STATE OF MINNESOTA
IN SUPREME COURT

C1-84-2137

OFFICE OF
APPELLATE COURTS
NOV 17 2008
FILED

ORDER PROMULGATING AMENDMENTS TO THE RULES OF CRIMINAL PROCEDURE

The Supreme Court Advisory Committee on Rules of Criminal Procedure filed a report on August 29, 2008, recommending amendments to the Rules of Criminal Procedure to authorize electronic filing for charging documents to allow implementation of a joint eCharging/e-filing pilot project of the Minnesota Justice Information Services (MNJIS, fka CriMNet) and the Minnesota Judicial Branch. The purpose of the project is to allow law enforcement and prosecution offices to electronically prepare and transmit charging documents to the courts. The Supreme Court reviewed the proposed amendments and submitted comments, and is fully advised in the premises.

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The attached amendments to the Minnesota Rules of Criminal Procedure are prescribed and promulgated as a temporary rule effective in the following counties for participants in the eCharging/e-filing pilot project: Carver, Kandiyohi, Olmsted, and St. Louis.

2. The temporary rule is effective December 1, 2008, and shall be in effect for two years thereafter, unless abrogated earlier by this court.

3. At least 10 days prior to commencement of the eCharging/e-filing pilot project, MNJIS shall file a notice with this court identifying the start date of the pilot project.

4. During the first 30 days of the eCharging/e-filing pilot project, the participants must follow a parallel paper process and file hard-copy complaints as required under Minn. R. Crim. P. 33.04, notwithstanding the provisions in temporary Rule 1.06, subd. 5.

5. Within six months after the start date of the eCharging/e-filing pilot project, MNJIS shall file a report with the Court addressing:

   (a) an assessment of the functionality of the technology used in the pilot project;

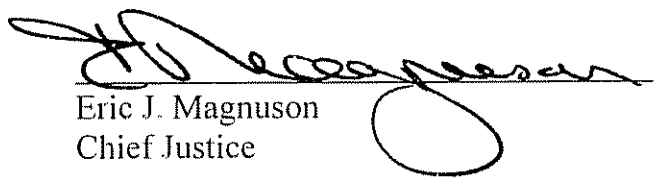
   (b) an analysis of the signature standard as promulgated in temporary Rule 1.06, subd. 3(b) ; and

   (c) a general report of the successes achieved and any barriers encountered during the six-month period.

6. The inclusion of Advisory Committee comments is made for convenience and does not reflect court approval of the comments.

DATED: November 17, 2008

BY THE COURT:



Eric J. Magnuson
Chief Justice

AMENDMENTS TO THE RULES OF CRIMINAL PROCEDURE

Note: Throughout these amendments, unless otherwise indicated, deletions are indicated by a line drawn through the words, and additions are underlined.

1. Rule 1. SCOPE, APPLICATION, GENERAL PURPOSE, AND CONSTRUCTION

Insert new Rule 1.06 as follows:

Rule 1.06. Use of Electronic Filing for Charging Documents

Subdivision 1. Definitions.

(a) *Charging Document.* A "charging document" is a complaint, indictment, citation, or tab charge.

(b) *E-filing.* "E-filing" is the electronic transmission of the charging document to the court administrator.

Subd. 2. Authorization. E-filing may be used to file with the court administrator in a criminal case any charging document except an indictment.

Subd. 3. Signatures.

(a) *How Made.* All signatures required under these rules must be affixed electronically if the charging document is e-filed.

(b) *Signature Standard.* Each signature affixed electronically must comply with the electronic signature standard approved by the State Court Administrator, except that electronic signatures affixed by law enforcement officers serving as the complainant must be authenticated using biometric identification.

(c) *Effect of Electronic Signature.* A printed copy of a charging document showing that an electronic signature was properly affixed under paragraph (b) prior to the printout is prima facie evidence of the authenticity of the electronic signature.

Subd. 4. Electronic Notarization. If the probable cause statement in an e-filed complaint is made under oath before a notary public, it must be electronically notarized in accordance with state law.

Subd. 5. Paper Submission. E-filed documents are in lieu of paper submissions. An e-filed document should not be transmitted to the court administrator by any other means unless the court requests a printed copy.

Subd. 6. Scope and Effective Date. This is a temporary rule effective in the following counties for participants in the eCharging/e-filing pilot project: Carver, Kandiyohi, Olmsted, and St. Louis. The rule is effective December 1, 2008, and shall be in effect for two years thereafter, unless abrogated earlier by order of this court.

2. Comments – Rule 1

Insert the following paragraphs at the end of the comments to Rule 1:

The signatures of the following persons must be affixed electronically when a complaint is e-filed pursuant to Rule 1.06: (a) the complainant, as required under Rule 2.01, subd. 1; (b) the judge, court administrator, or notary public before whom a complaint is made upon oath, as required under Rule 2.01, subd. 2; (c) the prosecutor, as required under Rule 2.02; and (d) the judge, indicating a written finding of probable cause, as required under Rule 4.03, subd. 4. There are currently no signature requirements in the rules for citations or tab charges.

It is anticipated that if a complaint is commenced electronically, any actor in the chain (e.g., prosecutor or judge) could choose to print the complaint and proceed by filing a hard copy. If paper filing occurs, Rule 1.06, subd. 3, clarifies that any signatures affixed electronically and shown on the hard copy complaint are valid so long as the signatures were affixed in compliance with the electronic signature standard under paragraph (b).

Electronic Notarization, as required under Rule 1.06, subd. 4, is governed by Minn. Stat. Chs. 358 and 359.