

**SEVENTH JUDICIAL DISTRICT
ADMINISTRATIVE POLICY MANUAL**

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ADMINISTRATIVE POLICY NO. 1.0

ORGANIZATIONAL GUIDELINES FOR JUDGES

**ARTICLE I.
MEMBERSHIP AND PURPOSE**

1.01 Scope. These Rules shall govern the meetings and administrative proceedings of the District Court Judges of the Seventh Judicial District.

1.02 Purpose. Minn. Stat. 484.69, Subd. 5, requires all the judges of the judicial district to convene at least semiannually to consider administrative matters and rules of court and to provide advice and counsel to the chief judge. These Rules provide the guidelines and operating procedures through which that process is accomplished.

1.02 Members. The voting members shall consist only of duly elected or appointed District Court Judges chambered in the Seventh Judicial District.

**ARTICLE II.
MEETINGS OF MEMBERS**

2.01 Regular Meetings. Regular meetings of the members shall be held quarterly on the date and at the time and place fixed by the Chief Judge of the District. The regular quarterly meetings shall normally be held in February, May, August, and December. Regular meetings should be scheduled at least three months in advance whenever possible.

2.02 Special Meetings. The Chief Judge may convene a special meeting for a specifically stated purpose or purposes if circumstances require consideration of some issue or action before the next scheduled regular meeting. A majority of the Judges in the District, by written request, may demand that a special meeting be called at any time for a specifically stated purpose or purposes. Upon receipt of such a written request, the Chief Judge shall set a date, time, and place for the special meeting no sooner than two weeks and no later than four weeks from the date of receipt of the request. The business transacted at all special meetings shall be confined to the purpose stated in the request or notice.

2.03 Election Meeting. The first quarterly meeting of each odd-numbered year shall be held prior to May 15 and shall have as an agenda item the election of the Chief Judge and Assistant Chief Judge of the District to serve for a two year term commencing July 1 of the year in which they are elected. This Rule complies with the term requirements of Minn. Stat. 484.69. The timing of this election is in compliance with the Rule of the Conference of Chief Judges that requires the election to take place prior to May 15.

2.04 Notice of Meetings. Written notice of all meetings shall be given to every member at least 14 days before the date of the meeting. Such notices may be given via e-mail. Notice of regular meetings should be given as soon as the meeting date is selected, which should be at least 3 months in advance. An additional notice of regular meetings should be given with the agenda for the meeting. A special meeting convened by the order of the Chief Judge shall be noticed as soon as possible and in a manner reasonable under the circumstances (i.e. mail, e-mail, telephone, etc.). All notices should state the date, time, and place of the meeting. Every notice of any special meeting shall state the purpose or purposes for which the meeting has been called.

2.05 Agenda at Regular Meetings. Any business appropriate for action by the members may be transacted at a regular meeting. The District Administrator shall transmit an agenda with appropriate attachments to all District Judges two weeks before the meeting. Any Judge may place an item on the agenda by notifying the Chief Judge and District Administrator prior to the time that the agenda is sent out. An item may also be placed on the agenda at the time of the meeting if approved by a majority of those present and voting. Items thus added to the agenda shall be considered for discussion purposes only, unless a majority of judges at the meeting vote to make the item an "action" item.

2.06 Quorum. A majority of the Judges of the District must be present in person at the meeting to constitute a quorum. If a quorum is present when a duly called meeting is convened, the members present may continue to transact business until adjournment, even though withdrawal of members originally present leaves less than the number otherwise required for a quorum.

2.07 Voting. At each meeting of the members, every member shall be entitled to vote in person. No proxy votes will be allowed. Absentee voting is permitted as described in Section 2.12. Upon demand by any member the vote upon any question before the meeting shall be by ballot.

2.08 Conduct of Meetings. The Chief Judge shall chair the regular and special meetings and shall conduct the business of the meeting in an informal manner making sure that every Judge has a reasonable opportunity to be heard. If there are procedural ambiguities or conflicts, which cannot be resolved by agreement of the Judges, they shall be resolved in accord with Robert's Rules of Order. The Chief Judge may appoint a parliamentarian to provide advice on the Rules of Order.

2.09 Minutes. The District Administrator shall take minutes of all regular and special meetings. The minutes shall fairly and accurately summarize all discussions held and actions taken at the meeting.

2.10 Authorization without a Meeting. Any action required or permitted at a meeting of the members may be taken without a meeting by written action signed by all the members entitled to vote on that action, or by email votes sent by each member to the District Administrator within the time specified by the Chief Judge. The action is effective when it has been signed by all of those members, or when email voting has concluded unless a different effective time is provided in the proposed action.

2.11 Conference Meetings.

A. A conference among the Judges of the District by any means of communication through which the Judges may simultaneously hear each other during the conference constitutes a meeting, if the same notice is given of the conference as would be required by Section 2.04 for a meeting, and if the number of Judges participating in the conference would be sufficient to constitute a quorum at a meeting.

B. A Judge may participate in a meeting not described in paragraph (A) by any means of communication through which the Judge, other Judges also participating, and all Judges physically present at the meeting may simultaneously hear each other during the meeting. Participation in a meeting by that means constitutes presence in person at the meeting. A Judge wishing to participate in this manner shall make arrangements with the Chief Judge and District Administrator a reasonable time in advance of the meeting.

2.12 Absent Judges. A Judge may give advance written consent or opposition to a proposal to be acted on at a meeting. If the Judge is not present at the meeting, consent or opposition to a proposal does not constitute presence for purposes of determining the existence of a quorum, but consent or opposition shall be counted as a vote in favor of, or against, the proposal and shall be entered in the minutes or other record of action of the meeting if the proposal acted on at the meeting is substantially the same or has substantially the same effect as the proposal to which the Judge has consented or objected.

ARTICLE III. OFFICES

3.01 Chief and Assistant Chief. There shall be a Chief Judge and Assistant Chief Judge.

3.02 Election and Term of Office. The Chief Judge and Assistant Chief Judge shall serve a term of two years beginning July 1 of the year in which they are elected. No judge may serve as Chief Judge or Assistant Chief Judge for more than two consecutive two-year terms. The seniority of judges and rotation of the position of Chief Judge or Assistant Chief Judge shall not be criteria for the election of the Chief Judge or the Assistant Chief Judge. The election of the Chief Judge and Assistant Chief Judge shall be by secret written ballot. If there are three or more candidates for an office, a process of ranked instant runoff voting shall be employed, whereby ballots are initially counted based on each elector's first preference. If a candidate secures more than half of votes cast, that candidate wins. Otherwise, the candidate with the fewest votes is eliminated. Ballots assigned to the eliminated candidate are recounted and assigned to those of the remaining candidates who rank next in order of preference on each ballot. This process continues until one candidate wins by obtaining more than half the votes.

3.03 Removal. A Chief Judge or Assistant Chief Judge may be removed by the Chief Justice of the Supreme Court for cause, or by a majority of the Judges of the judicial district for any reason. A motion to remove a Chief Judge or Assistant Chief Judge may not be voted on unless

all the Judges in the district were given at least 14 days advance notice in writing of the motion to remove.

