

STATE OF MINNESOTA

IN SUPREME COURT

CX-01-926

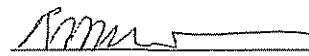
**ORDER ESTABLISHING DEADLINE FOR SUBMITTING
COMMENTS ON PROPOSED AMENDMENTS
TO THE RULES OF JUVENILE DELINQUENCY PROCEDURE**

The Supreme Court Juvenile Delinquency Rules Committee filed a report on June 4, 2007, recommending amendments to the Rules of Juvenile Delinquency Procedure. This court will consider the proposed amendments without a hearing after soliciting and reviewing comments on the report. A copy of the report is annexed to this order.

IT IS HEREBY ORDERED that any individual wishing to provide a written statement in support of or opposition to the proposed amendments shall submit fourteen copies of such statement addressed to Frederick Grittner, Clerk of the Appellate Courts, 305 Judicial Center, 25 Rev. Dr. Martin Luther King Jr. Blvd., St. Paul, Minnesota 55155, on or before August 31, 2007.

Dated: June 27, 2007

BY THE COURT:



Russell A. Anderson
Chief Justice

OFFICE OF
APPELLATE COURTS

JUN 27 2007

FILED

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

**MINNESOTA SUPREME COURT
JUVENILE DELINQUENCY RULES COMMITTEE**

CX-01-926

June 4, 2007

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Supreme Court Liaison

Kelly Lyn Mitchell
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INTRODUCTION

The Juvenile Delinquency Rules Committee met from Fall 2006 to Spring 2007 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.

DETENTION FOR JUVENILE PETTY OR JUVENILE TRAFFIC OFFENDERS

The committee was asked to review whether secure detention is a valid placement option when a juvenile is picked up on a warrant issued on a petty misdemeanor or juvenile traffic offense. The committee reviewed the applicable statutes and rules and concluded that the statutes clearly prohibit secure detention in this situation. See, e.g., Minn. Stat. § 260B.181, subs. 2 and 3 (limiting placement of juvenile petty offenders). However, it was determined that the rules could be clarified to reflect the state of the law. The committee has therefore recommended amending: Rule 4.02 to create a clear distinction between warrants issued for delinquent offenders and warrants issued for juvenile petty and juvenile traffic offenders; Rule 5.02 to delineate valid detention options for juvenile delinquents and juvenile petty and juvenile traffic offenders; and Rules 4.03 and 5.04 to reference the detention options delineated in Rule 5.02.

SERVICE OF ORDERS AND TIMING FOR APPEAL

The committee considered several interrelated issues with regard to service of orders. The issues stemmed from review of the decision in In re Welfare of D.W., No. A06-2069 (Minn. Ct. App. Dec. 13, 2006), in which the appellate court considered whether an appeal was timely filed when the parties had not received notice of the order of the district court until more than a month after the order was filed. The first issue was who should be responsible for serving orders upon parties. As currently written, Rule 28 requires that orders be mailed to the parties but does not hold any particular person or entity responsible for doing so. The proposed amendment to Rule 28 clarifies that the court administrator is responsible for serving orders upon the persons named in the rule. The amendment requires service to be made within 5 days of the filing of the order. This is the same timeframe recently incorporated into Minn. R. Juv. Protection P. 10.03.

Corollary to the issue of who must serve the orders is *which* orders must be served. Rule 28 currently implies that many orders are stated on the record, and that any orders not so stated are mailed to the parties. Members agreed that a better practice is to require that orders be

written, thus making oral orders the exception. But while it is desirable to have all orders in delinquency cases reduced to writing, it is not always practical to do so. Rather than propose wholesale changes to the rules to require that *all* orders be in writing, the committee has proposed amendments to Rules 5.07, 5.08, 15.07, 16, 17.09, and 20.01, that will require all *appealable* orders to be in writing. These changes, coupled with the proposed amendments to Rule 28 will ensure that all appealable orders are timely served on the parties.

