STATE OF MINNESOTA

IN SUPREME COURT

ADM10-8003

OFFICE OF
APPELLATE COURTS

MAY 14 2014

FILED

**ORDER PROMULGATING AMENDMENTS TO THE MINNESOTA RULES OF JUVENILE DELINQUENCY PROCEDURE**

The Supreme Court Advisory Committee on the Rules of Juvenile Delinquency Procedure has proposed amendments to Rule 30.02 of the Minnesota Rules of Juvenile Delinquency Procedure that are intended to clarify the scope of access to juvenile court records. The Committee also recommends that Forms 8 and 10 (Statement of Rights) in the Appendix to the Rules of Juvenile Delinquency Procedure be amended to reflect current law.

The Committee's proposed amendments to Rule 30.02 responded to the Legislature's amendment of Minn. Stat. § 260B.171 (Supp. 2013), which restricted electronic access to public juvenile delinquency case records. In an order filed November 22, 2013, the court invited written comments on the proposed amendments to Rule 30.02. The court received four written comments, all of which opposed the Committee's proposed amendments and asked the court to instead implement by court rule the legislative restriction on electronic access to public juvenile delinquency court records. Because the Committee and the commenters identified issues that required further review and consideration, the court, by order filed December 31, 2013, again invited written comments and set a public hearing on February 18, 2014. At that hearing, the court heard

from the chair of the Committee, the authors of the 2013 legislation, public defender and county attorney representatives, and the Council on Crime and Justice. The court also received written comments from the State Court Administrator.

The court has carefully considered the oral and written comments. Based on all of the files, records, and proceedings herein,

IT IS HEREBY ORDERED THAT:

1. The attached amendments to the Minnesota Rules of Juvenile Delinquency Procedure, and the attached amendments to the Statement of Rights forms in the Appendix to the Minnesota Rules of Juvenile Delinquency Procedure be, and the same are, prescribed and promulgated to be effective as of the date of this order.

2. The Advisory Committee on the Rules of Public Access to Records of the Judicial Branch shall review the amendments promulgated here and consider whether amendments are needed to the Rules of Public Access for consistency with these amendments. On or before February 1, 2015, the Advisory Committee shall provide recommendations to the court for any proposed amendments to the Rules of Public Access for purposes of electronic access to juvenile delinquency records.

Dated: May 14, 2014

BY THE COURT

Lorie S. Gildea
Chief Justice

STATE OF MINNESOTA

IN SUPREME COURT

ADM10-8003

MEMORANDUM

PER CURIAM.

The Supreme Court Advisory Committee on the Rules of Juvenile Delinquency Procedure (the "Committee") proposed amendments to Rule 30.02, subdivision 1, of the Minnesota Rules of Juvenile Delinquency Procedure to re-state that access to judicial branch case records is governed by the judiciary's power to control those records. *State v. C.A.*, 304 N.W.2d 353, 358 (Minn. 1981) ("Part of [the judicial] function is to control court records . . . ."). The Committee's proposed rule amendments are in response to a recent legislative amendment to the statute governing the records of juvenile delinquency proceedings, *see* Act of May 24, 2013, ch. 109, § 1, 2013 Minn. Laws 1447 (codified at Minn. Stat. § 260B.171, subd. 9 (Supp. 2013)), to restrict electronic access, only, to public juvenile delinquency court records. For the reasons outlined below, we now promulgate amendments to the court's rules to allow for a limited form of electronic access to public juvenile delinquency court records.

I.

As a general rule, juvenile delinquency proceedings in Minnesota are not open to the public, Minn. Stat. § 260B.163, subd. 1(c) (2012), and juvenile court records (other than written appellate opinions) may not be disclosed to the public except by court order

or where mandated by law, Minn. Stat. § 260B.171, subd. 4(b) (2012). Since 1986, however, the Legislature has required the courts to "open the hearings to the public in delinquency proceedings where the child is alleged to have committed an offense that would be a felony if committed by an adult and the child was at least 16 years of age." Act of March 19, 1986, ch. 361, § 1, 1986 Minn. Laws 157, 158 (codified as amended at Minn. Stat. § 260B.163, subd. 1(c)). In addition, the records arising from these public proceedings are open to public inspection. Minn. Stat. § 260B.171, subd. 4(a) (2012).

