

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

**MINNESOTA SUPREME COURT  
JUVENILE DELINQUENCY RULES COMMITTEE**

CX-01-926

**December 12, 2005**

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## INTRODUCTION

The Juvenile Delinquency Rules Committee met in 2005 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.

### MOTION TO DISMISS FOR LACK OF PROBABLE CAUSE

It was brought to the committee's attention that the rules lacked a specific procedure for bringing a motion to dismiss for lack of probable cause. Though the committee felt the procedure was implicit in the rules, there was anecdotal information that the lack of a specific procedure was problematic in at least one jurisdiction, so the committee has recommended amending Rules 6.05 and 12.01 to make the procedure explicit.

### JUVENILE DETENTION PERIODS

Early in 2005, a county prosecutor contacted the staff attorney for the Juvenile Delinquency Rules Committee asking how long a juvenile held under a probationary apprehension and detention order could be held in detention. In researching the issue, it was discovered that in some areas in the state juveniles are being held in detention on alleged probation violations for up to 72 hours pursuant to the provisions in Minn. Stat. §§ 244.195, subd. 2 and 401.025, subd. 1, which authorize probation officers to issue apprehension and detention orders. The staff attorney's legal analysis concluded, and the committee agrees, that the more specific statutes and rules applicable to juvenile delinquents govern the maximum period for detention of juveniles alleged to have committed probation violations. That maximum period is 36 hours pursuant Minn. Stat. § 260B.176, subd. 2 and Minn. R. Juv. Del. P. 5.<sup>1</sup> Because the relationship between the detention periods in the more general probation statutes and the detention periods in the more specific juvenile delinquency statute and rule may not be clear to probation agents, the committee has recommended amending Rule 15.07 to clarify the tie between the probation procedure and the detention rule, and has also recommended that the Judicial Branch put forth legislation amending Minn. Stat. §§ 244.195, subd. 2 and 401.025, subd. 1 to reference Minn. Stat. § 260B.176, subd. 2 as the source for the maximum allowable detention period for juveniles held pursuant to a probationary apprehension and detention order.

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<sup>1</sup> It should be noted that 36 hours is the *maximum* detention period authorized by statute. The statute specifies much shorter detention periods for juveniles detained in adult jails or municipal lockups.

## **APPLICATION OF JUVENILE STATUTES AND RULES TO EJJ TRIALS**

It was brought to the committee's attention that there has been some confusion as to whether the juvenile statutes and rules (e.g., who may be present, extent of parent participation, etc.) are applicable to EJJ trials, for which the general trial procedure is governed by Minn. R. Crim. P. 26. To clarify that the statutes and rules *are* applicable, and that the criminal rule is merely cited to pull the trial procedure into the Delinquency Rules, the committee has recommended amending Rules 19.07 and 19.09.

### **EJJ VS. JUVENILE DISPOSITION**

The committee considered amending Rule 19.10 in light of In re Welfare of T.C.J., 689 N.W.2d 787 (Minn. Ct. App. 2005), in which the Court of Appeals determined that Minn. Stat. § 260B.130, subd. 4(b) violates Equal Protection because it allows juveniles designated EJJ to receive a juvenile disposition if found guilty of a lesser offense but does not confer a similar benefit to a juvenile who was designated EJJ by the court following a failed certification hearing. However, members disagreed as to whether the procedure should be amended to confer the benefit of a juvenile disposition on all juveniles found guilty of a non-EJJ offense or to eliminate the benefit altogether. Additionally, the committee recognized that any change would result in a conflict between the rule and statute, and would place the Supreme Court in the position of making a statement on the issue before it has been litigated in the higher court. Thus, the committee chose not to propose amendments to the rules at this time. The committee has, however, recommended the addition of a comment to Rule 19 calling attention to the Court of Appeals opinion. In addition, the committee will continue to monitor the situation so that an appropriate proposal can be made if there is new legislation or case law addressing the issue.