Finally, the discussion above generated a question as to what is the proper point at which the clock governing the time for taking an appeal starts ticking: the filing of the order by the court or service of the order on the parties. Currently, Minn. Stat. § 260B.415, subd. 1 sets the starting point at filing. But committee members were concerned that starting the clock at that point could result in the loss of a significant portion of the appeal time if the order is not timely served after filing. Having the starting point at filing resulted in the factual scenario in In re Welfare of D.W., in which the parties were unaware that an order had been filed by the court until a month after the order had been filed, which was after the time for taking an appeal had run. The committee instead proposes that Rule 21.03, subd. 2 should be amended so that the starting point for the time for taking an appeal is service of the order.¹ This will result in a direct conflict between Rule 21.03, subd. 2 and Minn. Stat. § 260B.415, subd. 1. However, the Court recently promulgated a similar amendment to Minn. R. Juv. Protection P. 47.02, subd. 2, which resulted in the same conflict with Minn. Stat. § 260C.415, subd. 1.

MOTIONS FOR REHEARING OR RECONSIDERATION

The committee reviewed the case of In re Welfare of S.M.E., 725 N.W.2d 740 (Minn. 2007), which raised the issue as to whether motions for rehearing or reconsideration toll the time for taking an appeal. Motions for rehearing involve the presentation of new evidence and expansion of the record. Motions for reconsideration are a request to reconsider the decision of the court, and tend only to result in a revised order when there has been a new development in the law or it can be demonstrated that the earlier decision was somehow made in error. There was no support on the committee for creating procedures for motions for rehearing because they are counter to the philosophy of expedited process in juvenile court and because the current procedure for bringing a motion for a new trial adequately addresses the need for a rehearing in those cases in which it is appropriate. The views of the committee were mixed with regard to motions for reconsideration. All could agree that the only potential area in which motions for reconsideration might be desired is pretrial prosecutorial appeals. On the one hand, motions for reconsideration could shorten the overall case time by allowing issues to be resolved at the trial court level and eliminating the appeal. On the other hand, if motions for reconsideration become routine, they could serve to draw out the proceedings. It was noted that the current general motion procedures in Rule 27 are adequate to allow an individual to bring a motion for reconsideration without the addition of a more specific rule. However, because prosecutorial pretrial appeals must be brought within 5 days of service of the order, filing a motion for reconsideration could foreclose the prosecutor's ability to file an appeal if the court denies the motion for reconsideration. The committee determined that, rather than create a rule allowing motions for reconsideration, the better option would be to extend the prosecutor's time to appeal

¹ It should be noted that Rule 21.04, subd. 3, relating to the time for an appeal by the prosecuting attorney, already times the appeal from service of notice of entry of the order

pretrial issues from five to 20 days to allow the prosecutor time to pursue a motion for reconsideration without foreclosing the right to appeal. The proposed amendments to Rule 21.04, subds. 3(C)(1) and 4 accomplish this goal. In addition, the committee has proposed removing the term "rehearing" from Rule 21.03, subd. 1(A)(5), which is the only location in which the term appears.

CONTINUANCE WITHOUT ADJUDICATION

During this reporting cycle, the committee received an inquiry from a prosecutor asking: "If a case is continued without adjudication and the juvenile serves out his 6 months (maximum but usual time of continuance) and does not violate, does the matter simply end with a termination of jurisdiction, or is the underlying charge actually dismissed at that point?" Continuance without adjudication is a juvenile delinquency disposition that is governed both by Minn. Stat. § 260B.198, subd. 7 and Minn. R. Juv. Del. P. 15.05, subd. 4. Both the statute and rule provide for a process whereby the allegations in the petition are proven but the judge does not enter a finding of delinquency. The court enters a disposition of continued without adjudication and continues the proceeding for 90 days with the possibility of an additional 90-day extension. During the stay, the court may order counseling and/or place the juvenile on probation. The statute is silent as to what happens at the end of the period of the stay. The rule implies that jurisdiction of the court terminates. In the only case to address this disposition, In re Welfare of M.A.R., 558 N.W.2d 274 (Minn. Ct. App. 1997), the Court of Appeals referenced the provision in Rule 15.05 relating to termination of jurisdiction but then remanded the case for dismissal, implying that the end result should be dismissal.

In researching the issue, it was determined that there is variation in the manner in which these cases are handled by the courts across the state. Some counties close the case without updating the disposition; others dismiss. Some counties initiate their action proactively, based on the end date of the stay; others are reactive, based on receipt of a recommendation from probation or the prosecutor. If the case is closed, it remains on the court record and in the BCA's criminal history and is available to be counted towards criminal history if the juvenile reoffends. In addition, the case will be available for background checks, which could result in the imposition of collateral consequences. If the case is dismissed, it will not count towards the juvenile's criminal history score and will result in the imposition of collateral consequences only in those instances in which the consequence is triggered by prosecution rather than an adjudication of delinquency.

