvenile court jurisdiction terminates in five (5) days or before if the prosecuting attorney files a complaint as provided under Minnesota Rules of Criminal Procedure 2. If juvenile court jurisdiction has terminated under this subsection before an appearance of a detained child following issuance of an order certifying the case, the appearance shall constitute a first appearance in criminal proceedings as provided in the Minnesota Rules of Criminal Procedure. If juvenile court jurisdiction has not terminated by the time a

detained juvenile first appears following issuance of an order certifying, the juvenile court shall determine conditions of release in accordance with the provisions of Minnesota Rules of Criminal Procedure ~~5.055.01(d)~~ and ~~6.02~~; for these purposes, the juvenile court petition shall serve in lieu of a criminal complaint as the charging instrument.

**23. Amend the Comments to Rule 18, paragraph 3, as follows:**

*The sanction for delay in Minn. R. Juv. Del. P. 18.05, subd. 1(B) and 18.07, subd. 3 is modeled after Minn. R. Crim. P. 11.10, which as of January 1, 2010 is now Minn. R. Crim. P. 11.09. See In re Welfare of J.J.H., 446 N.W.2d 680, 681 82 (Minn. Ct. App. 1989) (order issued 66 days after hearing, 38 days after submission of written argument; because rule contains no sanction, reversal denied). See also McIntosh v. Davis, 441 N.W.2d 115 (Minn. 1989) (where alternative remedies available, mandamus not appropriate to enforce time limit of Minn. R. Crim. P. 11.10 speedy trial rule).*

**24. Amend the Comments to Rule 18, paragraph 7, as follows:**

*Much of the content of Minn. R. Juv. Del. P. 18.05, subd. 3 is modeled after Minn. R. Crim. P. ~~11.03~~11.04 and ~~18.06~~18.05, subd. 1. The court may employ police statements for probable cause determinations in the same manner as permitted in adult proceedings under Minn. R. Crim. P. ~~11.03~~11.04. Also note In re Welfare of E.Y.W., 496 N.W.2d 847, 850 (Minn. Ct. App. 1993) (juvenile not entitled to exclusionary hearing before decision on probable cause).*

**25. Amend Rule 19.04, subd. 2(A), as follows:**

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

(A) *Timing.* Unless waived by the child, or based upon an indictment, an initial appearance and court determination on the issue of probable cause shall be completed within ~~fourteen (14)~~fifteen (15) days of the filing of the petition designating an extended jurisdictional juvenile proceeding or the filing of the extended jurisdictional juvenile proceedings motion. The court may, on the record, extend this time for good cause.

**26. Amend Rule 19.07, subd. 1, as follows:**

**Rule 19.07 Order**

**Subdivision 1. Decision, Timing, and Content of Order Following Waiver of Extended Jurisdiction Juvenile Hearing and Stipulation to Extended Jurisdiction Juvenile Order.** When a child waives the right to a contested hearing and stipulates to entry of an order that the child is subject to an extended jurisdiction juvenile prosecution, the court shall, within ~~five (5)~~three (3) days of that hearing, enter a written order stating:

(A) that the extended jurisdiction juvenile prosecution shall occur for the offense(s) alleged in the delinquency petition filed pursuant to Rule 6.03;

(B) a finding of probable cause in accordance with Rule 19.04, subdivision 2(C), unless the accusation was presented by means of an indictment; and

(C) findings of fact as to:

- (1) the child's date of birth; and
- (2) the date of the alleged offense(s).

**27. Amend the Comments to Rule 19, paragraph 2, as follows:**

*The sanction for delay in Minn. R. Juv. Del. P. 19.04, subd. 1(B) and 19.06, subd. 3 is modeled after Minn. R. Crim. P. 11.10, which as of January 1, 2010 is now Minn. R. Crim. P. 11.09. See In re Welfare of J.J.H., 446 N.W.2d 680, 681 82 (Minn. Ct. App. 1989) (order issued 66 days after hearing, 38 days after submission of written argument; because rule contains no sanction, reversal denied). See also McIntosh v. Davis, 441 N.W.2d 115 (Minn. 1989) (where alternative remedies available mandamus not appropriate to enforce time limit of Minn. R. Crim. P. 11.10 speedy trial rule).*

**28. Amend the Comments to Rule 19, paragraph 7, as follows:**

*Much of the content of Minn. R. Juv. Del. P. 19.04, subd. 3 is modeled after Minn. R. Crim. P. ~~11.03~~11.04 and ~~18.06~~18.05, subd. 1. The court may employ police statements for probable cause determinations in the same manner as permitted in adult proceedings under Minn. R. Crim. P. ~~11.03~~11.04. Also note, In re Welfare of E.Y.W., 496 N.W.2d 847, 850 (Minn. Ct. App. 1993) (juvenile not entitled to exclusionary hearing before decision on probable cause).*

**29. Amend Rule 20.01, subd. 4, as follows:**

**Subd. 4. Hearing and Determination of Competency.**

(A) *Hearing and Notice.* Upon receipt of the report and notice to the parties, the court shall hold a hearing within ten (10) days ~~on the issue of the child's competency to proceed~~ to review the report with the parties. If either party objects to the report's conclusion regarding the child's competency to proceed, the court shall hold a hearing within ten (10) days on the issue of the child's competency to proceed.

(B) *Going Forward with Evidence.* If the child's counsel moved for the examination, the child's counsel shall go forward first with evidence at the hearing. If the prosecuting attorney or the court on its own initiative, moved for the examination, the prosecuting attorney shall go forward with evidence unless the court otherwise directs.