### **APPEALS**

In the case of In re Welfare of J.L.P., No. A05-67 (Minn. Ct. App. Aug. 5, 2005), the Court of Appeals noted a timing discrepancy between Rules 19.11 and 21.03 regarding appeals of extended jurisdiction juvenile (EJJ) revocation decisions. To address that, the committee has proposed moving the appellate procedure from Rule 19 to Rule 21 and more clearly delineating in Rules 21.03 and 21.04 the EJJ-related appeals allowable for both the juvenile and prosecutor.

### **GAL CLARIFICATIONS**

In late 2003, the Guardian Ad Litem Subcommittee of the Juvenile Protection Rules Committee submitted proposals to amend several Juvenile Delinquency Rules of Procedure to clarify that the guardian ad litem referred to was the guardian ad litem appointed in the delinquency proceeding. Those proposals were subsequently approved by the Court. The Juvenile Delinquency Rules Committee identified four other rules in which the same clarification could be made and has recommended amending Rules 2.02, 3.04, 18.05 and 19.04 to do so.

## MISCELLANEOUS

Some minor amendments have been proposed for Rules 8.01, 19.01, and 19.10 to eliminate redundant language regarding the entry of guilty pleas in EJJ cases. Comments were added to Rules 15 and 19 to reference In re Welfare of R.V., 702 N.W.2d 294 (Minn. Ct. App. 2005), which clarified that the court does not have to utilize the three-step Austin analysis when revoking a juvenile's probation in a delinquency proceeding.

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. Rule 2. Attendance at Hearings and Privacy**

*Amend Rule 2.02 as follows:*

#### **Rule 2.02 Exclusion of Persons Who Have a Right to Attend Hearings**

The court may temporarily exclude any person, except counsel and the guardian ad litem appointed in the delinquency proceeding, when it is in the best interests of the child to do so. The court shall note on the record the reasons a person is excluded. Counsel for the person excluded has the right to remain and participate if the person excluded had the right to participate in the proceeding. An unrepresented child can not be excluded on the grounds that it is in the best interests of the child to do so.

### **2. Rule 3. Right to Counsel**

*Amend Rule 3.04, subd. 1 as follows:*

**Subdivision 1. Conditions of Waiver.** The following provision does not apply to Juvenile Petty Offenses, which are governed by Rule 17. Any waiver of counsel must be made knowingly, intelligently, and voluntarily. Any waiver shall be in writing or on the record. The child must be fully and effectively informed of the child's right to counsel and the disadvantages of self-representation by an in-person consultation with an attorney, and counsel shall appear with the child in court and inform the court that such consultation has occurred. In determining whether a child has knowingly, voluntarily, and intelligently waived the right to counsel, the court shall look to the totality of the

circumstances including, but not limited to: the child's age, maturity, intelligence, education, experience, ability to comprehend, and the presence of the child's parents, legal guardian, legal custodian or guardian ad litem appointed in the delinquency proceeding. The court shall inquire to determine if the child has met privately with the attorney, and if the child understands the charges and proceedings, including the possible disposition, any collateral consequences, and any additional facts essential to a broad understanding of the case.

### 3. Rule 6. Charging Document

*Amend Rule 6.05 by adding a new subdivision 3 and renumbering existing subdivision 3 as follows:*

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

**Subd. 34. Dismissal.** The court shall dismiss a charging document when a showing of probable cause has not been made. A dismissal for failure to show probable cause shall not prohibit the filing of a new charging document and further proceedings on the new charging document.

**4. Rule 8. Pleas**

*Amend Rule 8.01, subd. 2 as follows:*

**Subd. 2. Extended Jurisdiction Juvenile Proceedings.** Pleas in extended jurisdiction juvenile proceedings are governed by Rule 19.10, subdivision ~~4~~5 and Minnesota Rules of Criminal Procedure 15.