The variation in the manner in which these cases are handled presents a problem in that juveniles receiving the same initial disposition and successfully completing probation may be treated differently by the same entities based on how the case is labeled (e.g., in the calculation of a criminal history score for a subsequent offense or by a private employer or landlord in making a hiring or tenant decision). Members of the committee were concerned that the differing methods of handling these cases raise Equal Protection issues under the state and federal constitutions.

One aspect complicating the discussion of this issue was the manner in which juvenile cases are counted for criminal history purposes. Minnesota Sentencing Guidelines II.B.4

provides that an offender will be assigned one criminal history point for every two felony-level offenses committed and prosecuted as a juvenile provided findings were made by the juvenile court pursuant to an admission in court or after trial. Because Rule 15.05 – the disposition rule – requires that the court make findings that the charges have been proven, charges for which the court has ordered continuance without adjudication will count towards a juvenile’s future criminal history score despite the fact that there has been no formal adjudication of guilt. In this respect, juveniles are treated more harshly by the Sentencing Guidelines than adults because a similarly situated adult charged with the same felony-level offense who receives a stay of adjudication would not have the case counted for criminal history purposes. Instead, for adults, only convictions are counted. The committee has engaged in discussions with the Sentencing Guidelines Commission to determine why juvenile cases are counted by “findings” rather than by “adjudications.” Nevertheless, the existence of this distinction impacts members’ views as to whether the proper action at the end of a continuance without adjudication is case closure or dismissal.

The committee compared the juvenile continuance without adjudication process to the adult stay of adjudication process and determined that there were significant differences between the two. For example, juvenile continuances without adjudication are governed by Minn. Stat. § 260B.198, subd. 7 and Minn. R. Juv. Del. P. 15.05, subd. 4 whereas adult stays of adjudication operate by inherent judicial authority. The maximum period of the stay for a juvenile continuance without adjudication is 6 months whereas the maximum period of the stay for an adult stay of adjudication equals the stay allowed for probation if the defendant were convicted of the offense. A juvenile continuance without adjudication may be ordered over the objection of the prosecutor whereas an adult stay of adjudication can only be ordered over the prosecutor’s objection if there has been a clear abuse of the prosecutorial charging function. State v. Lee, 706 N.W.2d 491, 496 (Minn. 2005). The prosecutor does not have the right to appeal a juvenile continuance without adjudication whereas the prosecutor may appeal as of right from an order for an adult stay of adjudication entered over prosecutor’s objection. Id. at 495. Though the typical outcome for an adult stay of adjudication is dismissal, the differences noted are significant enough to raise a question as to whether a similar outcome would be appropriate in the juvenile context.

The committee was unable to come to agreement as to the action that should be taken at the end of the case, nor was the committee certain that this issue was one that could be resolved within the context of the Rules of Juvenile Delinquency Procedure. The committee therefore requests that the Supreme Court provide direction as to the appropriate forum for resolving this issue.

DATA ELEMENTS FOR JUVENILE PETITION

The Minnesota Judicial Branch and CriMNet are currently engaged in eFiling and eCharging projects, respectively, that will allow for the electronic transmission of the criminal complaint and juvenile delinquency petition from the prosecutor to the court. To facilitate these projects, both entities needed to identify the required data elements of the criminal complaint and juvenile petition. This process was completed with regard to the criminal complaint in 2005, and pursuant to existing Minn. R. Crim. P. 2.03, the State Court Administrator published a list of

administrative information that must be included on the complaint along with the required legal content. The Juvenile Delinquency Rules Committee worked with the State Court Administrator's Office to develop a similar list of data elements with regard to the juvenile delinquency petition, and has recommended that Rule 6.03 be amended to confer similar authority on the State Court Administrator to publish the list of data elements. See Attachment A detailing the required data elements and sample publication format.

MISCELLANEOUS

Some minor amendments were made to Rule 21 to clarify to which court – the trial court or appellate court – the rule intended to refer.

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 title language in Rule 4.03, subs. 2 and 3 as follows:

Subd. 2. Warrant for Delinquent Offenders.

Subd. 3. Warrant for Juvenile Petty or Traffic ~~Offenses~~Offenders.