3.04 Absentee Voting. Any District Judge may vote by absentee ballot for the election or removal of the Chief Judge or Assistant Chief Judge. Absentee ballots shall be in writing and shall be delivered to the District Administrator prior to the meeting when the election or removal of officers is to be voted on. The ballot shall be in a sealed envelope and labeled as an absentee ballot. It shall remain sealed until opened by the Chair of the meeting at the time the vote is taken. The existence of the absentee ballots and the name of the absent voter shall be announced by the Chair of the meeting prior to the taking of a vote.

3.05 Duties of the Chief Judge.

A. The Chief Judge shall:

- (1) Exercise general administrative authority over the courts within the judicial district. M.S. 484.69
- (2) Make assignments of judges to serve on the courts within the judicial district to hear any matter in any court of the judicial district. Assignments may be made without the consent of the judges affected. M.S. 484.69
- (3) Convene regular and special meetings of the judges in the district to consider administrative matters and rules of court and to seek the advice and counsel of the district judges. M.S. 484.69
- (4) Take reasonable measures with the judges over whom the Chief Judge has supervisory responsibilities to assure the prompt disposition of matters before them and the proper performance of their other judicial responsibilities. Code of Judicial Conduct, Canon 3, B, (3)
- (5) Issue administrative orders.
- (6) Respond to complaints from lawyers, litigants, employees, and various court system users about other judges, staff and real or perceived injustices.
- (7) Represent the district on committees, at meetings, and in community outreach activities.
- (8) Represent the district judges at the Judicial Council.
- (9) Appoint a person to sit on each county law library board. M.S. 134A.03
- (10) Consult with the Commissioner of Corrections and the County commissioners to establish probation districts in counties that do not contain a city of 35,000. M.S. 244.19

- (11) Appoint the members of a city charter commission. M.S. 410.05
- (12) Approve payment for retired judge services. M.S. 484.62
- (13) Appoint the judicial district administrator, subject to the approval of the Supreme Court, with the advice of the judges of the district. M.S. 484.68
- (14) Appoint the child support magistrates with the advice and consent of the district judges. M.S. 484.702
- (15) Establish transcript fee ceilings on an annual basis. M.S. 486.06
- (16) Implement mandatory parent education programs for dissolutions involving children. M.S. 518. 157
- (17) Appoint a new judge in cases where a party removes the original judge. M.S. 542.16
- (18) Assign a judge to hear post-conviction relief matters. M.S. 590.02
- (19) Appoint two ad hoc members to the board of public defenders when the board is appointing a chief public defender for the district. M.S. 611.26
- (20) Hear motions from a denial by a district judge of a motion for removal because of prejudice or bias. Rule 106, Rules of General Practice.
- (21) Hear requests to disqualify a Judge for cause in a criminal matter. Rule 26.03, Subd. 13, (3), Rules of Criminal Procedure.
- (22) Determine how the district will administer the child support expedited process. Rule 360, Rules of General Practice.
- (23) Be responsible for the implementation of the guardian ad litem system. Rule 901.02, Rules of General Practice.
- (24) Carry out additional responsibilities as may be assigned to the Chief Judge by law, regulation, rules, the Supreme Court, or the Judges of the District.

B. The Chief Judge may:

- (25) May authorize retired court administrators to perform marriages. M.S. 517.04
- (26) May temporarily assign any judge to serve as a probate judge. M.S. 525.051

- (27) May order a person to answer a question or produce evidence in a criminal, juvenile, or paternity matter, upon request of the prosecutor, where the person is entitled to refuse to answer or produce because of incrimination. M. S. 609.09
- (28) May authorize, for indigent criminal defendants, payment of investigative, expert, or other services above the statutory maximum. M.S. 611.21
- (29) May authorize the appointment of counsel other than the public defender for any criminal case, upon request from the chief public defender. M.S. 611.27
- (30) May delegate to the Assistant Chief Judge and other Judges of the District any duties and responsibilities of the Chief Judge.

3.06. Duties of the Assistant Chief Judge. The Assistant Chief Judge shall:

- (1) Substitute for the Chief Judge when the Chief Judge is unavailable.
- (2) Perform those duties and responsibilities delegated by the Chief Judge.
- (3) Represent the Judges of the District at the Judicial Council.

ARTICLE IV. COMMITTEES

4.01 Standing Committees. The following committees shall be standing committees in continuous existence:

- A. Administration Committee.
- B. Caseflow Management Committee.

4.02 Ad Hoc Committees. Ad hoc committees may be created at the discretion of the Chief Judge or at the request of a majority of the Judges adopted by motion at a regular or special meeting.

4.03 Committee Appointments. The Chief Judge shall appoint the members and chairperson of each committee. Membership on a committee shall be coterminous with the term of the Chief Judge. The Chief Judge and Assistant Chief Judge may attend all committee meetings as ex officio members.

4.04 Committee Functions:

A. Administration Committee. The Administration Committee shall review and make recommendations on all administrative matters and *policies* of district-wide concern, unless a matter has been specifically delegated to another committee. The Administration Committee shall also review and make recommendations on policies and

procedures affecting the structure, interrelationships, and maintenance of personnel in the court system of the Seventh Judicial District.

B. Caseflow Management Committee. The Caseflow Management Committee shall review the condition of the trial court calendars, evaluate methods of maintaining the currency of the calendars, and recommend appropriate rules and policies to provide effective and efficient management of cases.

C. Ad Hoc Committees. Ad Hoc Committees shall be created for a specific purpose and shall terminate when that purpose is accomplished.

4.07 Staffing. The District Administrator or designee shall staff all committees, prepare notices, arrange meeting places, take minutes and provide requested support services.

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Amended and Recodified: August 2015.

POLICY 2.0 DISTRICT CALENDARING SYSTEM: MASTER AND INDIVIDUAL CASES

SECTION 1: PROBLEMS, GOALS, AND OBJECTIVES

- I. Seventh Judicial District case management problem areas have included:
 - A. Lawyer dissatisfaction with multiple Judges presiding over a single case where continuity and consistency appear appropriate.
 1. Pleas, sentencing and revocation hearings.
 2. Civil motions and trials on a single case.
 3. Pre-trial determinations governing subsequent civil and criminal trials.
 4. Multiple Judges assigned to temporary and final family court determinations.
 5. Multiple Judges involving the same juvenile offender.
 - B. Judge dissatisfaction with:
 1. Reviewing a file that other Judges have previously reviewed.
 2. Deciding motions when another Judge has decided previous motions as there may be related issues between the motions.
 3. Trying civil or criminal cases where another Judge has issued pre-trial orders governing either procedure or admissibility of evidence.
 4. Sentencing defendants when plea agreements have been presented to a prior Judge or when a prior Judge may have given an indication of approval or some other commitment involving disposition.
 5. A large number of ad hoc systems in place for every potential calendar activity with substantial variance in procedure from county to county.
 - C. A significant on-going district-wide continuance problem that is documented by Court Administration through statistical analysis and management reports.
 - D. Lack of clearly defined responsibility for case management which creates conflict between the Judiciary and Court Administration staff regarding specific case assignments and the timing and volume of such assignments.
 - E. Reports showing that some counties, even though served by the same Judges, have substantial differences in the time required to process cases.
 - F. As a result of multiple Judges being assigned to a single case and assignments frequently changing, the “removal statutes” are not consistently followed.