**5. Rule 12. Omnibus Hearing**

*Amend Rule 12.01 as follows:*

**Rule 12.01 Scheduling of Omnibus Hearing**

The court shall hold an omnibus hearing pursuant to Minnesota Rules of Criminal Procedure, ~~Rule 11~~ any time before trial to determine issues raised pursuant to Rules 6, 10, or 11 upon its own motion or upon motion of the child's counsel or the prosecuting attorney.

Where new information, evidence, or issues arise during trial, the court may consider these issues at trial. Any issue not determined prior to trial shall be determined as part of the trial.

**6. Rule 15. Delinquency Disposition**

*Amend Rule 15.07, subd. 2 as follows:*

**Subd. 2. Detention Hearing.** ~~If the child is detained pursuant to a warrant for immediate custody, detention~~Detention pending a probation violation hearing is governed by Rule 5.

**7. Comments – Rule 15**

***Amend the twenty-third paragraph of the comments to Rule 15 and insert a new twenty-fourth paragraph as follows:***

*Much of Minn. R. Juv. Del. P. 15.07 was taken from Minn. R. Crim. P. 27.04. There was question as to whether probation officers could detain juveniles pending a probation violation hearing for 72 hours pursuant to Minn. Stat. §§ 244.195, subd. 2 (2004) and 401.025, subd. 1 (2004). Minn. R. Juv. Del. P. 15.07, subd. 2 was clarified to indicate that the maximum period for the detention of juveniles pending a probation violation hearing is 36 hours pursuant to Minn. R. Juv. Del. P. 5 and Minn. Stat. § 260B.176, subd. 2(2004).*

*The three-step Austin analysis (see State v. Austin, 295 N.W.2d 246 (Minn. 1980)) is not required when revoking a juvenile’s probation under Minn. R. Juv. Del. P. 15.07, subd. 4(D)“because the juvenile rules afford non-EJJ juvenile probationers better protection against the reflexive execution of a stayed disposition requiring confinement in a secure facility than Austin would afford.” In re Welfare of R.V., 702 N.W.2d 294 (Minn. Ct. App. 2005).*

**8. Rule 18. Certification of Delinquency Matters**

***Amend Rule 18.05, subd. 1(C) as follows:***

(C) *Waiver.* The child may waive the right to a certification hearing provided that the child does so knowingly, voluntarily, and intelligently on the record after being fully and effectively informed of the right to a certification hearing by counsel. In determining whether the child has knowingly, voluntarily, and intelligently waived this right the court shall look at the totality of the circumstances. These circumstances include but are not limited to: the presence of the child's parent(s), legal guardian, legal custodian or guardian

ad litem appointed in the delinquency proceeding; and the child's age, maturity, intelligence, education, experience, and ability to comprehend the proceedings and consequences.

**9. Rule 19. Extended Jurisdiction Juvenile Proceedings and Prosecution**

***Amend Rule 19.01, subd. 3(A) as follows:***

(A) alleges a felony offense committed after the child's sixteenth (16<sup>th</sup>) birthday and the offense would, if committed by an adult, ~~be~~result in a presumptive commitment to prison under the sentencing guidelines and applicable statutes, or a felony offense in which the child allegedly used a firearm; and

***Amend Rule 19.04, subd. 1(C) as follows:***

(C) *Waiver.* The child may waive the right to an extended jurisdiction juvenile proceeding hearing provided that the child does so knowingly, voluntarily, and intelligently on the record after being fully and effectively informed of all rights by counsel. In determining whether the child has knowingly, voluntarily, and intelligently waived this right the court shall look at the totality of the circumstances. These circumstances include but are not limited to: the presence of the child's parent(s), legal guardian, legal custodian or guardian ad litem appointed in the delinquency proceeding, the child's age, maturity, intelligence, education, experience, and ability to comprehend the proceedings and consequences.