2. Amend Rule 4.03, subd. 4(A) as follows:

(A) order the child to be brought immediately before the court or the child to be taken to a detention facility ~~designated by the court~~ in accordance with Rule 5.02, subdivisions 3 and 4, to be detained pending a detention hearing or the child to be transferred to an individual or agency, including but not limited to any welfare agency or hospital as the welfare of the child might require;

3. Amend the title and preamble language of Rule 5.02, subd. 3 as follows:

Subd. 3. Place of Detention for Juvenile Delinquent Offenders. A place of detention for a juvenile delinquent offender can be any one of the following places:

4. Insert a new subdivision 4 in Rule 5.02 as follows:

Subd. 4. Place of Detention for Juvenile Petty or Traffic Offenders. A place of detention for a juvenile petty or traffic offender can be any one of the following places:

(A) a child's relative;

(B) a designated caregiver under Minnesota Statutes, Chapter 257A; or

(C) a shelter care facility.

5. Amend Rule 5.04, subd. 3 as follows:

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

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

only if a charging document has been filed with the court within twenty-four (24) hours of the child being taken into custody, excluding Saturdays, Sundays and legal holidays.

(B) *Adult Jail or Municipal Lockup in a Standard Metropolitan Statistical Area.* If the jail or municipal lockup is in a standard metropolitan statistical area, the child shall be held no longer than six (6) hours after the child was taken into custody including Saturdays, Sundays and holidays unless a charging document has been filed with the court within that time period and the court has determined after a detention hearing that the child shall remain detained. If the court's decision at the detention hearing is that the child shall remain detained, the child shall be detained at an appropriate juvenile facility in accordance with Rule 5.02, subdivision 3. The time for a detention hearing shall not be extended.

6. Amend Rule 5.07, subd. 6(B) as follows:

(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) days of entry of the order.

7. Amend Rule 5.08, subd. 1 as follows:

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) days of entry of the order.

8. Amend Rule 5.08, subd. 2(D) as follows:

(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) days of entry of the order.

9. Amend the seventh paragraph of the comment to Rule 5 as follows:

Minn. R. Juv. Del. 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 charging document within twenty-four (24) hours of the child being taken into custody, excluding Saturdays, Sundays and legal holidays. Minn. 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 in accordance with Minn. R. Juv. Del. P. 5.02, subd. 3. *Id.* See also 42 U.S.C.A. section 5633(a)(14) (1995) The placement options in Minn. R. Juv. Del. 5.02, subd. 4 are not referenced in Minn. R. Juv. Del. P. 5.04, subd. 3(A) and (B) because the placement limitations in Minn. Stat. § 260B.181, subs. 2 and 3 preclude the initial detention of juvenile petty offenders in an adult jail or municipal lockup.*

10. Amend Rule 6.03, subd. 3 by adding a new paragraph (G) as follows:

Subd. 3. Contents of the Delinquency Petition. Every petition alleging a child is delinquent shall contain:

- (A) a concise statement alleging the child is delinquent;
- (B) a description of the alleged offense and reference to the statute or ordinance which was violated;
- (C) the applicable Minnesota Offense Code (MOC);
- (D) the name, date of birth, address, and race of the child;
- (E) the names and addresses of the child's parent(s), legal guardian, legal custodian, or nearest known relative;
- (F) the name and address of the child's spouse; and
- (G) other administrative information authorized by the Supreme Court Juvenile Delinquency Rules Committee and published by the State Court Administrator.

11. Amend Rule 6.03, subd. 5 by adding a new paragraph (G) as follows:

Subd. 5. Contents of Petition Alleging Juvenile Petty Offender or Juvenile Traffic Offender. Every petition alleging a child is a juvenile petty offender or alleging a child is a juvenile traffic offender shall contain:

- (A) a concise statement alleging that the child is a juvenile petty offender or a juvenile traffic offender;
- (B) the name, address, date of birth, and for juvenile traffic offenders, the drivers license number of the child, if known;
- (C) the name and address of the parent(s), legal guardian, or legal custodian of the child;
- (D) a description of the offense charged and reference to the statute or ordinance which is the basis for the charge;
- (E) the applicable Minnesota Offense Code (MOC);
- (F) the date, county, and place of the alleged offense; and
- (G) other administrative information authorized by the Supreme Court Juvenile Delinquency Rules Committee and published by the State Court Administrator.