Notwithstanding these statutory directives, the Legislature has long acknowledged that access to judicial-branch records "is governed by rules adopted by the Supreme Court." Minn. Stat. § 13.90, subd. 2 (2012). The court's Rules of Public Access to Records of the Judicial Branch, adopted in 1988, presume that court records are "open to any member of the public for inspection or copying," Minn. R. Pub. Access 2, and permit public access to case records, Minn. R. Pub. Access 4, subd. 1 ("All case records are accessible to the public . . . ."), as do the Rules of Juvenile Delinquency Procedure, Minn. R. Juv. Delinq. P. 30.02, subd. 1 ("Juvenile Court records shall be available for inspection, copying and release as required by statute or these rules.").[1]

Public access to court records has thus long been the standard, and historically, the public gained access to the records by inspecting paper copies at the courthouse. Beginning in 2012, the judicial branch began a statewide project to move the courts from a primarily paper environment to an electronic-information environment. The initiative,

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[1] Some juvenile delinquency case records are not public, in the district court or on appeal. *See* Minn. R. Pub. Access 4, subd. 1(d).

known as eCourtMN, is intended to increase the productivity of judges and court staff and ensure convenient, timely, and appropriate access to court information for court users. As part of eCourtMN, public case records can be electronically viewed through remote access to certain case information in judicial-branch case-management systems. *See* Minn. R. Pub. Access 8, subd. 2 (identifying records that are remotely accessible, and defining "remotely accessible" as "information in a court record [that] can be electronically searched, inspected, or copied without the need to physically visit a court facility"). Currently, remote electronic access is afforded through MPA Remote, which provides public case information limited to the register of actions, calendars, judgments, orders, and notices. The public can also electronically access public case records on public terminals located in the state's courthouses. The access provided to public case records at the courthouse—whether electronically or in paper form—is not limited by the restrictions imposed on remote access.

In the 2013 session, the Legislature amended Minnesota Statutes § 260B.171 to restrict electronic access to public juvenile delinquency case records. Act of May 24, 2013, ch. 109, § 1, 2013 Minn. Laws 1447. This amendment, effective January 1, 2014, provides as follows:

> There shall be no direct public access to juvenile delinquency records *maintained in electronic format* in court information systems related to juvenile court proceedings *that are public* under section 260B.163, subdivision 1, except, unless the juvenile and the prosecutor agree otherwise, in cases where:
>
> (1) the prosecutor filed a motion for certification;
> (2) the prosecutor designated or requested that the proceeding be designated an extended jurisdiction juvenile prosecution; or

(3) the juvenile has been adjudicated delinquent of a crime of violence as defined in section 624.712, subdivision 5, and not codified in chapter 152.

Minn. Stat. § 260B.171, subd. 9 (Supp. 2013) (emphasis added). According to the chief authors, this amendment was a compromise between, on the one hand, the public's legitimate interest in openness and accountability within the juvenile court system and, on the other hand, concerns by juvenile advocates that the very openness of these records impairs the rehabilitation of juvenile offenders.

At the direction of this court, the Advisory Committee on the Rules of Juvenile Delinquency Procedure met to consider whether the Rules of Juvenile Delinquency Procedure should be amended to conform to the amended version of Minn. Stat. § 260B.171. The Committee filed its report on November 19, 2013, recommending that the court not implement the 2013 legislative amendment to section 260B.171. The Committee concluded that the amendment posed practical problems for the judicial branch because it was inconsistent with the technical capabilities of the judicial branch's electronic case management systems, created significant extra work for court staff, and carried a high potential for error in classification of court records as public or not public. The Committee also expressed concern that the amendment intrudes upon a core judicial function—controlling judicial-branch records—and improperly delegates authority over judicial-branch records to the parties in juvenile delinquency cases, both of which might violate separation-of-powers principles. The Committee thus urged the court to adhere to its current policy, which places decisions on access to court records within the province

of rules promulgated by this court. The Committee recommended that the court amend Rule 30.02, subdivision 1, as follows:

> 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 and all other electronic records shall be governed solely by the Rules of Public Access to Records of the Judicial Branch.

