

STATE OF MINNESOTA

IN SUPREME COURT

CX-01-926

OFFICE OF  
APPELLATE COURTS

APR 26 2004

Promulgation of Amendments to the  
Minnesota Rules of Juvenile Procedure  
(Juvenile Delinquency Rules)

**FILED**

**ORDER**

WHEREAS, in its report dated December 12, 2003, the Supreme Court Juvenile Delinquency Rules Committee recommended certain amendments to the Minnesota Rules of Juvenile Procedure (Juvenile Delinquency Rules); and

WHEREAS, by order dated December 23, 2003, this court established a February 27, 2004, deadline for submitting written comments on the proposal; and

WHEREAS, no comments were submitted; and

WHEREAS, the Supreme Court reviewed the proposed amendments, and is fully advised in the premises,

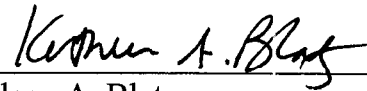
NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Rules 1-31 of the Minnesota Rules of Juvenile Procedure (Juvenile Delinquency Rules) shall henceforth be referred to as the Minnesota Rules of Juvenile Delinquency Procedure.
2. The attached amendments to the Minnesota Rules of Juvenile Delinquency Procedure are prescribed and promulgated for the regulation of practice and procedure in juvenile delinquency matters in the courts of the State of Minnesota.
3. The attached amendments shall govern all juvenile delinquency actions commenced or children taken into custody after 12 o'clock midnight July 1, 2004.

4. The inclusion and amendment of committee comments is made for convenience and does not reflect court approval of the comments made therein.
5. The Juvenile Delinquency Rules Committee shall continue to serve and monitor said rules and amendments and to hear and accept comments for further changes, to be submitted to the court at least annually.

DATED: April 23, 2004

BY THE COURT:



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Kathleen A. Blatz  
Chief Justice

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

1. Rule 1.01. Scope and Application.

Delete the second paragraph of Rule 1.01 as follows:

Rules 1 through 31 govern the procedure in the juvenile courts of Minnesota for all delinquency matters as defined by Minnesota Statutes, section 260B.007, subdivision 6, juvenile petty matters as defined by Minnesota Statutes, section 260B.007, subdivision 16 and juvenile traffic matters as defined by Minnesota Statutes, section 260B.225. Procedures for juvenile traffic and petty matters are governed by Rule 17.

~~Juvenile protection matters, including truants and runaways, are governed by the procedures in Rules 37 through 82.~~

Where these rules require giving notice to a child, notice shall also be given to the child's counsel if the child is represented. Reference in these rules to "child's counsel" includes the child who is proceeding pro se.

Where any rule obligates the court to inform a child or other person of certain information, the information shall be provided in commonly understood, everyday language.

In cases involving an Indian child, which may be governed by the Indian Child Welfare Act, 25 U.S.C.A. Chapter 21, sections 1901-1963, these rules shall be construed to be consistent with that Act. Where the Minnesota Indian Family Preservation Act, Minnesota Statutes, sections 260.751 through 260.835 applies, these rules shall be construed to be consistent with that Act.

2. Rule 5 Comments

Amend the seventh paragraph of the comments to Rule 5 as follows:

*Minn. R. Juv. P. 5.04, subd. 3 is based upon Minnesota Statutes, section 260B.176, subd. 2 (2002). The statute provides for an extension of the time for a detention hearing for a child detained in an adult detention facility outside of a standard metropolitan statistical area county only under two circumstances: 1) where the adult facility in which the child is detained is located where conditions of distance to be traveled or other ground transportation do not allow for court appearances within 24 hours (with the delay not to exceed 48 hours); and 2) where “conditions of safety exist” including adverse life-threatening weather conditions which do not allow for reasonably safe travel. The time for appearance may be delayed until 24 hours after the time that conditions allow for reasonably safe travel. Minnesota Statutes, section 260B.176, subd. 2 (2002). See also 42 U.S.C.A., section 5633(a)(13) and (14) (1995). Even though the statute permits an extension of the time for a detention hearing in such circumstances, the extension may be granted only if the prosecuting attorney has filed a ~~delinquency petition and a motion for certification~~ charging document within twenty-four (24) hours of the child being taken into custody, excluding Saturdays, Sundays and legal holidays. Minn. R. Juv. P. 5.04, subd. 3(A). If the court determines after the detention hearing that the child should remain detained, the child shall be detained in an appropriate juvenile facility. *Id.* See also 42 U.S.C.A. section 5633(a)(14) (1995).*

3. Rule 8.04. Plea of Guilty

Amend Rule 8.04, subd. 1(D)(1) as follows:

(D) *Right to Counsel.* If a child charged with a misdemeanor remains without counsel or with only stand-by counsel, that the child understands the continued right to be represented by counsel, and understands that counsel:

(1) could give the child further information and advice on ~~his~~the child's rights and on the choice to plead guilty or not guilty to the ~~charges~~offense(s) in the ~~petition~~charging document; and

4. Rule 10 Comments

Insert a new paragraph at the end of the comments to Rule 10 as follows:

References in this rule to “child’s counsel” include the child who is proceeding pro se. Minn. R. Juv. P. 1.01.

