

STATE OF MINNESOTA

IN SUPREME COURT

C6-84-2165

PROMULGATION OF AMENDMENTS
TO THE RULES OF JUVENILE
PROCEDURE

ORDER

WHEREAS, the Minnesota Supreme Court promulgated the Rules of Juvenile Procedure on December 17, 1982, and

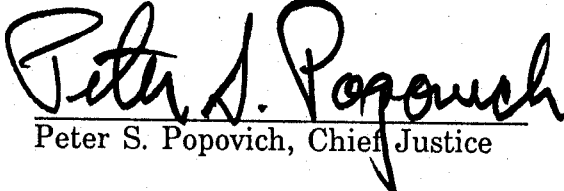
WHEREAS, the Rules contain outdated information on appellate procedure and other minor matters,

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The attached amendments to the Rules of Juvenile Procedure be, and the same are hereby, prescribed and promulgated for the regulation of juvenile procedure in the State of Minnesota.
2. These amendments shall govern all juvenile matters on or after March 1, 1990.

DATED: February 8, 1990

BY THE COURT:


Peter S. Popovich, Chief Justice

OFFICE OF
APPELLATE COURTS

FEB 08 1990

FILED

AMENDMENTS TO THE RULES OF JUVENILE PROCEDURE

C6-84-2165

Effective March 1, 1990

RULE 24.04

Subd. 5. Transcription, Certification and Filing. When the testimony is fully transcribed, the person before whom the deposition was taken shall certify on the deposition that the witness was duly sworn and that the deposition is a verbatim record of the testimony given by the witness. That person shall then securely seal the deposition in an envelope endorsed with the title of the case and marked "Deposition of (here insert name of witness)" and shall promptly file it with the court in which the case is pending or send it by registered or certified mail to the clerk court administrator thereof for filing.

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RULE 31. APPEAL

RULE 31.01 APPEAL BY CHILD, PARENT(S), OR GUARDIAN OF THE CHILD

Subd. 1. Appealable Orders.

(A) *Appeal by Child.* A child may appeal as of right to the Court of Appeals from a final order of the district court.

(B) *Appeal by Parent(s) or Guardian of the Child.* If the parent(s) or guardian participate separately pursuant to Rule 3.03, Subd. 2, they may appeal from a final order of the district court which occurs after the allegations of the petition have been proved.

Subd. 2. Procedure. The procedure upon appeal by the child or the parent(s) or guardian of the child shall be as follows.

(A) *Stay.* An appeal does not stay the order of the district court but the reviewing cCourt of Appeals may in its discretion and upon application stay the order.

(B) *Notice of Appeal.* Within thirty (30) days of the filing of the appealable order, the child's counsel or counsel for the parent(s) or guardian of the child shall file a written notice of appeal with the clerk of the appellate courts, ~~where the matter was heard.~~ ~~Within five (5) days after filing the notice of appeal, that notice shall be served upon~~ together with proof of service on the county attorney, and the child's counsel or counsel

for child's parent(s) or guardian when the child or the child's parent(s) or guardian have not filed the appeal; and the court administrator of the district court in which the order appealed from is entered. Proof of such service must be filed with the clerk of court not more than three (3) days after such service. Failure to file proof of service does not deprive the reviewing eCourt of Appeals of jurisdiction over the appeal, but is grounds only for such action as the reviewing eCourt of Appeals deems appropriate, including dismissal of the appeal.

(C) *Transcript, Affidavits, Papers, Files, Exhibits.* ~~The court reporter shall file with the clerk of court the original transcript and affidavits of delivery of the transcript to the county attorney and the child's counsel and to the counsel for the parent(s) or guardian of the child when they have appealed. The clerk of court shall transmit to the reviewing court any original papers, files and exhibits.~~ The Minnesota Rules of Civil Appellate Procedure to the extent applicable shall govern the transcript of the proceedings and the transmission of the transcript and record to the Court of Appeals.