The Committee also recommended that the Comment to Rule 30 be amended by the addition of a new paragraph, which reads as follows:

> While often the Judicial Branch will conform its rules to statutes regarding Judicial Branch records as a matter of comity, the Branch is not doing so with regards to Minn. Stat. § 260B.171, subd. 9. Access to electronic court records is governed by Rule 8 of the Rules of Public Access to Records of the Judicial Branch, and not by statute. *See* Minn. Stat. § 13.90, subd. 2 ("Access to data of the judiciary is governed by rules adopted by the Supreme Court.").

Written comments received during the public comment period opposed the Committee's proposal and urged the court to implement the legislative amendment by adopting amended court rules. By order filed December 31, 2013, the court scheduled a public hearing, invited further written comments, and maintained "the presumption of public access to juvenile delinquency case records" until a decision was reached on the proposed amendments to the rules. Order for Hearing to Consider Proposed Amendments to the Rules of Juvenile Delinquency Procedure, No. ADM10-8003 (Minn. filed Dec. 31, 2013). At the public hearing, the court heard from the chair of the Advisory Committee, the legislative authors of the 2013 amendment, public defender and county attorney representatives, and the Vice President of the Council on Crime and Justice. In addition, the State Court Administrator submitted written comments in

support of the Committee's recommended amendment, but also proposing as an alternative to outright rejection of the 2013 amendment that the court amend the Rules of Juvenile Delinquency Procedure to limit the extent of electronic access to public juvenile court records by providing that access only at courthouse facilities.

II.

We turn first to consideration of the separation-of-powers issue the Committee raised. The authors of the 2013 legislation urge the court to conclude that the statutory restriction on public access to judicial-branch records expressed in section 260B.171 does not undermine separation-of-powers principles because the statute is a substantive expression of legislative policy that the court may not refuse to implement. We disagree.

Separation of powers, the division of the powers of government into "three distinct departments: legislative, executive and judicial," Minn. Const. art. III, § 1, is essential to our system of constitutional democracy. Under this principle, we proceed cautiously even when exercising unique judicial functions, out of respect for "the equally unique authority of the executive and legislative branches of government." *State v. C.A.*, 304 N.W.2d 353, 358-59 (Minn. 1981). We consider whether a statute invades judicial functions based on "whether the statute deals with substantive or procedural law," *State v. Lindsey*, 632 N.W.2d 652, 658 (Minn. 2001), because the "judicial branch governs procedural matters, while the creation of substantive law is a legislative function." *State v. Lemmer*, 736 N.W.2d 650, 657 (Minn. 2007) (citing *State v. Johnson*, 514 N.W.2d 551, 554 (Minn. 1994)); *see also Stern v. Dill*, 442 N.W.2d 322, 324 (Minn. 1989) ("Substantive law is that part of the law which creates, defines, and regulates rights, as

opposed to . . . remedial law, which prescribes [the] method of enforcing the rights or obtaining redress for their invasion." (citation omitted) (internal quotation marks omitted) (alterations omitted)). We have permitted legislative interference with procedural matters only as a matter of comity. *Lemmer*, 736 N.W.2d at 657.

In *C.A.*, we explained that controlling court records is an essential judicial function. 304 N.W.2d at 358; *see also In re GlaxoSmithKline PLC*, 732 N.W.2d 257, 266 (Minn. 2007) ("Once documents are filed with the court, public access is governed by the Minnesota Rules of Public Access to Records of the Judicial Branch."). The Legislature has recognized this authority, at least implicitly, by deferring to court rules on access to judicial-branch records. *See* Minn. Stat. § 13.90, subd. 2 ("Access to data of the judiciary is governed by rules adopted by the Supreme Court.").

The Committee contends that "control of and access to court records is a core function of the Judicial Branch governed by Supreme Court rules (as recognized in the Minnesota Government Data Practices Act)." The commenters, however, argue that juvenile court records are different; they argue that given the unique nature and function of the juvenile court, controlling public access to those records is as much a function of substantive law as it is of procedure. We conclude that the 2013 amendment to section 260B.171 is entirely procedural. Unlike, for example, Minn. Stat. § 260B.163, subd. 1, which prescribes the circumstances under which juvenile delinquency proceedings are open to the public, the amendment to section 260B.171 merely limits the specific format through which the judiciary makes the already-public records accessible by the public. In short, it directs the judiciary to adopt one particular *procedure*, rather than another, for

providing access to its records. The 2013 legislation therefore directly undermines separation-of-powers principles.