G. Reassignment of cases based on a change in the rotation schedule.

II. The following general goals and objectives address the case management problems identified:

GOALS:

- A. A district-wide calendaring system, similar in each county that allows lawyers and Judges to move comfortably between counties of the district.
- B. A single, district-wide calendar system directed by Court Administration that has similar features, procedures and scheduling methods for those case types that have a low demand for judicial continuity.
- C. A district-wide calendar system that assigns responsibility for case movement and disposition to a specific Judge for those case types where there is a high demand for judicial continuity.
- D. A system of assigning all case types to Judges on an equitable basis that is consistent with Court unification.

OBJECTIVES:

- A. Maintain a system of regular Judge rotation through each county.
- B. Separate calendars into master and individual calendars based on volume and need for continuity.
- C. Assign scheduling responsibility for high volume calendars with cases that have a demand for judicial continuity to Court Administration.
- D. Assign scheduling responsibility for individual calendar cases to an assigned Judge.
- E. Require District Administration to provide a rotation schedule that assigns Judges to individual counties and includes unassigned status.
- F. Enable local Court Administration to regularly assign Judges to:
 - 1. Master calendar.
 - 2. Provide each judge with individual calendar time.
- G. Establish a master calendar system with similar timing objectives and procedures district wide.

- H. Establish an individual calendar system that:
 - 1. Supports random assignment of specified case types to an individual Judge.
 - 2. Provides timing guidelines for various activities consistent with disposition.
 - 3. Allows a Judge to alter the timing objective as required for case submissions.
 - 4. Except in limited instances, schedules all activities of individually assigned cases to the assigned Judge.
 - 5. Provides for a regular Special Term for each Judge's individual calendar.
 - 6. Provides Judges and Administrations with regular status reports of their assigned cases.

- I. Use unassigned Judge status time for back-up on both master and individual calendars.

SECTION 2: THE MASTER/VOLUME CALENDAR SYSTEM

- I. Case Types/Judicial Activities
 - A. Felony – first appearances, second appearances, bail hearings, admit/deny probation hearings.
 - B. Gross Misdemeanor – first appearances, second appearances, bail hearings, admit/deny probation hearings.
 - C. Misdemeanor and petty misdemeanor arraignments.
 - D. Traffic and non-traffic misdemeanor court pre-trials, misdemeanor court trials less than two (2) hours and petty misdemeanor court trials. If a sentencing resulting from a misdemeanor court trial is scheduled for a day other than the day of the trial, the sentencing shall be scheduled before the Judge who presided over the court trial, but will not be assigned to the Judge. If the Judge who presided over the court trial is an out-of-area Judge or a retired Judge, the sentencing shall be scheduled on the master criminal calendar.
 - E. Misdemeanor admit/deny hearings on probation violations and unpaid fine hearings.
 - F. Conciliation
 - G. Parking.

- H. Harassment Proceedings.
- I. Order for Protection proceedings.
- J. Uncontested Probate, including commitments.
- K. Unlawful detainer (except jury trials).
- L. Implied Consent: No retired Judge may be required to preside over Implied Consent hearings. Implied Consents shall not be scheduled in front of a retired Judge when it is known in advance that a retired Judge will be covering the master calendar. If it is learned that a retired Judge will be covering the master calendar shortly before the day of the hearing, the retired Judge can choose to preside over the Implied Consent hearings. In that event, a law clerk shall be made available to the retired Judge for assistance in preparing the decision. If possible, when District Administration contacts a retired Judge to cover a calendar known to include Implied Consent hearings, the judge shall be informed of the availability of a law clerk and the option to decline. For those counties that hold combined Implied Consent hearings and Contested Omnibus hearings, a retired Judge shall not preside over a combined hearing. Those hearings will be scheduled before the Judge assigned to the criminal file.
- M. Ex-parte motions.
- N. Juvenile: All initial appearances for traffic, petty offender, delinquency and child in need of protective services, detention hearings, emergency protective care hearings and requests for temporary placements.
- O. Support not handled by child support Magistrate to include contempt and paternity.
- P. Adoption: However, adoptions following a Termination of Parental Rights (TPR) order shall be assigned to the Judge who ordered the TPR and scheduled before that Judge either on the master calendar or the individual calendar.
- Q. Name Change.
- R. Condemnations: Upon the filing of a condemnation petition, the initial appearance should be scheduled as a master calendar matter, for the purpose of appointment of commissioners/appraisers and default proof of the petition. Any subsequent hearing in the file should be individually

assigned. In the event of multiple appeals from a single petition, each appeal is randomly assigned to a Judge for trial.

- S. Temporary Restraining Orders (TRO): Prior to service upon or an appearance by the respondent Ex-parte, TRO's will be heard on the master calendar. After the Ex-parte Order has been reviewed by the master calendar Judge, the case should be randomly assigned unless the master calendar Judge directs that it remain his or her case. Contested TRO's will be randomly assigned to a Judge, skipping any Judge who is absent or already assigned to a master calendar. If the assigned Judge cannot hear the case due to the volume of that Judge's immediate calendar, the assigned Judge should refer the case to the Chief Judge for possible reassignment. A TRO will be considered contested when the respondent is served and enters an appearance, files or presents any opposition to the Court.
- T. Miscellaneous: Any proceeding to modify or enforce a previous order issued in case types (H) through (R) shall be considered an individual calendar item for the Judge who previously issued the order and, if not previously assigned, shall be assigned to that Judge. (This provision shall not pertain to routine, administrative matters such as orders appointing public defenders, appointing guardians, setting hearings, etc.) If the original proceeding is held before a retired judge or a rotating master calendar judge then the matter should be scheduled back on master calendar. Hearings or proceedings after the issuance of an Ex-parte TRO are not considered a modification or enhancement of a previous order and shall be randomly assigned.

III. Assignment of Judges.

- A. Judges shall be assigned the master calendar in the counties they are regularly assigned. Court Administration shall have the responsibility for setting the cases on the master calendar to ensure maximum utilization of Judge time and to maintain compliance with established statutory and case flow guidelines.
- B. Judges shall not cancel or change their master calendar assignments except through District Administration for illness, vacation, or conference time. The individual court administrator shall, whenever possible, be notified of the absence of a Judge at least forty-five (45) days prior to the occurrence. This shall be done by the individual judge who will be absent.

III. Case Management

- A. Scheduling Cases and Time Objectives

Court Administration shall schedule cases in a time sequence to ensure case processing from filing through disposition without unnecessary delay.

The following time objectives shall apply:

1. Felony and Gross Misdemeanor
 - a. First appearance – within thirty-six (36) hours of arrest.
 - b. Second appearance – within fourteen (14) days of first appearance.
2. Non-traffic and traffic court trials – set within thirty (30) days from first appearance.

B. Consistent Procedures

A consistent procedure shall be adopted and implemented including: Similar time schedules for similar activities regardless of which Judge is assigned.

IV. Procedures for Master Calendar

A. First appearance on Felonies or Gross Misdemeanors

1. Preliminary Matters
 - a. Depending on volume, these appearances should, whenever possible, be scheduled either as a block of cases within the weekly misdemeanor arraignment calendar or as separately scheduled blocks on their own.
 - b. These appearances shall, whenever possible, be scheduled on the same day as the block-scheduled misdemeanor arraignment calendar, and be scheduled before the Judge assigned to the master calendar for the day.
 - c. These appearances shall, whenever possible, be scheduled when both the prosecuting attorney and the public defender are on hand. The combination of first and second appearance hearings is to be actively encouraged. The prosecuting attorney should be encouraged to have the Rule 7.01 disclosure materials ready at the time the complaint is filed but not later than the first appearances.
 - d. If inclusion of first appearances as part of the arraignment calendar is not feasible, interruption of other court activities shall be minimized by:
 - 1) holding first appearances immediately before/after another matter for which the Judge is in the courtroom;
 - 2) doing as many first appearances, especially for persons in custody, at the same time as is possible;
 - 3) doing all first appearances at a single set time during the day.