***Amend Rule 19.07, subd. 2 as follows:***

**Subd. 2. Decision, Timing, and Content of Order Following Contested Hearing.** Within fifteen (15) days of the contested hearing, the court shall ~~enter~~file an order with written findings of fact and conclusions of law as provided in this subdivision.

(A) If the court orders that the proceeding be an extended jurisdiction juvenile prosecution, the order shall state:

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

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

(3) findings of fact as to:

(a) the child's date of birth;

(b) the date of the alleged offense(s); and

(c) why the court found that designating the proceeding as an extended jurisdiction juvenile prosecution serves public safety pursuant to Rule 19.05.

(B) If the court does not order that the proceeding be an extended jurisdiction juvenile prosecution, the court order shall state:

(1) that the case shall proceed as a delinquency proceeding in juvenile court;

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

(3) findings of fact as to:

(a) the child's date of birth;

(b) the date of the alleged offense(s);

(c) why the court found that retaining the proceeding in juvenile court serves public safety pursuant to Rule 19.05.

~~If the court orders that the matter proceed as an extended jurisdiction juvenile prosecution, further proceedings shall be held pursuant to the Minnesota Rules of Criminal Procedure, except as modified by these rules. If the court orders that the matter is not an extended jurisdiction juvenile prosecution, further proceedings shall be held pursuant to Rule 7.~~

*Amend Rule 19.09 as follows:*

**Rule 19.09 Extended Jurisdiction Juvenile Prosecution**

Minnesota Statutes, chapters 260 and 260B and these Rules apply to extended jurisdiction juvenile prosecutions. However, every child who is the subject of an extended jurisdiction juvenile prosecution is entitled to trial by jury on the underlying offense pursuant to Minnesota Rules of Criminal Procedure 26. The court shall schedule a hearing for the child to enter a plea to the charges. If the child pleads not guilty, the court shall schedule an omnibus hearing prior to the trial and shall also schedule the trial. The trial shall be scheduled pursuant to Rule 13.02, except:

(A) The time shall run from the date of the filing of the extended jurisdiction juvenile order.

(B) In cases where the child is in detention, if the extended jurisdiction juvenile hearing is commenced within thirty (30) days of the prosecution motion for EJJ designation, the trial shall be scheduled within sixty (60) days of the court's order designating the child an extended jurisdiction juvenile, unless good cause is shown why the trial should not be held within that time. If the hearing on the motion to designate the child as an extended jurisdiction juvenile is commenced more than thirty (30) days from

the filing of the motion, the trial shall be commenced within thirty (30) days of entry of the court's order designating the child an extended jurisdiction juvenile.

***Amend Rule 19.10, subd. 1 as follows:***

**Subdivision 1. ~~Guilty Plea or Conviction~~Procedure.** ~~Guilty pleas shall be made on the record and pursuant to Rule 15.~~ Upon a guilty plea or conviction, the court shall:

(A) order one or more dispositions under Minnesota Statutes, section 260B.198; and

(B) impose an adult criminal sentence under Minnesota Law, except that the court shall stay execution of that sentence on the conditions that the child not violate the provisions of the disposition ordered in subdivision 1(A) above or commit a new offense.

***Amend Rule 19.10, subd. 5(A) as follows:***

(A) ~~Upon a plea of guilty after a child has been determined to be an Extended Jurisdiction Juvenile, a~~A verbatim record shall be made of ~~the~~all plea and sentencing proceedings.

***Amend Rule 19.11, subd. 3(F) as follows:***

(F) *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~~in Rule 21.