5. Rule 12 Comments

Insert a new paragraph at the end of the comments to Rule 12 as follows:

References in this rule to “child’s counsel” include the child who is proceeding pro se. Minn. R. Juv. P. 1.01.

6. Rule 13 Comments

Insert a new paragraph at the end of the comments to Rule 13 as follows:

References in this rule to “child’s counsel” include the child who is proceeding pro se. Minn. R. Juv. P. 1.01.

7. Rule 18 Comments

Insert a new paragraph at the end of the comments to Rule 18 as follows:

References in this rule to “child’s counsel” include the child who is proceeding pro se. Minn. R. Juv. P. 1.01.

8. Rule 19.11. Revocation

Amend Rule 19.11, subd. 3 as follows:

**Subd. 3. Revocation Hearing.**

(A) *Hearing Procedures.* The hearing shall be held in accordance with the provisions of Rule 19.11, subdivisions 2(A)(1), (2), (3), and (4).

(B) *Finding of No Violation of Terms and Conditions of Disposition.* If the court finds that a violation of the terms and conditions of the disposition order was not established by clear and convincing evidence, the revocation proceedings shall be dismissed, and the probationer's stayed sentence shall be continued under conditions ordered by the court.

(C) *Finding of Violation of Terms and Conditions of Disposition.*

(1) If the court finds upon clear and convincing evidence that any provisions of the disposition order were violated, or if the probationer admits the violation, the court may revoke the probationer's extended jurisdiction juvenile status. Upon revocation of extended jurisdiction juvenile status, the court shall treat the offender as an adult and may order any of the adult sanctions authorized by Minnesota Statutes, section 609.14, subdivision 3.

2) To execute the stayed prison sentence after revocation of extended jurisdiction juvenile status, the court must make written findings that:

(a) one or more conditions of probation were violated;

(b) the violation was intentional or inexcusable; and

(c) the need for confinement outweighs the policies favoring probation.

~~(3) If the court finds upon clear and convincing evidence that any provisions of the disposition order were violated, or if the probationer admits the violation, and the extended jurisdiction juvenile conviction was for an offense with a presumptive prison sentence or the probationer used a firearm, and the court has made findings pursuant to clause (2), the court shall order the execution of the sentence or make unless the court makes~~ written findings indicating the mitigating factors that justify continuing the stay.

(D) *Record of Findings.* A verbatim record shall be made of the proceedings at the revocation hearing and in any contested hearing the court shall make written

findings of fact on all disputed issues including a summary of the evidence relied upon and a statement of the court's reasons for its determination.

(E) *Appeal.* The probationer or the prosecuting attorney may appeal from the court's decision according to the procedure provided for appeal from a sentence by the Minnesota Rules of Criminal Procedure 28.05.

9. Rule 19 Comments

Insert a new paragraph at the end of the comments to Rule 19 as follows:

*References in this rule to "child's counsel" include the child who is proceeding pro se. Minn. R. Juv. P. 1.01.*

10. Rule 22.03. Notice to Remove

Amend Rule 22.03, subd. 1 as follows:

**Subdivision 1. Service and Filing.** The child's counsel or the prosecuting attorney may serve on the other parties and file with the court administrator a notice to remove the judge assigned to a trial or hearing. The notice shall be served and filed within seven (7) days after the ~~party~~child's counsel or the prosecuting attorney receives written notice, or oral notice in court on the record, of which judge is to preside at the trial or hearing but, in any event, ~~not earlier than seven (7) days after the initial hearing and assignment of counsel for the child and~~ not later than the commencement of the trial or the hearing.

11. Rule 22 Comments

Insert a new paragraph at the end of the comments to Rule 22 as follows:

*References in this rule to "child's counsel" include the child who is proceeding pro se. Minn. R. Juv. P. 1.01.*

12. Rule 23.02. Objection to Assignment of Referee

Amend Rule 23.02 as follows:

The child's counsel or the prosecuting attorney may object to a referee presiding at a hearing. This objection shall be in writing and filed with the court within three (3) days after being informed that the matter is to be heard by a referee or the right to object is waived. The court may permit the filing of a written objection at any time. After the filing of an objection, a judge shall hear any motion and preside at any hearing.

13. Rule 26 Comments

Insert comments to Rule 26 as follows:

References in this rule to "child's counsel" include the child who is proceeding pro se. Minn. R. Juv. P. 1.01.

14. Rule 29 Comments

Insert comments to Rule 29 as follows:

References in this rule to "child's counsel" include the child who is proceeding pro se. Minn. R. Juv. P. 1.01.

15. Rule 30.02. Availability of Juvenile Court Records

Amend Rule 30.02, subd. 2(C) as follows:

(C) *Prosecuting Attorney.* Juvenile court records shall be available for inspection, copying or release to the prosecuting attorney. ~~However, if the matter has not had court action taken on it for over one (1) year, the court may require an ex parte showing by the prosecuting attorney that inspection or copying of the court records is necessary and in the best interest of the child, public safety, or the functioning of the juvenile court system.~~



16. Rule 30 Comments

Insert a new paragraph at the end of the comments to Rule 30 as follows:

References in this rule to “child’s counsel” include the child who is proceeding pro se. Minn. R. Juv. P. 1.01.