2. Procedures Prior to Courtroom Activity
 - a. Staff should find out if prosecutor intends to appear.
 - b. Staff should know available date(s) on which second appearance may be set.
 - c. Arrangements should be made between the Chief Jailer and the Court Administration so that persons in custody are brought to court from jail in time to complete necessary forms.
 - d. Provide defendants a copy of the complaint and advise them to read it.
 - e. Provide the defendants a copy of Felony-Gross Misdemeanor Rights Advisory form.
 - f. If requested, provide an unrepresented defendant the Application for Public Defender form. Court Administration staff shall advise the applicant that if a public defender is appointed, the Court will impose a mandatory co-payment in the amount established by the state legislature.
 - g. No defendant (including those in custody) should be admitted to the courtroom unless they have checked in with Court Administration and completed all necessary forms. An appropriate sign, giving notice of this requirement, should be placed on the door or at entrance to all courtrooms.
 - h. The screener/collector will review the Application for Public Defender forms. The completed Application for Public Defender forms shall be presented to the master calendar Judge for review together with an Order Appointing Counsel. The Judge will indicate those forms that require more detailed audit subsequent to initial proceedings. When an application for counsel is granted, the defendant is to be directed to meet with the public defender assigned for the day. Court staff shall have the applicant acknowledge the imposition of the mandatory co-payment in the amount established by the state legislature.
 - i. Staff should collect all forms distributed or handed out and check for completeness and signature.
3. Courtroom Procedures
 - a. All files should be on Court Administration courtroom desk.
 - b. Judge will read or announce Rule 5.01 rights, or note a waiver of those rights from the Rights Advisory form.
 - c. Other Rule 5-Rule 6 matters will also be covered.
 - d. The first and second appearances should be combined if both prosecutor and defense attorney are present.

- e. Courtroom minute sheet should be completed by courtroom clerk.
- f. If special conditions of release are set, Court Administration staff completes the conditions of Release Order form in the courtroom. After the Judge signs the Order, the defendant is required to sign as an acknowledgment of the conditions and is provided a copy before leaving the court.
- g. If a case requires another court appearance, the courtroom deputy will note the next appearance requirements on the courtroom minute sheet. The defendant is to be directed immediately to Court Administration offices to obtain a notice for the next hearing before the defendant leaves the courthouse.
- h. Court Administration staff is to confirm the next appearance by generating a notice for the next hearing date. The defendant is required to sign the original, which is kept in the court file and the defendant is given a copy.

B. Misdemeanor and Petty Arraignment Calendar

1. Preliminary Matters

- a. Payment agreements will be established by the screener/collector under a uniform payment schedule adopted by the Seventh District Court Administrators.
- b. Ticket or citation and driving record shall be filed on all non-mandatory court appearances at least three (3) working days before date of court appearance.
- c. Ticket or citation, driving record and offense report (if available and not on the back of ticket) shall be filed on all mandatory court appearances at least three (3) working days before the date of the court appearance.
- d. If the ticket along with driving record is not received 3 (three) days prior to the court date, the citation may be dismissed without prejudice. Local practice will vary upon approval by the local bench.
- e. To allow adequate time to check in defendants for court, law enforcement and Court Administration shall set appearance time for thirty (30) to forty-five (45) minutes before court is scheduled to begin for arraignments, first appearances and initial probation violation hearings.

2. Procedures Prior to Courtroom Activity
 - a. All persons scheduled for court appearances must first check in with Court Administration. Court Administration staff will ensure completion of the appropriate acknowledgment of rights forms as well as Application for Public Defender forms when requested. Court Administration staff shall advise the applicant that if a public defender is appointed, the Court will impose a mandatory co-payment in the amount established by the state legislature.
 - b. When a person appears in person or by written document on a non-mandatory offense (payable offense) and wishes to enter a plea of not guilty on misdemeanor offense or requests a continuance to consult counsel, all necessary forms should be completed and upon filing of such forms no court appearance will be required. This does not preclude a person with or without counsel from meeting with the prosecutor at arraignment to attempt a resolution of the charge(s). If not resolved, the person signs a promise to appear for the next scheduled activity before leaving the courthouse.
 - c. If a person wishes to enter a plea of guilty on a non-mandatory case (payable offense) and wishes to establish a payment plan, the required acknowledgment of rights form should be completed and a sentencing form should be prepared. No court appearance is required.
 - d. If local Court Administration and Judges have not adopted a schedule directing the order of cases to be called, the following schedule shall apply:
 - 1) Appearance conflicts – an attorney is scheduled in front of multiple Judges.
 - 2) Persons in custody
 - 3) Interpreters
 - 4) Pro Bono counsel
 - 5) Private counsel
 - 6) Public Defender representations
 - 7) No shows
 - e. Public defense attorney(s) are required to be on hand. Prosecuting attorney(s) are asked to be on hand.
 - f. Arrangements should be made between the Chief Jailer and Court Administration to have persons in custody brought to court from jail in time to complete the necessary forms.

- g. No defendant (including those in custody) should be admitted to the courtroom unless they have first checked in with Court Administration and completed all necessary forms. An appropriate sign, giving notice of this requirement, should be posted at the entrances to the courtroom.
- h. The screener/collector will review the Application for Public Defender forms. The completed Application for Public Defender forms shall be presented to the master calendar Judge for review together with an Order Appointing Counsel. The Judge will indicate those forms that require more detailed audit subsequent to initial proceedings. When an application for counsel is granted, the defendant is to be directed to meet with the public defender assigned for the day. Court staff shall have the applicant acknowledge the imposition of the mandatory co-payment in the amount established by the state legislature.

2. Courtroom Procedures

- a. For security purposes, bailiff(s) shall be present in addition to Court Administration staff.
- b. If an oral group Rights Advisory is given, it should include reference to the fine payment schedule and loss of driver's license (traffic related offenses only) or other contempt sanctions for non-payment of fine.
- c. If local Court Administration and Judges have not adopted a schedule directing the order of cases to be called, the following schedule shall apply:
 - 1) Appearance conflicts – an attorney is scheduled in front of multiple Judges.
 - 2) Persons in custody
 - 3) Interpreters
 - 4) Pro Bono counsel
 - 5) Private counsel
 - 6) Public Defender representations
 - 7) No shows
- d. If a defendant appears without an attorney but indicates an intention to be represented at future court appearances, they shall be advised to notify Court Administration of the name, address and phone number of the attorney. The attorney shall file a Certificate of Representation with Court Administration.
- e. Courtroom minute sheet shall be completed by courtroom deputy.
- f. If special conditions of release are set, Court Administration staff completes the conditions of Release

Order form in the courtroom. After the Judge signs the order, the defendant is required to sign an acknowledgment of the conditions and is provided a copy before leaving the court.