## **10. Comments – Rule 19**

***Amend the eighteenth paragraph of the comments to Rule 19 as follows:***

*In accordance with the procedure and law set forth in State v. B.Y., 659 N.W.2d 763 (Minn. 2003), Minn. R. Juv. Del. P. 19.11, subd. 3 incorporates consideration of the Austin*

*factors (see State v. Austin, 295 N.W.2d 246 (Minn. 1980), into the court's determination of whether to revoke the stayed prison sentence of an EJJ probationer. This is in contrast to the decision to revoke probation in delinquency cases, for which consideration of the Austin factors is not required. In re Welfare of R.V., 702 N.W.2d 294 (Minn. Ct. App. 2005).*

***Insert a new nineteenth paragraph in the comments to Rule 19 as follows:***

*The decision in In Re Welfare of T.C.J., 689 N.W.2d 787 (Minn. Ct. App. 2004) that Minn. Stat. § 260B.130, subd. 4(b) violates Equal Protection raises an issue regarding the application of Minn. R. Juv. Del. P. 19.10, subd. 3, which was modeled after the statute.*

## **11. Rule 21. Appeals**

***Amend Rule 21.03, subs. 1 and 2 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 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 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 court may review any other matter as the interests of justice require. In addition to all powers of review presently existing, the 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) ~~determination as an~~ 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; ~~and~~

(10) an order revoking probation, including an order adjudicating a child delinquent after the child was granted a continuance without adjudication; ~~and an order revoking the stay of the adult sentence of an extended jurisdiction juvenile.~~

(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.

**Subd. 2. Procedure for Appeals.**

(A) Orders Revoking Extended Jurisdiction Juvenile Status and Orders Revoking the Stayed Adult Sentence of an Extended Jurisdiction Juvenile. Probationer appeals under Rule 21.03, subdivision 1(A)(11) and (12) shall be governed by the procedure provided for appeal from a sentence by Minnesota Rules of Criminal Procedure 27.04, subdivision 3(5) and 28.05.

(B) All Other Appealable Orders. All other juvenile appeals shall proceed as follows:

(A1) Time for Taking an Appeal. An appeal shall be taken within thirty (30) days of the filing of the appealable order.

(B2) Notice of Appeal and Filing. The appellant shall file the following documents with the clerk of the appellate courts:

(1a) a notice of appeal naming the party taking the appeal, identifying the order being appealed, and listing the names, addresses, and telephone numbers of all counsel;

(2b) proof of service of notice of appeal on the adverse party, the district court administrator, and the court reporter;

(3c) a certified copy of the judgment or order appealed from; and

(4d) two copies of the statement of the case as provided for by Minnesota Rules of Civil Appellate Procedure 133.03.

When the disposition is ordered in a county other than the one in which the child pled guilty or was found to have committed the offense(s), the appellant shall serve notice of appeal on the prosecuting attorney, district court administrator and court reporter in the county where the child pled guilty or was found to have committed the offense(s) as well as the prosecuting attorney, district court administrator and court reporter where the disposition was ordered. Proof of service of notice of appeal on all of these persons shall be filed with the clerk of the appellate courts.

Whether a filing fee is required shall be determined pursuant to Minnesota Rules of Civil Appellate Procedure 103.01, subdivision 3. A cost bond is not required.

Except for the timely filing of the notice of appeal, if a party fails to comply with these rules, the validity of the appeal may not be affected except as deemed appropriate by the court of appeals.

(E3) *Transcript of Proceedings and Transmission of the Transcript and Record.* The Minnesota Rules of Civil Appellate Procedure shall govern the transcription of

the proceedings and the transmission of the transcription and record to the court of appeals except as modified here:

(~~1~~a) Within ten (10) days of filing the notice of appeal, appellant shall order the necessary transcript and notify the court reporter that the transcript is due within thirty (30) days of the court reporter's receipt of the appellant's request for transcript.

(~~2~~b) For parties represented by the state public defender, payment for transcripts will be made after receipt of the transcripts.

(~~3~~c) Any videotape or audiotape exhibits admitted at trial or hearing shall be transcribed at the request of either party and shall be included as part of the record.

(~~D~~4) *Briefs.* The Minnesota Rules of Civil Appellate Procedure shall govern the form and filing of briefs except as modified here:

(~~1~~a) Extended Jurisdiction Juvenile and Certification Determinations.