12. Amend the fifth paragraph and add a new sixth paragraph to the comment to Rule 6 as follows:

Minn. R. Juv. Del. P. 6.03, subd. 2 provides that a petition shall be signed by the prosecuting attorney before it is filed with the court. Minnesota Statutes, section 260B.141, subd. 1 (2002) provides that any reputable person having knowledge of a child who is a resident of this state, who appears to be delinquent, may petition the juvenile court. ~~Minn. R. Juv. Del. P. 6.03, subd. 3 sets forth the necessary contents of the petition.~~

Minn. R. Juv. Del. P. 6.03, subs. 3 and 5 set forth the necessary contents of the petition. A sample petition form as well as a listing of the administrative content approved by the Juvenile Delinquency Rules Committee will be published by the State Court Administrator on the Minnesota Judicial Branch website.

13. Amend Rule 15.07, subd. 4(D) as follows:

(D) *Violation Proved.* If the court finds by clear and convincing evidence, or the child admits violating the terms of the dispositional order, the court may proceed as follows:

(1) order a disposition pursuant to Minnesota Statutes, section 260B.198;

or

(2) for a child who was previously granted a continuance without adjudication pursuant to Rule 15.05, subdivision 4, adjudicate the child and order a disposition pursuant to Minnesota Statutes, section 260B.198.

The dispositional order shall comply with Rule 15.05, subdivisions 2 and 3.

Rule 15.02 governs the timing of dispositional orders in probation violation matters.

14. Insert a new Rule 16.05 as follows:

Rule 16.05. Order.

Orders issued pursuant to this Rule shall be in writing.

15. Amend Rule 17.09, subd. 2 as follows:

Subd. 2. Adjudication and Disposition. Within forty-five (45) 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) days of the request. The court administrator shall serve the written findings as provided in Rule 28.

16. Amend Rule 20.01, subd. 4(E) as follows:

(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 ~~ana written~~ order finding competency. Otherwise, the court shall enter ~~ana written~~ order finding incompetency.

17. Amend Rule 21.02, subd. 1 as follows:

Subdivision 1. Generally. An indigent child wanting to appeal, cross-appeal, or defend an appeal taken by the prosecuting attorney shall make application to the office of the state public defender.

Upon the administrative determination by the state public defender's office that the applicant is financially and otherwise eligible for representation, the state public defender is automatically appointed for that purpose without order of the trial court. Any applicant who contests a decision of the state public defender's office regarding eligibility may apply to the Minnesota Supreme Court for relief.

If the parents of a child are financially able to contribute to some or all of the costs of representation, they may be ordered to pay the State of Minnesota all or a portion of those costs.

18. Amend Rule 21.03, subd. 1 as follows:

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 ~~or rehearing~~;
- (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.

19. Amend Rule 21.03, subd. 2(B)(1) as follows:

(1) *Time for Taking an Appeal.* An appeal shall be taken within thirty (30) days after service of the notice of the filing of the appealable order upon the child's counsel by the court administrator as provided in Rule 28.

20. Amend Rule 21.03, subd. 4 as follows:

Subd. 4. Release of Child.

(A) *Motion for Release Pending Appeal.* When release is not addressed in the motion for a stay, application for release pending appeal shall be made to the trial court. If the trial court refuses to release a child pending appeal, or imposes conditions of release, the trial court shall state the reasons on the record. Thereafter, if an appeal is pending, a motion for release or for modification of the conditions of release pending review, may be made to

the court of appeals. The motion shall be determined upon such papers, affidavits, and portions of the record as the parties shall present. The court of appeals may order the release of a child with or without conditions, pending disposition of the motion. The motion shall be determined on an expedited basis.

(B) *Conditions of Release* Minnesota Rules of Criminal Procedure 6.02 shall govern conditions of release upon certification. If a stay is granted under Rule 21.03, subdivision 3 of this rule, Minnesota Statutes, section 260B.176 shall govern conditions of release. The child has the burden of proving that the appeal is not frivolous or taken for delay and that the child does not pose a risk for flight, is not likely to commit a serious crime, and is not likely to tamper with witnesses. The trial court shall make written findings on each of the above factors. The trial court shall take into consideration that:

(1) the child may be compelled to serve the sentence or disposition imposed before the appellate court has an opportunity to decide the case; and

(2) the child may be confined for a longer time pending the appeal than would be possible under the potential sentence or disposition for the offense charged.

(C) *Credit for Time Spent in Custody* The time a child is in custody pending an appeal may be considered by the trial court in determining the disposition imposed in juvenile proceedings.