- g. If a case requires another court appearance, the courtroom deputy will note the next appearance requirement on the courtroom minute sheet. The defendant is to be directed immediately to Court Administration offices to obtain a notice for the next hearing before the defendant leaves the courthouse.
- h. If a negotiated plea is taken and sentencing is scheduled for another day, the case shall not be assigned to the Judge who accepted the negotiated plea; however, the sentencing should be set before that Judge.
- i. If a plea is entered to the charge with no sentencing negotiation and the sentencing is set for another day, the sentencing shall be set on the master calendar and not assigned to a Judge at that time.
- j. Court Administration staff is to confirm the next appearance by generating a notice for the next hearing date. The defendant is required to sign the original, which is kept in the court file and the defendant is given a copy.
- k. In addition to a finding of a factual basis under Rule 15.02, the record to accept a misdemeanor guilty plea will consist of the confirmation by the defendant of an understanding of his rights, and the signed acknowledgment of rights form. A finding of a factual basis to accept a petty misdemeanor guilty plea remains discretionary with the Judge.
- l. If the plea is accepted and sentence imposed, a sentencing order form is completed by Court Administration prior to the defendant leaving the courtroom.
- m. After the Judge signs the sentencing order, the defendant signs acknowledgment of the conditions and receipt of the form. All fine payments are due by close of the business day unless a payment plan is established by the screener/collector or by the Court.
- n. Upon a not guilty plea, a petty misdemeanor charge shall be set for a court trial on the master calendar. If a not guilty plea is entered on a misdemeanor case and a jury trial is not requested, the master calendar Judge has the discretion to set the matter for a pre-trial on the master calendar. If the Judge determines the trial will exceed two (2) hours, the case shall be randomly assigned. The defendant is to be directed immediately to Court

Administration offices to obtain notice for the next hearing.

- o. If a not guilty plea is entered and a jury trial requested, that matter shall be placed on the master calendar for pre-trial. If the case does not settle at pre-trial, it shall then be assigned to the judge who heard the pre-trial. If a retired judge or unassigned judge hears the pre-trial, the case shall then be randomly assigned.” If the defendant has other assigned misdemeanor cases in open status, the case should be assigned to that Judge to provide continuity and consistency. The defendant is to be directed immediately to Court Administration offices to obtain a notice for the next hearing.
- p. All next appearance dates are to be confirmed by generating a notice for the next hearing date. The defendant is required to sign the original, which is kept in the court file and the defendant is given a copy.

C. Misdemeanor Sentencing Order, Violation Appearance, and First Appearances on Rule 27 Probation Violation Hearings.

1. Preliminary matters.

- a. Block schedule as part of, or following, misdemeanor arraignment calendar to allow the prosecuting attorney and defense counsel to be present.
- b. If scheduled as part of misdemeanor arraignment calendar, call after the “no show” appearances.
- c. The initial probation violation hearing (admit/deny) will be scheduled before the master calendar Judge unless the sentencing Judge desires the case to be set on their individual calendar time. If a denial is entered the case is referred to the sentencing Judge’s individual calendar for a Morrissey hearing.
- d. The defendant shall be sent a copy of the Sentencing Violation Affidavit or Probation Violation report at the time the summons or Notice to Appear is mailed.

2. Procedures Prior to Courtroom Activity

- a. The defendant shall check in with Court Administration and complete an Acknowledgment of Rights prior to court. If requested, the defendant shall be provided an Application for Public Defender. Court Administration staff shall advise the applicant that if a public defender is appointed, the Court will impose a mandatory co-payment in the amount established by the state legislature.
- b. The screener/collector will review the Application for Public Defender. The completed Application for Public

Defender forms shall be presented to the master calendar Judge for review together with an Order Appointing Counsel. The Judge will indicate those forms that require more detailed audit subsequent to initial proceedings. When an application for counsel is granted, the defendant is to be directed to meet with the public defender assigned for the day. Court staff shall have the applicant acknowledge the imposition of the mandatory co-payment in the amount established by the state legislature.

- c. Arrangements should be made between the jail and Court Administration to bring persons in custody to court in time to complete all necessary forms.
- d. No defendant (including those in custody) should be admitted to the courtroom unless he/she has first checked in with Court Administration and completed all necessary forms. An appropriate sign, giving notice of this requirement, should be placed on the door or at entrance to the courtroom.
- e. Staff should collect all forms distributed or handed out and check for completeness, signature, etc.

3. Courtroom Procedures

- a. All files should be on Court Administration's courtroom desk.
- b. Judge gives oral group Rights Advisory, if appropriate.
- c. If local Court Administration and Judges have not adopted a schedule directing the order of cases to be called, the following will apply:
 - 1) Appearance conflicts
 - 2) Persons in custody
 - 3) Interpreters
 - 4) Pro Bono counsel
 - 5) Private counsel
 - 6) Public defender
 - 7) No shows
- d. If an appearance results in disposition, a sentencing order is prepared by courtroom staff prior to defendant leaving the courtroom. After the Judge signs the sentencing order, the defendant signs acknowledgment of the conditions and receipt of the form. All fine payments are due by close of the business day unless a payment plan is established by the screener/collector or by the Court.
- e. If the case requires another appearance, the courtroom deputy will note the next appearance requirement on the minute sheet. The defendant is to be directed immediately to Court Administration offices to obtain a

notice for the next hearing before the defendant leaves the courthouse.

- f. Court Administration staff is to confirm the next appearance date by generating a notice for the next hearing date. The defendant is required to sign the original, which is kept in the court file and the defendant is given a copy.

D. Juvenile Arraignment Calendar

1. Preliminary Matters

- a. Block schedule whenever possible. This may be difficult on requests for detention.
- b. In non-petition cases, ticket or citation and driving record shall be filed on all non-mandatory court appearances at least three (3) working days before the date of the court appearance.
- c. An offense report shall be filed on all mandatory court appearances at least three (3) working days before the date of the court appearance.
- d. Check in time to be set thirty (30) to forty-five (45) minutes before court is scheduled to start.
- e. Juvenile should be mailed the appropriate Juvenile Rights Advisory form with a Notice to Appear. Juvenile is advised in writing at that time to review form prior to court, to bring form to court, and to be prepared to complete form and to ask any questions about rights or procedures at first court appearance.

Rules of Juvenile Procedure Sections 37 to 82.06

All procedures in CHIPS actions will be processed in accordance with the Rules of Juvenile Procedure Sections 37 to 82.06 adopted by order of the Minnesota Supreme Court.

2. Procedures Prior to Courtroom Activity

- a. Defense attorney(s) are to be present at the check in time and remain until the calendar is completed.
- b. Juvenile probation officer should be in attendance. Prosecuting attorney should be in attendance.
- c. On offenses for which no jail time could be imposed in adult court, juvenile and parents check in with Court Administration. Court Administration staff supervises distribution, completion and collection of Juvenile Rights Advisory form, and, if appropriate, an Application for Public Defender should be completed. Court Administration staff shall advise the applicant that if a

public defender is appointed, the Court will impose a mandatory co-payment in the amount established by the state legislature. On all other petitions or tickets, the juvenile and parents check in with Court Administration who will enable them to meet with the defense attorney. The defense attorney will assist the juvenile and parents with answers to any questions which the juvenile or his parents have about the juvenile's rights on the court proceedings scheduled for that day. The defense attorney supervises completion of the Rights Advisory form. If the juvenile requests appointment of counsel, the Application for Public Defender should be completed. Court Administration staff shall advise the applicant that if a public defender is appointed, the Court will impose a mandatory co-payment in the amount established by the state legislature.