The second aspect of the separation-of-powers doctrine that the 2013 legislation implicates is the statute's delegation of judicial authority over judicial-branch records. *Cf. Holmberg v. Holmberg*, 588 N.W.2d 720, 725-26 (Minn. 1999) (concluding that legislation for administrative child-support procedures "delegated to an executive agency" inherent judicial power). Notwithstanding legislative recognition that this court's rules govern access to judicial-branch records, Minn. Stat. § 13.90, subd. 2, the 2013 legislation delegates to the prosecutor and the juvenile the power to agree, between themselves, to restrict public access to some judicial-branch records. *See* Minn. Stat. § 260B.171, subd. 9 (permitting "direct public access to juvenile delinquency records maintained in electronic format" in certification cases, extended jurisdiction juvenile prosecutions, or when the juvenile is adjudicated delinquent of certain crimes of violence, "unless the juvenile and the prosecutor agree otherwise"). The 2013 legislation provides no standards for this agreement and has no provision for judicial review or approval of that agreement.

We "view with grave concern the exercise of arbitrary power left in the hands of unofficial persons." *Remington Arms Co. v. G.E.M. of St. Louis, Inc.*, 257 Minn. 562, 574, 102 N.W.2d 528, 536-37 (1960). In *Remington Arms*, we struck down a provision in the Minnesota Fair Trade Act, Minn. Stat. §§ 325.08-.14 (1957) (repealed in 1978), which allowed a manufacturer to limit the ability of retailers to sell its products below a minimum price. 257 Minn. at 564, 102 N.W.2d at 530-31. We held that the statute

violated the separation-of-powers doctrine because it gave to a private party, the manufacturer, "the arbitrary right to exercise an option to make a law operative on his own terms." *Id.* at 570, 102 N.W.2d at 534. We contrasted this unconstitutional grant of power with statutes in which a delegation of authority was accompanied by "a reasonably clear policy or standard of action which controls and guides the [private person] in ascertaining the operative facts to which the law applies, so that the law takes effect upon these facts by virtue of its own terms, and not according to the whim or caprice of the [person]." *Id.* at 570-71, 102 N.W.2d at 534 (citation omitted) (internal quotation marks omitted). "Granting legislative power to private persons without hearing or other safeguards is a practice to be indulged in only when it appears that the end the legislature seeks can be accomplished in no other practicable way," especially when "the grant is given to the very persons who will benefit most by an arbitrary and wrongful use of that power." *Id.* at 574, 102 N.W.2d at 537. Granting to private parties—the juvenile and prosecutor—"carte blanche authority," *id.* at 571, 102 N.W.2d at 535, to determine whether public access to judicial-branch records will be permitted delegates judicial authority in a way that undermines separation-of-powers principles.

Because the 2013 legislation infringes on a judicial function and attempts to vest judicial authority over judicial-branch records outside the judiciary, the legislation contravenes the separation-of-powers doctrine. We therefore conclude that the judicial branch is not constitutionally obliged to implement the 2013 amendment to Minn. Stat. § 260B.171.

III.

Although the judicial branch is not constitutionally obliged to implement the 2013 amendment to section 260B.171, we consider whether to do so as a matter of comity. Comity in this context is the deference that courts give to reasonable legislative regulation as a matter of courtesy to a co-equal branch of government, rather than as an acknowledgment of legislative power. *Sharood v. Hatfield*, 296 Minn. 416, 426, 210 N.W.2d 275, 281 (1973). "We have occasionally permitted a statute to stand as a matter of comity, even where the legislature has encroached somewhat upon a judicial function, so long as the statute does not conflict with this court's inherent authority to make the final decision." *State by Humphrey v. Jim Lupient Oldsmobile Co.*, 509 N.W.2d 361, 363 (Minn. 1993) (citing *Sharood*, 296 Minn. at 424-25, 210 N.W.2d at 278-80); *see also State v. Losh*, 721 N.W.2d 886, 892 (Minn. 2006) ("Despite . . . constitutional infirmities, this court can acquiesce to [legislative enactments] as a matter of comity.").