21. Amend Rule 21.04, subd. 1 and 5 as follows:

Subdivision 1. Scope of Appeal. The prosecuting attorney may appeal as of right from:

(A) sentences or dispositions imposed or stayed in extended jurisdiction juvenile cases;

(B) denial of a motion for certification or denial of a motion for designation as an extended jurisdiction juvenile prosecution;

(C) denial of a motion to revoke extended jurisdiction juvenile status following an admission of a violation of probation or a determination that a violation of probation has been proven;

(D) denial of a motion to revoke the stay of the adult sentence of an extended jurisdiction juvenile following an admission of a violation of probation or a determination that a violation of probation has been proven;

(E) pretrial orders, including suppression orders; and

(F) orders dismissing the charging document for lack of probable cause when the dismissal was based solely on a question of law.

Appeals from disposition or sentence shall only include matters which arose after adjudication or conviction. 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.

22. **Amend Rule 21.04, subd. 3(C)(1) as follows:**

(1) *Time for Appeal.* The prosecuting attorney may not appeal until all issues raised during the evidentiary hearing and pretrial conference have been determined by the trial court. The appeal shall be taken within ~~five (5)~~twenty (20) days after notice of entry of the appealable order is served upon the prosecuting attorney by the district court administrator. An appeal by the prosecuting attorney under this rule bars any further appeal by the prosecuting attorney from any existing orders not included in the appeal. No appeal of a pretrial order by the prosecuting attorney shall be taken after jeopardy has attached. An appeal under this rule does not deprive the trial court of jurisdiction over pending matters not included in the appeal.

23. **Amend Rule 21.04, subd. 4 as follows:**

Subd. 4. Stay. Upon oral notice that the prosecuting attorney intends to appeal a pretrial order, the trial court shall order a stay of the proceedings for ~~five (5)~~twenty (20) days to allow time to perfect the appeal.

24. **Amend Rule 21.04, subd. 5 as follows:**

Subd. 5. Conditions of Release. Upon appeal by the prosecuting attorney of a pretrial order, the conditions for the child's release pending the appeal shall be governed by Rule 5 or Minnesota Rules of Criminal Procedure 6.02, subdivisions 1 and 2 for children certified to adult court. The trial court shall consider whether the child may be confined for a longer time pending the appeal than would be possible under the potential sentence or disposition for the offense charged.

25. **Amend Rule 28 as follows:**

Rule 28. Copies of Orders~~Copies of Orders~~**Notice of Orders or Judgments**

~~Court orders shall be stated on the record at the hearing or~~Within five (5) days of filing of a written order or decision or entry of a judgment, the court administrator shall serve a copy of the written order shall be mailed toon the child, the child's counsel, prosecuting attorney, probation officer, the parent(s), the legal guardian or legal custodian of the child and their counsel. The order shall be accompanied by a notice of filing, which shall include notice of the right to appeal a final order pursuant to Rule 21. The State Court Administrator shall develop a "notice of filing" form, which shall be used by court administrators. Copies of court orders shall be sent by the court to those listed above who such a copy in writing or on the record and to such other persons as the court may direct.

26. **Delete Form 1. Petition from the Table of Forms following the Rules and amend the Introductory Statement to the forms as follows:**

Introductory Statement

The following forms are provided as an aid to practitioners and the court in the juvenile justice system. The forms are not mandatory, but shall be accepted by the court if offered by any party or counsel for their designated purpose. The Advisory Committee on Juvenile Delinquency Rules strongly recommends that Forms 12 through 16 be used in all felony level or enhanceable cases. ~~Additionally, the Committee encourages use of the Petition in every case, but recognizes that the form is likely to undergo further change with the implementation of the Minnesota Case Information System (MNCIS).~~ A sample petition may be found on the Minnesota Judicial Branch website.

**ATTACHMENT A – SAMPLE STATE COURT ADMINISTRATOR
PUBLICATION**

**Data Elements for Petitions Alleging Juvenile Delinquency,
Juvenile Traffic Offender, or Juvenile Petty Offender**

Rule 6.03 of the Minnesota Rules of Juvenile Delinquency Procedure establishes the required contents of juvenile petitions alleging Juvenile Delinquency, Juvenile Petty Offender, or Juvenile Traffic Offender. Rule 6.03 sets forth the required legal content and minimal administrative content of the petition, and directs the State Court Administrator to publish a list of required administrative data elements as determined by the Supreme Court Juvenile Delinquency Rules Committee. Below is the list of data elements to be provided by prosecutors in counties in which the courts are utilizing the Minnesota Case Information System (MNCIS) when filing a petition in a Delinquency, Juvenile Traffic Offender, or Juvenile Petty Offender case.