- d. Arrangements should be made between the custodial detention agent and the Court Administrator so that juveniles in detention are brought to court in time to complete the necessary form.
- e. No person (including those in custody) should be admitted to the courtroom unless he/she has first checked in with Court Administration and completed all necessary forms. An appropriate sign, giving notice of this requirement, should be placed on the door or entrance to courtroom.
- f. Before court starts, and if time permits, completed Financial Disclosure forms shall be made for the defendant to meet with the juvenile defense attorney. Court staff should have the applicant acknowledge the imposition of the mandatory co-payment in the amount established by the state legislature.

3. Courtroom Procedure

- a. Files shall be on Court Administration's desk in courtroom. Cases should be called in an order which would most facilitate advancement of the court calendar.
- b. Utilizing Rights Advisory and file information, Court makes minimal record necessary to comply with Juvenile Rules.
- c. From Rights Advisory form and file information, Court determines what the juvenile wants done.
- d. Appropriate record made if admission or denial.
- e. If admission is entered, record to accept (except on DWI, indecent exposure or 5th degree assault) consists simply of recognition by juvenile of understanding and

- completion of signature on Rights Advisory Petition form, plus necessary factual basis.
- f. If admission is entered and accepted, go directly to disposition, if possible under master-individual calendar policy. If the admission is accepted and disposition ordered, a dispositional order form is completed by Court Administration prior to the juvenile leaving the courtroom.
 - g. After the Judge signs the disposition order, the juvenile signs acknowledgment of the conditions and receipt of the form. All fine payments are due by close of the business day unless a payment plan is established by the screener/collector or by the Court. If a PDR is ordered, or if the case requires another appearance, the courtroom deputy will note the next appearance requirement on the minute sheet. The juvenile is to be directed immediately to Court Administration offices to obtain a notice for the next hearing before the juvenile leaves the courthouse.
 - h. Court Administration staff is to confirm the next appearance date by generating a notice for the next hearing date. The juvenile (and parents if present) is required to sign the original, which is kept in the court file and the juvenile and parents are given a copy.

E. Probate and Guardianship/Conservatorship.

Preamble: This policy is adopted so long as it is not inconsistent with or contrary to provisions in Minnesota Statutes or the Minnesota Rules of General Procedure.

- 1. Probate.
 - a. Subscribing Witness Testimony: In an uncontested formal testacy proceeding, a will valid on its face may be proved by the verified statement of the petitioner and without the testimony or other proof of a subscribing witness.
 - b. Appearances: Appearances shall not be required in formal probate commencements before the probate registrar or in uncontested probate matters before the Court, but shall be available if requested by the estate attorney or by an interested party.
 - c. Receipts and Vouchers: Receipts and vouchers in support of accounting will not be required to be filed in either supervised or unsupervised administrations unless requested by an interested party.
 - d. Closing of Supervised and Unsupervised Estates
 - 1) Supervised Estates.

- a) Eighteen (18) months from date of appointment, the Court Administration shall check for the closing of the estate. If the estate is not proceeding to close, Court Administration shall send a reminder to the personal representative, to counsel of record, and to all interested parties of the expiration date.
 - b) After sending the reminder, Court Administration shall set a review activity for two months. If the proper filings necessary to close the estate and discharge the personal representative have not been filed and no request has been made for an extension of time, Court Administration shall prepare an Order to Show Cause requiring appropriate filings or an appearance by the personal representative and his/her attorney. Upon signature of a Judge, Court Administration will schedule a date and have the Order to Show Cause personally served on the personal representative.
 - c) If an extension has been granted pursuant to M.S. Sec. 525.475, Court Administration will extend the review for closing documents as granted by the court.
- 2) Unsupervised Estates: In decedant's estates where the personal representative is appointed in an unsupervised administration, the court file on the estate shall be administratively closed eighteen (18) months after the appointment of the personal representative. This policy anticipates no destruction of any file administratively closed, but the file will be archived on the automated system. This administrative policy in no way precludes any party from filing subsequent documents and reopening the case at any time, nor does it anticipate discharge of the personal representative.
 - 3) Filing of Receipts for Distribution: Pursuant to M.S. Secs. 524.3-1001 and M.S. Secs. 524.3-1002, the discharge of the personal representative in a supervised administration may be obtained as follows:
 - a) The Petition of Order of Complete Settlement Distribution of the Estate and Decree of Distribution may be altered to

include the following: Granting such other and further relief as may be proper, including the discharge of the personal representative.

- b) A final item may be added to the Order of Complete Settlement of the Estate and Decree of Distribution as follows: That upon filing of the receipts for distribution of the estate assets, a supplemental order discharging the personal representative shall be issued.
- c) Upon the filing of the receipts for distribution of the estate assets, the Court shall issue its order discharging the personal representative.

2. Guardianships/Conservatorships.

- a. Before the appointment of a guardian/conservator the Court shall confirm that a background check as required by M.S. Sec. 524.5-118 has been completed. If the background check has not been completed, the Court may make a provisional appointment if the Court determines the best interests of the ward or conservatee would be served by the provisional appointment.
- b. Thirty (30) days after appointment of the guardian/conservator, the Court Administration shall send a reminder to file an inventory to the guardian/conservator and counsel of record. After sending the reminder the court administrator shall advance the pending activity for one (1) month. If the inventory is still not filed, the Court Administration shall prepare for the Court and have the Court issue an Order to Show Cause requiring the filing of the inventory or an appearance.
- c. Unless the filing of the annual account (and/or Notice of Right to Petition for Restoration to Capacity and/or Report of Personal Well-Being) has been waived by the Court, Court Administration shall send a reminder thirty (30) days from the anniversary date of the appointment of the guardian/conservator to counsel of record. After sending the reminder Court Administration shall advance the pending activity for one (1) month. If the annual account (and/or Notice of Petition for Restoration to Capacity and/or Report of Well-Being) is still not filed, the Court Administrator shall prepare, and the Court shall issue an Order to Show Cause requiring the filing of same.

The Court may waive the filing of the annual account where the ward is on medical assistance and/or is dependent upon Social Security. When waiving the account, the Court shall include in its order a date or circumstances when the next accounting shall be due.

- d. CONSERVATOR ACCOUNT AUDITING PROGRAM (CAAP) AUDIT REPORTS. Receipts and vouchers in support of accountings on conservatorships are no longer required to be filed with the Court as the CAAP provides routine audits based upon criteria and a schedule set by the program. However, any accounting filed which raises immediate concerns may be immediately referred for audit and/or set for hearing. When the CAAP Audit Report is filed with the Court, Court Administration in consultation with the judge shall set a hearing to address any concerns raised by the audit. If the Court deems the presence of the CAAP auditor at the hearing desirable or necessary, Court Administration shall contact the author of the Audit Report for scheduling purposes and provide the Auditor with appropriate Notice of the date and time of the hearing.
- e. Unless otherwise determined by the Court, representation by an attorney appointed pursuant to M.S. Sec. 525.551 to provide representation to a proposed ward or conservatee for the initial proceeding pursuant to M.S. Sec. 525.551 shall be terminated upon the appointment of the guardian or conservator or upon the dismissal of the petition for appointment.