We share the commenters' concerns about the potentially harmful impact that unrestricted electronic access to public juvenile delinquency records might have on juvenile offender rehabilitation. In contrast to adult criminal court, juvenile delinquency proceedings were originally envisioned as fundamentally rehabilitative, rather than punitive, because the state would exercise its *parens patriae* authority to intervene as the child's guardian and protect the child from his or her own wrongdoing. *State v. McFee*, 721 N.W.2d 607, 612 (Minn. 2006); *see also* Barry C. Feld, *The Transformation of the Juvenile Court*, 75 Minn. L. Rev. 691, 695 (1991). We have long recognized that

confidentiality is a touchstone of this rehabilitative effort. *State v. Schilling*, 270 N.W.2d 769, 772 (Minn. 1978) ("Abrogation of the confidentiality . . . will remove some of the rehabilitative force of the juvenile justice system by removing incentives to keep out of trouble again.").

Legislative amendments in the last 40 years have, however, transformed the juvenile court system. Among other changes, the certification of serious offenders to the adult criminal system has expanded, *see* Feld, *supra*, at 701-03; more formal adjudication procedures are in place and retribution principles in sentencing have been adopted, *id.* at 708-22; and the language of *parens patriae* that pervaded juvenile court policy for decades has been abandoned in favor of "public safety" and "individual responsibility" principles. *See* Act of April 15, 1980, ch. 580, § 3, 1980 Minn. Laws 962, 966 (codified at Minn. Stat. § 260.011, subd. 2 (1980)); *see also McFee*, 721 N.W.2d at 613. This transformation has been accompanied by an erosion of the confidentiality of juvenile delinquency proceedings. While those proceedings were originally closed to the public, *see* Minn. Stat. § 260.24 (1945) ("[T]he court shall exclude the general public from the room wherein such trial or hearing is had"), by 1986 hearings were open to the public in proceedings in which the child was alleged to have committed an offense that would be a felony if committed by an adult and the child was at least 16 years of age. *See* Minn. Stat. § 260B.163, subd. 1(c). As a result, the juvenile courts have "converge[d] procedurally and substantively with adult criminal courts." Feld, *supra*, at 692.

We also share the concerns expressed in this proceeding about the potential disadvantages of electronic access to public juvenile delinquency records, including

through data mining, and we acknowledge the myriad collateral consequences that can arise from that access. *See* Council on Crime and Justice, *Juvenile Records in Minnesota*, 12-15 (2014) (reporting on increased background screening by employers, landlords, and colleges as part of a decision-making process eased by electronic access to records). We are particularly mindful that unfettered remote electronic access to criminal records, including preconviction records, may have significant social and economic implications, including, but not limited to, impact on Minnesota's communities of color. *See, e.g.*, Minnesota Supreme Court Task Force on Racial Bias in the Judicial System, *Final Report* 97-109 (1993) (discussing an over-representation of minority youth within the juvenile justice system).

But we also remain mindful, as we consider whether we can defer as a matter of comity to legislation restricting only electronic access, that the records at issue are public records and access to these public court records is already available in a paper form. We acknowledge, as the legislative authors explained, the credible concerns about data harvesting and "that young adults are often held back from employment and housing and other opportunities based upon these juvenile records." We also acknowledge the equally credible judicial-branch concerns with control of judicial-branch records as well as administrative and technical barriers to implementation of a partial-access restriction. These concerns include a present inability to classify records as both "public" and "not public" depending on the mode of access; the high risk of error posed by repeated changes in classification of cases from "public" to "not public"; and the risk of inadvertently providing public access to nonpublic juvenile delinquency cases. These

reasonable concerns were the basis for the recommendation by the Committee to provide access to public juvenile delinquency court records consistent with the court's rules of public access.

After careful consideration of the concerns raised about electronic access to public juvenile delinquency case records, we conclude that a compromise is appropriate. As explained by the State Court Administrator, a limited form of electronic access to public case records is already available under this court's rules, *see* Minn. R. Pub. Access 8, which also provides a workable solution to problems presented by public access to juvenile delinquency court records. Under this framework, justice partners of the judicial branch, including public defense agencies and other state or local government agencies, will continue to have remote and bulk access to public juvenile delinquency records where access to those records in any format is authorized by law. *See id.*, subd. 4. Apart from access by these entities, access to public juvenile delinquency court records will be limited to the electronic access provided at a courthouse on a public terminal, or by viewing the records in paper form at the courthouse.