(~~a~~i) The appellant shall serve and file the appellant's brief and appendix within thirty (30) days after delivery of the transcript by the reporter. If the transcript is obtained prior to appeal or if the record on appeal does not include a transcript, then the appellant shall serve and file the appellant's brief and appendix within thirty (30) days after the filing of the notice of appeal.

(~~b~~ii) The appellant's brief shall contain a statement of the procedural history.

(~~e~~iii) The respondent shall serve and file the respondent's brief and appendix, if any, within thirty (30) days after service of the brief of appellant.

(~~d~~iv) The appellant may serve and file a reply brief within

fifteen (15) days after service of the respondent's brief.

(2b) Briefs For Cases Other Than Extended Jurisdiction Juvenile and Certification Determinations.

(ai) The appellant shall serve and file the appellant's brief and appendix within forty-five (45) days after delivery of the transcript by the reporter. If the transcript is obtained prior to appeal or if the record on appeal does not include a transcript, then the appellant shall serve and file the appellant's brief and appendix within forty-five (45) days after the filing of the notice of appeal.

(bij) The appellant's brief shall contain a statement of the procedural history.

(eiii) The respondent shall serve and file the respondent's brief and appendix, if any, within thirty (30) days after service of the brief of appellant.

(div) The appellant may serve and file a reply brief within fifteen (15) days after service of the respondent's brief.

*Amend Rule 21.04 as follows:*

**Rule 21.04 Appeal by Prosecuting Attorney**

**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 determination ~~of~~ as an extended jurisdiction juvenile prosecution designation;

(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~~that arose after adjudication or conviction. In addition to all powers of review presently existing, the 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.

**Subd. 2. Attorney Fees.** The child shall be allowed reasonable attorney fees and costs incurred for appeal. The child's attorney fees and costs shall be paid by the governmental unit ~~which is~~ responsible for prosecution of the case.

**Subd. 3. Procedure for Appeals.**

(A) Prosecutorial appeals under Rule 21.04, subdivision 1(A), (B), and (F) shall be governed by Rule 21.03, subdivision 2.

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

(C) Prosecutorial appeals under Rule 21.04, subdivision 1(E) shall proceed as

follows:

(A1) *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) 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.

(B2) *Notice of Appeal and Filing.* Rule 21.03, subdivision 2(B) shall govern notice of appeal and filing of an appeal by the prosecuting attorney except that the prosecuting attorney must file a statement of the case as provided for by Minnesota Rules of Civil Appellate Procedure 133.03. In addition, if a transcript of the proceedings is necessary, the prosecuting attorney must file a copy of the request for transcript with the clerk of the appellate court.

(C3) *Briefs.* The Minnesota Rules of Civil Appellate Procedure shall govern the form and filing of briefs except as modified here:

(1a) Within fifteen (15) days of delivery of the transcripts, appellant shall file the appellant's brief with the clerk of the appellate courts together with proof of service upon the respondent.

(2b) The appellant's brief shall contain a statement of the procedural history.

(3c) Within eight (8) days of service of appellant's brief upon respondent, the respondent shall file the respondent's brief with the appellate court clerk together with proof of service upon the appellant.

**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) days to allow time to perfect the appeal.

**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, for children certified to adult court, Minnesota Rules of Criminal Procedure 6.02, subdivisions 1 and 2 ~~for children certified to adult court~~. The 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.

**Subd. 6. Cross-Appeal by Child.** Upon appeal by the prosecuting attorney, the child 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 appellate courts and the trial court administrator together with proof of service on the prosecuting attorney. The notice of cross-appeal shall be filed within ten (10) days after service of notice of the appeal by the prosecuting attorney. Failure to serve the notice does not deprive the court of appeals of jurisdiction over a child's cross-appeal but is ground for such action as the court of appeals deems appropriate, including dismissal of the cross-appeal.