SECTION 3: INDIVIDUAL CALENDAR SYSTEM

I. Case Types/Judicial Activities

- A. Felony cases are individually assigned after the Rule 5/8 hearing for omnibus/pre-trial/settlement conferences (OPS) or upon entry of order for a Rule 20 exam through trial, sentencing, contested probation violation hearings and re-sentencing.
- B. Gross misdemeanor: Same as felonies.
- C. Misdemeanor jury pre-trials.
- D. Misdemeanor jury trials.
- E. General civil:
 - 1. Personal injury
 - 2. Contract

3. Wrongful death
4. Malpractice
5. Property damage
6. Condemnation appeal – Upon the filing of a condemnation petition, the initial appearance should be scheduled as a master calendar matter, for the purpose of appointment of commissioner/appraisers and default proof of the petition. Any subsequent hearings in the file should be individually assigned. In the event of multiple appeals from a single petition, each appeal is randomly assigned to a Judge for trial.
7. Minor settlement.
8. Conciliation appeal.
9. Contested Temporary Restraining Order (TRO)
10. Other

F. Probate.

G. Family:

1. Dissolution.
2. Other Family (not on master calendar).

H. Juvenile – Where case is not disposed of at initial appearance, case shall be assigned subject to the provisions of SECTION 3, III, A, 7(b)(I)

I. Whenever a declaratory judgment action is filed, it shall be assigned to the Judge assigned to the underlying main action. If the underlying main action is filed subsequent to the filing of a declaratory action, the main action shall be assigned to the Judge assigned to the declaratory action.

II. Assignment of Judges

A. Unless agreed to in writing by all Judges regularly assigned to a county, all individual calendar cases shall be randomly assigned to a Judge regularly serving a county in a ratio proportionate to the time that the Judge is assigned to the county. The written agreement shall be filed with the Court Administrator and District Administrator. Case assignments are to be made the same day as the case is determined to be an individual calendar case.

B. Judges shall be assigned calendar time in each county according to the district rotation schedule.

C. In counties where there is only one judge on any given day, the judge shall handle emergency cases as indicated below. This provision applies if the judge is scheduled on the individual calendar or master calendar:

1. Detention and Emergency Protective Care Hearings (EPC)

2. In Custody Appearance
3. Order for Protection
4. Commitment-Probable Cause
5. Harassments
6. Signing of Complaint/Warrants

- D. Upon case assignment the parties shall be notified in writing by Court Administration of the Judge assigned. The notice shall contain a statement that states that the date of assignment starts the time for a notice to remove to be filed.
- E. If a judge is timely removed from a case, pursuant to the Rules or a recusal, Court Administration shall assign the case to the next Judge on the random assignment schedule. The next case filed of the same case type in which the removal or recusal occurred shall be assigned to the moved/recused Judge. If the second Judge recuses or is removed on the same case, the case shall be referred to District Administration for assignment by the Chief Judge or Assistant Chief Judge. Judges will be assigned conflict cases pursuant to a list maintained by District Administration. Once a Judge is appointed to a conflict case, a Judge shall accept the assignment unless a valid reason is given for recusal or an exception is granted by the Chief Judge.
- F. In addition to a randomly generated assignment sheet and labels of Judge identification numbers for each case type, District Administration shall provide Court Administration with a second assignment sheet together with labels for each Judge. These labels are to be used for assigning replacement cases to Judges who have been removed or recused from a case.

When a Judge is removed or recused from a case, Court Administration shall reassign the case to the next available Judge on the random assignment schedule. To ensure the removed/recused judge receives his/her proportionate share of assignments in the respective case type, Court Administration shall assign the next case filed of the same case type to the removed/recused Judge by affixing a label from that Judge's individual assignment sheet to the new case.

- F. Judges cannot schedule their individual trial calendar cases on their unassigned calendar without permission from District Administration. If a Judge's request is granted for unassigned time for individual cases, the Judge is on notice that should the need arise for master calendar coverage and a retired Judge or other unassigned Judges are unavailable, master calendar takes precedence. The individual matter will need to be cancelled. If a retired Judge is used, the Judge will need to return unassigned time from their individual calendar time in accordance with the

provisions of Administrative Policy No. 10.1 by notifying District Administration of the availability to work as a substitute Judge on the master calendar on at least two (2) days each rotation period until the unassigned time is returned. If no coverage of master calendar is required on the dates individual cases are heard, then no pay back of the unassigned time is necessary.

- G. The unassigned Judge must take assignments on unassigned weeks as directed by the Seventh District Court Administration office. If not assigned, the Judge is on call for assignments.
- H. When a Judge will no longer be rotating to a county as a result of a change in the district calendar rotation, Court Administration shall discontinue new assignments and randomly reassign that Judge's existing caseload as follows:
 - 1. Juvenile (including Child Protection) – thirty (30) days prior to the last scheduled court calendar.
 - 2. All other cases – sixty (60) days prior to the last scheduled court calendar.
 - 3. Judges may choose to retain cases longer than this policy allows.
 - 4. The county to which the Judge is rotating may begin assigning cases in accordance to #1 and #2 above.
- I. When a case is closed by a rotating Judge and a petition, motion or application "reopens" the case, but the Judge who closed the case no longer rotates into that court, the case will be randomly assigned among the Judges currently serving that Court.

Open and pending cases assigned to a Judge who no longer rotates into a county will be reassigned to the new rotating Judge if his/her weeks equal or exceed the prior number of weeks. In the event that the new Judge's weeks are less than the prior Judge's weeks, the appropriate percentage of the open and pending cases by case type representing the difference shall be randomly assigned to all Judges serving that county. For example, the prior Judge served three (3) weeks and the new Judge is serving two (2) weeks. The new Judge would receive two-thirds of the cases by case type from the prior Judge and one-third of the prior Judge's cases by case type would be randomly assigned among all Judges serving that court in accordance with their proper percentage based upon the most current Judges assignment report. (Oldest pending cases will first be assigned to the new rotating Judge as part of his/her two-thirds of the cases).

III. Case Management

- A. Court Administration shall set individual calendar cases in consultation with the assigned Judge. A combination of Court Administration staff,

court reporters, law clerks and Judges may design a calendar program for a particular Judge's individual calendar. Absent Judge direction to the contrary, the following time objectives shall be followed.

1. Felony

- a. An OPS (Omnibus/Pre-Trial/Settlement Conference) hearing shall be set no later than twenty-eight (28) days after the second appearance, unless time limits are waived. The OPS should be a time at which counsel for the state and counsel for the defense have their last opportunity prior to trial to negotiate the case and settle it. Unless otherwise directed by the Judge, subsequent to the OPS date, no plea bargain will be accepted by the Court, unless there is showing of substantial new evidence or other compelling conditions exist.

Committee comment: The Caseflow Management Committee feels that the Omnibus/Pre-Trial/Settlement Conference (OPS) provides for optimal caseflow management and should be adopted district-wide.