The compromise we adopt today balances important separation of powers principles without imposing unreasonable technical and administrative burdens on the judicial branch, and without interrupting justice-partner access to the records. Through

this compromise, we extend partial effect to what we perceive to be an expression of an important public policy.[2]

[2] We also recognize that the amendments adopted today may be an interim measure. As the judicial branch continues to develop and implement electronic filing and record-keeping, our procedural rules, and access rules in particular, may evolve.

# AMENDMENTS TO THE MINNESOTA RULES OF JUVENILE DELINQUENCY 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 30. Records.**

* * *

**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. Other than for criminal justice and other government agencies, juvenile delinquency records in proceedings that are public under Minn. Stat. § 260B.163, subd. 1, shall not be "remotely accessible," as defined in Rule 8, subdivision 2(d) of the Rules of Public Access, but may be made accessible in either electronic form or paper form at the court facility as permitted by subdivision 2(a) of that Rule. Criminal justice and other government agencies shall have access to juvenile court records as permitted by Rule 8, subdivision 4, of the Rules of Public Access.

**Form 8. Statement of Rights: Juvenile Delinquency Proceedings**

## STATEMENT OF RIGHTS
## JUVENILE DELINQUENCY PROCEEDINGS

You have been charged with a delinquent act by a document filed in Juvenile Court. You are presumed innocent of the charge(s) unless and until the state is able to prove guilt beyond a reasonable doubt. You have the following rights:

1. The right to understand the charge(s) against you.

2. The right to be represented by an attorney. If you cannot afford an attorney, the judge will appoint an attorney for you at public expense. The judge may order you or your parent(s), legal guardian(s), or legal custodian(s) to pay some or all of the attorney expense depending on the ability to pay. You may not be represented in court by anyone who is not an attorney, even if that person is your parent.

3. The right to plead guilty, plead not guilty, or remain silent. If you remain silent, the judge will enter a not guilty plea for you and the case will go to trial.

4. If you plead not guilty, you have additional rights including:

   a. The right to a trial before a judge;
   b. The right to require the state to prove beyond a reasonable doubt that you committed the offense(s);
   c. The right to cross-examine witnesses called by the state;
   d. The right to subpoena witnesses and present evidence on your own behalf; and
   e. The right not to testify or to give an explanation of your actions.

5. If you plead guilty, you give up the rights listed in paragraph 4. The judge will ask you what you did. The judge cannot accept your guilty plea unless you admit doing something that is against the law.

6. Your guilty plea must be made freely and voluntarily, without threats or promises by anyone, with the exception of any plea agreement.

7. If you plead guilty or the judge finds you guilty, the judge may:

   a. Counsel you and your parent(s), legal guardian(s) or legal custodian(s).
   b. Place you on probation in your own home or a foster care facility under conditions established by the court;
   c. Transfer your legal custody under court supervision and place you out of your home;
   d. Transfer your legal custody by commitment to the Commissioner of Corrections;
   e. Order restitution for any damage done to person(s) and/or property;
   f. Order community work service and/or a fine up to $1,000;
   ~~f~~g. Order special treatment or care for your physical or mental health;
   ~~g~~h. Recommend to the Commissioner of Public Safety that your driver's license be canceled;

~~h. Order community work service and/or a fine up to $700.00;~~

i. Require you to attend school until age 18 or completion of graduation requirements;

j. Order the Commissioner of Public Safety to revoke your driver's license or to delay the issuance or reinstatement of your driver's license if you committed a controlled substance offense while driving a motor vehicle;

k. Order an assessment of your need for sex offender treatment, and order that you undergo treatment, if you committed an offense involving criminal sexual conduct, interference with privacy, obscene or harassing telephone calls, or indecent exposure;

l. Prohibit you from living near the victim if you committed a criminal sexual conduct offense;

~~j~~m. Consider imposition of additional consequences ~~if you committed a "crime of violence" and/or~~ if a gun or dangerous weapon was involved;

~~k~~n. Require you to submit a DNA sample if you have been charged with a felony; and/or

~~l~~o. Require you to ~~have a psychosexual evaluation,~~ register as a predatory offender~~, and submit a DNA sample~~ if you have been charged with a sexual offense or predatory offense.

8. If you plead guilty or the judge finds you guilty of a felony after your 14th birthday, this case may be used as a basis for additional jail or prison time if you are sentenced for another felony as an adult before your 25th birthday.