(C) *Report and Evidence.* The examination report and other evidence as to the child's mental condition may be admitted at the hearing. The person who prepared the report or any individual designated by that person as a source of information for preparation of the report, other than the child or the child's counsel, is considered the court's witness and may be called and cross-examined as such by either party.

(D) *Child's Counsel as Witness.* The child's counsel may testify as to personal observations of and conversations with the child to the extent that attorney-client privilege is not violated, and continue to represent the child. The prosecuting attorney may examine the child's counsel testifying to such matter.

The court may inquire of the child's counsel concerning the attorney-client relationship and the child's ability to communicate effectively with the child's counsel. However, the court may not require the child's counsel to divulge communications in violation of the attorney-client privilege. The prosecuting attorney may not cross-examine the child's counsel responding to the court's inquiry.

(E) *Decision and Sufficiency of Evidence.* If the court determines that the child is competent by the greater weight of evidence, the court shall enter a written order finding competency. Otherwise, the court shall enter a written order finding incompetency. The court shall enter its written order within fifteen (15) days of the hearing.

**30. Amend Rule 20.02, subd. 7(D)(2), as follows:**

(2) Extended Jurisdiction Juvenile Proceedings. A court trial in an extended jurisdiction juvenile proceeding shall be conducted pursuant to Rule 20.02, subdivision 7(D)(1). A jury trial in an extended jurisdiction juvenile proceeding shall be conducted pursuant to Minnesota Rules of Criminal Procedure 20.02, subdivision ~~6(4)~~7.

**31. Amend Rule 21.03, subd. 1, as follows:**

**Rule 21.03 Appeal by Child**

**Subdivision 1. Right of Appeal.** A child may appeal as of right from an adverse final order and certain non final orders, as enumerated in Rule 21.03, subdivisions 1(A) and (B). In addition, a child shall be permitted to seek a discretionary appeal as provided for in Minnesota Rules of Criminal Procedure 28.02, subdivision 3. A motion for a new trial is not necessary in order to appeal.

~~The trial court shall notify a child of the right to appeal in any case where it issues a final order. A child may combine an appeal from a sentence or a disposition with an appeal from a judgment of conviction or an order for adjudication. The trial court shall not determine whether an offense will be adjudicated or continued without adjudication until the time of disposition.~~

~~———— Appeals from disposition or sentence shall only include matters which arose after adjudication or conviction. The appellate court may review any other matter as the interests of justice require. 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.~~

(A) Final Orders. Final orders include orders for:

(1) certification to adult court, whether the order is entered or stayed pursuant to Rule 21.03, subdivision 3;

(2) continuance without adjudication and disposition in delinquency proceedings pursuant to Minnesota Statutes, section 260B.198, subdivisions 1 (a) or (b);

(3) adjudication and disposition in delinquency proceedings ~~pursuant to Minnesota Statutes, section 260B.198, subdivision 1;~~



(4) adjudication and disposition in juvenile petty or juvenile traffic offender proceedings;

(5) denial of motion for new trial;

(6) extended jurisdiction juvenile prosecution designation, whether the order is entered or stayed pursuant to Rule 21.03, subdivision 3;

(7) conviction, disposition, and sentencing of an extended jurisdiction juvenile;

(8) an order, on the prosecuting attorney's motion, finding the child incompetent, if the underlying offense would be a felony or a gross misdemeanor if the offense were committed by an adult;

(9) an order modifying a disposition;

(10) an order revoking probation including an order adjudicating a child delinquent after the child was granted a continuance without adjudication;

(11) an order revoking extended jurisdiction juvenile status; and

(12) an order revoking the stay of the adult sentence of an extended jurisdiction juvenile.

(B) Non Final Orders. A child may appeal from the following non final orders:

(1) an order refusing or imposing conditions of release; and

(2) an order granting a new trial when a child's motion for acquittal is denied, if the underlying offense would be a felony or a gross misdemeanor if the offense were committed by an adult.

**32. Amend Rule 21.03, subd. 2(A), as follows:**

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(5)~~3(4) and 28.05.

**33. Amend Rule 21.03, subd. 2(B)(3)(c), as follows:**

(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) Any videotape or audiotape exhibits admitted at trial or hearing shall be transcribed at the request of either party and shall be included as part of the record. 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.

**34. Amend Rule 21.04, subd. 3(B), as follows:**

(B) Prosecutorial appeals under Rule 21.04, subdivision 1(C) and (D) shall be governed by the procedure provided for appeal from a sentence by Minnesota Rules of Criminal Procedure 27.04, subdivision ~~3(5)~~3(4) and 28.05.

**35. Amend the Comments to Rule 21, paragraph 3, as follows:**

*Minn. R. Juv. Del. P. 21.03, subd. 1(A) (7) and (10) includes the right to appeal a stayed sentence and the execution of a stayed sentence. See Minn. R. Crim. P. 27.04, subd. ~~3(5)~~3(4) and 28.05, subd. (2). An order continuing the matter without adjudication and imposing a disposition pursuant to Minnesota Statutes, section 260B.198, subs. 1(a) or (b)(2002) is an appealable final order as is a subsequent order adjudicating the child and imposing a disposition pursuant to Minnesota Statutes, section 260B.198, subd. 1 (2002).*

**36. Amend the Comments to Rule 22, paragraph 1, as follows:**

*This rule is modeled after Minn. R. Crim. P. 26.03, subd. ~~13~~14. The rule permits the child's counsel or prosecuting attorney to serve and file a notice to remove a judge as a matter of right without cause. Only one such removal as a matter of right is permitted to a party. Other removals must be for cause.*

**37. Amend Rule 30.02, subd. 1, as follows:**

**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.