RULE 31.02. APPEAL BY COUNTY ATTORNEY

Subd. 1. Appealable Orders. The county attorney may appeal from any pretrial orders of the district court except an order dismissing a petition for lack of probable cause. The county attorney may not appeal until after the pretrial conference or pretrial evidentiary hearing has been held, whichever is held later, and all issues raised in the pretrial conference or evidentiary hearing have been determined by the court. No appeal by the county attorney may be taken after jeopardy has attached.

Subd. 2. Procedure. The procedure upon appeal by the county attorney shall be as follows.

(A) *Stay.* Upon oral notice on the record or upon written notice filed with the district court that the county attorney intends to appeal, the court shall order a stay of the proceedings of five (5) days to allow time to perfect the appeal.

(B) *Notice of Appeal.* Within five (5) days after entry of the order staying the proceedings pursuant to Rule 31.02, Subd. 2(A), the county attorney shall file a written notice of appeal with the clerk of the appellate courts, where the matter was heard. ~~Within five (5) days after filing the notice of appeal, that notice shall be served upon together with proof of service on the child's counsel or counsel for child's parent(s) or guardian and the court administrator of the district court.~~ proof of such service must be filed with the clerk of court not more than three (3) days after such service. Failure to file proof of service does not deprive the reviewing eCourt of Appeals of jurisdiction over the county attorney's appeal, but is grounds only for such action as the reviewing eCourt of Appeals deems appropriate, including dismissal of the appeal.

(C) *Transcript, Affidavits, Papers, Files, Exhibits.* ~~The court reporter shall file with the clerk of court the original transcript and affidavits of delivery of the transcript to the county attorney and the child's counsel. The clerk of court shall transmit to the reviewing court any original papers, files and exhibits.~~ The Minnesota Rules of Civil Appellate Procedure to the extent applicable shall govern the transcript of the proceedings and the transmission of the transcript and record to the Court of Appeals.

(D) *Attorney's Fees.* Upon appeal by the county attorney, reasonable attorney's fees incurred shall be allowed to the child and shall be paid at public expense.

(E) *Joinder.* The county attorney may appeal from one or several of the pretrial orders joined in a single appeal.

(F) *Effect on Case in Court.* An appeal by the county attorney under this rule bars further appeal by the county attorney from orders existing at the time of appeal.

An appeal by the county attorney does not deprive the court of jurisdiction from any existing orders not included in this appeal.

Subd. 3. Cross-Appeal by Child. Upon appeal by the county attorney, the child's counsel may obtain review of any pretrial order which will adversely affect the child by filing a notice of cross-appeal with the clerk of the reviewing appellate courts together with proof of service on the county attorney, counsel for the child's parent(s) and guardian and the court administrator of the district court within ten (10) days after service of notice of appeal by the county attorney. ~~Within five (5) days after the notice of cross-appeal is filed, the notice of cross-appeal shall be served upon the county attorney and counsel for the child's parent(s) and guardian by the child's counsel.~~ Failure to serve the notice does not deprive the reviewing eCourt of Appeals of jurisdiction over the child's cross-appeal, but is grounds only for such action as the reviewing eCourt of Appeals deems appropriate, including a dismissal of the cross-appeal.

RULE 31.03 COURT HEARING APPEAL

~~**Subd. 1. Appeal from a District Court Juvenile Court.** An appeal from a district court juvenile court is taken directly to the Supreme Court of Appeals in the same manner in which appeals are taken in civil actions.~~

~~**Subd. 2. Appeal from a County Probate Juvenile Court.** An appeal from a county probate juvenile court is taken to the district court and shall be on the record in the same manner in which appeals are taken in civil actions.~~

RULE 48.01 MOTION FOR SUBPOENAS

On the court's own motion or at the request of counsel for a person who has the right to participate or the county attorney, the clerk court administrator shall issue subpoenas requiring the attendance and testimony of witnesses and the production of records, documents or other tangible objects at any hearing.