9. If you plead guilty or the judge finds you guilty of an offense, this case may be used as a basis to transfer any future felony-level case to adult court or treat it as an extended jurisdiction juvenile prosecution.

10. If you plead guilty or the judge finds you guilty of an offense and you are not a citizen of the United States, the plea or finding of guilt may result in deportation, exclusion from admission to the United States, or denial of naturalization as a United States citizen.

~~10~~11. Your parent(s), legal guardian(s), or legal custodian(s) may not participate in the hearing until you either plead guilty or the judge finds you guilty of the offense. At that time your parent(s), legal guardian(s), or legal custodian(s) has the right to present information to the judge and may be represented by an attorney.

IF YOU HAVE ANY QUESTIONS ABOUT YOUR RIGHTS, ASK YOUR ATTORNEY BEFORE THE HEARING OR, ASK THE JUDGE DURING YOUR HEARING.

DATE: _____ _____
(Signature of Child)

DATE: _____ _____
(Signature of Parent, Legal Guardian, or Legal Custodian)

**Form 10. Statement of Rights: Juvenile Traffic Offender Proceedings**

## STATEMENT OF RIGHTS
## JUVENILE TRAFFIC OFFENDER PROCEEDINGS

You have been charged as a juvenile traffic offender by a document filed in Juvenile Court. You are presumed innocent of the charge(s) unless and until the state is able to prove guilt beyond a reasonable doubt. You have the following rights:

1. The right to understand the charge(s) against you.

2. The right to be represented by an attorney that you hire. You do not have a right to appointment of a public defender or other counsel at public expense. If you wish to be represented by an attorney, you or your parent(s), legal guardian(s), or legal custodian(s) must hire one and pay the cost. You may not be represented in court by anyone who is not an attorney, even if that person is your parent.

3. The right to plead guilty, plead not guilty, or remain silent. If you remain silent, the judge will enter a not guilty plea for you and the case will go to trial.

4. If you plead not guilty, you have additional rights including:

   a. The right to a trial before a judge;
   b. The right to require the state to prove beyond a reasonable doubt that you committed the offense(s);
   c. The right to cross-examine witnesses called by the state;
   d. The right to subpoena witnesses and present evidence on your own behalf; and
   e. The right not to testify or to give an explanation of your actions.

5. If you plead guilty, you give up the rights listed in paragraph 4. The judge will ask you what you did. The judge cannot accept your plea unless you admit doing something that is an offense.

6. Your guilty plea must be made freely and voluntarily, without threats or promises by anyone, with the exception of any plea agreement.

7. If you plead guilty or the judge finds you guilty of an offense, the judge may:

   a. Reprimand you and counsel you and your parent(s), legal guardian(s) or legal custodian(s);
   b. Continue the case for a reasonable period under such conditions governing your use and operation of motor vehicles or watercraft as the court may set;
   c. Require you to attend a driver improvement course;
   d. Recommend that the Commissioner of Public Safety suspend your driver's license;

e. If you are found to have committed two moving highway traffic violations or to have contributed to a highway accident involving death, injury, or physical damage in excess of $100, the judge may recommend that the Commissioner of Public Safety cancel your driver's license until you are 18;

f. Place you on probation in your own home under conditions set by the judge including reasonable rules relating to the operation and use of motor vehicles or watercraft;

g. Order restitution for any damage to person(s) and/or property;

h. Order community work service or a fine up to ~~$700~~1,000; and/or

i. Order a chemical assessment for alcohol-related driving offenses and charge $75.00 for the assessment.

8. Your parent(s), legal guardian(s), or legal custodian(s) may not participate in the hearing until you have either pled guilty or the judge finds you guilty of the offense. At that time, your parent(s), legal guardian(s), or legal custodian(s) has the right to present information to the judge and may be represented by an attorney.

IF YOU HAVE ANY QUESTIONS ABOUT YOUR RIGHTS, ASK YOUR ATTORNEY BEFORE THE HEARING. IF YOU DO NOT HAVE AN ATTORNEY, ASK THE JUDGE DURING YOUR HEARING.

DATE: _____ _____
(Signature of Child)

DATE: _____ _____
(Signature of Parent, Legal Guardian, or Legal Custodian)