The elements are arranged in categories to suggest a logical location within the petition. **The court is not mandating the use of a particular form.** Prosecutors are free to vary the location of the elements. Prosecutors are also free to add additional information to the petition for their own or local purposes. However, only the elements published here will be tracked in MNCIS.

It is recognized that the prosecutor may not have all of the information detailed in these elements at the time of charging. Therefore, the elements have been categorized by level of importance to indicate: 1) the degree of need; 2) the purpose for which the court needs each element; and 3) the time period by which the information should be conveyed to the court if not done at charging. Elements listed as *Mandatory for Case Initiation* are the minimum items required to initiate a case in MNCIS. Elements listed as *Mandatory for Case Disposition* are pieces of information the court needs to complete its record of the case and/or that the court has a statutory obligation to pass on to other agencies following adjudication or conviction. Elements listed as *Mandatory for Case Processing* are items the court needs to know in order to determine what steps to take next, such as issuing notices, summons, etc. Elements listed as *Necessary* are pieces of information that are important to the court's or other agency's record keeping as indicated.

Petition Elements	Level of Importance
<u>Case Level Information</u>	
Juvenile's Name	Mandatory for Case Initiation
Alias Name(s)	Necessary (to assist BCA in compiling a complete record of criminal history)
Date of Birth	Mandatory for Case Disposition
Alias Date(s) of Birth	Necessary (to assist BCA in compiling a complete record of criminal history)
Race	Necessary (to comply with Minn. R. Juv. Del. P. 6.03)
Juvenile's Address	Necessary (for additional identifying information, and for the court and other agencies to use in contacting the juvenile)

Petition Elements	Level of Importance
County of Residence	Necessary (for determining jurisdiction)
Name of parent(s), legal guardian, legal custodian, or nearest known relative	Necessary (for the court and other agencies to fulfill notice obligations and to use in contacting the juvenile)
Address of parent(s), legal guardian, legal custodian, or nearest known relative	Necessary (for the court and other agencies to fulfill notice obligations and to use in contacting the juvenile)
Name of child's spouse	Necessary (for the court and other agencies to fulfill notice obligations and to use in contacting the juvenile)
Address of child's spouse	Necessary (for the court and other agencies to fulfill notice obligations and to use in contacting the juvenile)
Indication that Petition has been amended (<i>if applicable</i>)	Mandatory for Case Processing
Whether Prosecutor Designates the Proceeding an EJJ Prosecution (<i>if applicable</i>)	Mandatory for Case Processing
Prosecutor's File Number	Necessary (for cross-referencing purposes)
SID – State Identification Number	Necessary (to assist BCA in compiling a complete record of criminal history)
Fingerprint Status	Necessary (to assist court in fulfilling its statutory obligation to order fingerprinting and photographing if not already done)
<u>Per Count Information:</u>	
Count Number	Mandatory for Case Initiation
Statute Type	Mandatory for Case Initiation
Offense Date (single date or range of dates)	Mandatory for Case Initiation
Statute Number and Text Description	Mandatory for Case Disposition
Offense Level	Mandatory for Case Initiation
Minnesota Offense Code (MOC)	Mandatory for Case Initiation for Felonies and Gross Misdemeanors
Controlling Agencies	Mandatory for Case Disposition for Felonies, Gross Misdemeanors, and Targeted Misdemeanors
Control Numbers	Mandatory for Case Disposition for Felonies, Gross Misdemeanors, and Targeted Misdemeanors
Control Function (Arresting Agency, Booking Agency)	Necessary (to assist BCA in matching up controlling agencies and control numbers)
<u>Case Specific Factual Information:</u>	
Driver's License Number (<i>if a driving offense</i>)	Necessary (when required for DPS certification)
Plate Number (<i>if a driving offense</i>)	Necessary (when required for DPS certification)
Accident Type (<i>if a driving offense</i>)	Necessary (when required for DPS certification)
Alcohol Concentration (<i>if a DWI</i>)	Necessary (when required for DPS certification)