RULE 57.09 DEPOSITIONS

Subd. 5 Procedure

(F) *Certification of Deposition and Exhibits.* The officer shall certify on the deposition that the deponent was duly sworn and that the deposition is a true record of the testimony given by the deponent. The officer shall then place the deposition in an envelope addressed with the title of the matter and marked "Deposition of (here insert the name of the deponent)" and shall promptly deliver or mail it to the clerk of court administrator.

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RULE 63.01 APPEAL

Subd. 1. Appealable Orders. Any person with the right to participate may appeal to the Court of Appeals from a final order of the court.

Subd. 2. Procedure. The procedure upon appeal shall be as follows:

(A) *Stay.* An appeal does not stay the order of the court but the reviewing eCourt of Appeals may in its discretion and upon application stay the order.

(B) *Notice of Appeal.* Within thirty (30) days of the filing of the appealable order, the person appealing shall file a ~~written~~ notice of appeal with the clerk of appellate courts together with proof of service upon all other persons who exercised their right to participate and upon the court administrator for the district court, where the matter was heard. ~~Within five (5) days after filing the notice of appeal, that notice shall be served upon all other persons who exercised their right to participate and proof of such service must be filed with the clerk of court not more than three (3) days after such service.~~ Failure to file proof of service does not deprive the reviewing eCourt of Appeals of jurisdiction over the appeal, but is grounds only for such action as the reviewing eCourt of Appeals deems appropriate, including a dismissal of the appeal.

(C) *Transcript, Affidavits, Papers, Files, Exhibits.* ~~The court reporter shall file with the clerk of court the original transcript and affidavits of delivery of the transcript to any person who exercised their right to participate or who has appealed. The clerk of court shall transmit to the reviewing court any original papers, files and exhibits. The Minnesota Rules of Civil Appellate Procedure to the extent applicable shall govern the transcript of the proceedings and the transmission of the transcript and record to the Court of Appeals.~~

(D) *Attorney's Fee.* Upon appeal if the child or the child's parent(s) or guardian cannot afford the costs of appeal, these costs shall be paid at public expense in whole or in part depending on the ability of the child, and the child's parent(s) to pay.

Subd. 3. Cross-Appeal. Upon appeal by a person with the right to participate, any other person with the right to participate may obtain review of any pretrial order which will adversely affect that person by filing a notice of cross-appeal with the clerk of the reviewing appellate courts together with proof of service upon counsel for the other persons who exercised their right to participate and the person who appealed and the court administrator of the district court within ten (10) days after service of notice of appeal. ~~Within five (5) days after the notice of cross-appeal is filed, notice of cross-appeal shall be served upon counsel for the other persons who exercised their right to participate and the person who appealed, by the counsel for the person bringing the cross-appeal.~~ Failure to serve the notice does not deprive the reviewing eCourt of Appeals of jurisdiction over the child's cross-appeal, but is grounds only for such action as the reviewing eCourt of Appeals deems appropriate, including a dismissal of the cross-appeal.

RULE 63.02 COURT HEARING APPEAL

~~Subd. 1. Appeal from a District Court Juvenile Court.~~ An appeal from a district court juvenile court is taken directly to the Supreme Court of Appeals in the same manner in which appeals are taken in civil actions.

~~Subd. 2. Appeal from a County Probate Juvenile Court.~~ An appeal from a county probate juvenile court is taken to the district court and shall be on the record in the same manner in which appeals are taken in civil actions.

RULE 65.01 COMPUTATION

Unless otherwise provided by statute the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday. When a period of time prescribed or allowed is three days or less, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation. As used in these rules, "legal holiday" includes New Year's Day, Martin Luther King's Birthday, Washington's Birthday (President's Day), Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, the day after Thanksgiving Day, Christmas Day, and any other day appointed as a holiday by the President or Congress of the United States or by the State.