- b. In the event there is no such showing the State has the option to dismiss the complaint or the Defendant will have the option to plead guilty to the charges as set forth in the complaint or go to trial.
- c. A contested omnibus hearing will be scheduled before the assigned Judge upon the filing of the appropriate motion. The motion is to be filed at least five (5) days prior to the scheduled OPS. A contested hearing will then be assigned.
- d. The case should be set for trial to comply with the disposition standards established by the Conference of Chief Judges: felony one hundred and twenty (120) days; gross misdemeanor cases one hundred and twenty (120) days.
- e. In the event the omnibus motion was taken under advisement, the trial should be set within the limits established in paragraph **d** unless otherwise directed by the Judges.
- f. Bail hearings or plea agreements on felony and gross misdemeanor cases where attorneys request to be heard prior to a Judge being scheduled to return to a specific county should be handled by conference call between the attorneys and the assigned Judge, and the case should not be reassigned.
- g. The random assignment policy of the Seventh Judicial District shall not apply when a new case is filed prior to the disposition of a previous case involving the same defendant

in felony and gross misdemeanor cases. The new file shall be assigned to the Judge who presently is assigned to cases involving the defendant.

- h. All contested probation violation and revocation appearances shall be scheduled before the sentencing Judge. In the event a speedy demand is made and the sentencing Judge is not readily available, Court Administration may contact the sentencing Judge to see if he/she would allow another Judge to hear the probation violation and revocation.
2. Gross Misdemeanor
Same procedure as Felony.
3. Misdemeanor
 - a. Cases in which a jury trial is requested shall be randomly assigned following the not guilty plea and request for jury trial.
 - b. The case should be disposed of within ninety (90) days from date of filing.
 - c. When an in custody defendant requests a speedy trial, and the Judge assigned to the case is not available within the ten (10) day trial requirements, the case shall be reassigned to another Judge who is able to hear the matter within time limits. A different misdemeanor case should be assigned to the Judge who was first assigned to the case.
 - d. In the event a conviction is entered as a result of a misdemeanor court trial, or a negotiated plea is taken and sentencing is scheduled for another day, the case shall not be assigned to the Judge presiding over the court trial or negotiated plea. Rather, Court Administration shall schedule the matter for sentencing before that Judge on a master calendar over which he/she is presiding or at such other time as directed by that Judge.
4. General Civil
 - a. Case should be disposed of within one (1) year from date of commencement or six (6) months from date of filing, whichever is later. All cases should have a scheduling order filed.
 - b. Pre-trial settlement conference will be held at Judge's discretion.
5. Probate contested matters should be disposed of within ninety (90) days from date of assignment.
6. Family
 - a. Rule 16 scheduling conference should occur within ninety (90) days of filing an action or after a temporary

hearing, whichever is later, with parties present unless otherwise directed by the Court.

- b. Where the parties wish to stay the proceeds for reconciliations, they may jointly request the Court to administratively close the case.
- c. Case should be disposed of within one (1) year from commencement.
- d. Family cases shall be randomly assigned to the individual calendar upon filing, except as required by the District Policy of one Judge/one family for CHIPS cases. When a Judge has an open CHIPS case pending involving a child whose custody and parenting time are involved in a new family case, then the family case shall be assigned to the same Judge.
- e. If a case is reopened for post-decree/judgment motions or modification and was not previously assigned, it will be assigned to the Judge who signed the original judgment and set on the Judge's individual calendar. If the original Judge who was assigned is no longer scheduled to rotate in that county, the case shall be randomly reassigned.
- f. When a need exists for temporary relief in an assigned dissolution proceeding and the Judge is not readily available, an attorney should initiate, through Court Administration in the county where the case is venued, a conference call to the Judge. The Judge has the option of requesting the attorney(s) travel to the Judge, the Judge traveling to the attorney(s), the Judge may request documents faxed to the Judge, or a hearing could be scheduled by ITV. When an emergency exists and the assigned Judge is not available for consultation due to leave status, a hearing for temporary relief may be placed on the master calendar after consultation with the master calendar Judge and that judge may issue a temporary order. The case would still remain assigned to the original Judge.

7a. Juvenile Delinquency

- a. Once the case has been assigned to a Judge, the juvenile rules as to case processing shall apply.
- b. The case should be disposed of within ninety (90) days from the date of filing.
 - 1) It is the policy of the district that juvenile delinquency matters shall be randomly assigned. However, if a Judge has an open file involving a juvenile pending before him or her, the Judge may request assignment of subsequent delinquency and

protection matters involving the same juvenile pending before the Judge.

- 2) Where a juvenile makes a guilty plea at the arraignment and 7a.b.(1) does not apply, the arraignment Judge may elect to proceed to disposition. If disposition does not occur, the case will be assigned to the Judge who presided over the guilty pleas.
- 3) If the juvenile enters a not guilty plea at the arraignment, the case shall be randomly assigned to a Judge who shall handle the case from that point through disposition, unless 7a.b.(1) applies.

7b. Juvenile CHIPS cases

- a. Once the case has been assigned to a Judge, the juvenile rules as to case proceeding shall apply.
- b. Each case should be disposed of in accordance with the juvenile protection rules.
 - 1) It is the policy of the district that CHIPS cases be assigned on the principle of one Judge/one family. If a Judge has an open CHIPS or family file involving the custody and parenting time of a child, or siblings of the child, who is the subject of a new CHIPS petition, then the new case shall be assigned to the same Judge. If a Judge previously entered a disposition order or judgment in a CHIPS or family case involving the same child, or siblings of the child, then the new case shall be assigned to the same Judge, whenever possible. If the assigned Judge, as determined above, is unavailable in the time required for an emergency hearing, then the emergency hearing shall be scheduled before the Master Calendar Judge. Whenever possible, the case shall be scheduled before the assigned Judge for further hearing or disposition. All other CHIPS cases shall be assigned prior to the Admit/Deny hearing on a random basis, except as modified due to the unavailability of a Judge in the time required for a hearing by the Rules of Juvenile Protection Procedures.
 - 2) Where a juvenile or parent makes an admission at the EPC hearing and 7b.b.(1) does not apply, the presiding Judge may elect to proceed to disposition. If disposition does not occur, the case shall be assigned to the Judge who presided over the admission.

- 3) If the juvenile or parent enters a denial at the EPC hearing, where 7b.b.(1) does not apply, the case shall be randomly assigned to a Judge prior to the Admit/Deny hearing and that Judge shall handle the case through disposition.
8. Conciliation Court Cases
 - a. Conciliation court matters should be held within thirty (30) days of filing. There shall be no more than 20 collection cases scheduled in one hour of conciliation court. For cases that are not filed by a collection agency, there shall be no more than 11 cases scheduled per hour. Out of those 11 cases, there shall be no more than three cases scheduled with claim amounts over \$2500.
- B. Each month District Administration shall provide each Judge with a status report that includes their individually assigned cases that exceed the timing guidelines.
- C. For compelling reasons, Judges may request assistance from the Chief Judge for unassigned Judge help for individual calendar cases.

IV. INTERACTIVE VIDEO PROCEEDINGS

This policy supports the use of Interactive Video Conferencing (ITV) for those hearings the Court deems appropriate. Those hearings will be conducted in accordance with the ITV protocols established by Seventh Judicial District Administrative Policy 4.1 for civil proceedings and Seventh Judicial District Administrative Policy 4.2 for criminal proceedings.

Amended and Recodified: August 2015.

ADMINISTRATIVE POLICY NO. 3.1

CONFLICT CASES

Procedure:

1. Once determination is made that no resident judge or judge regularly assigned to the county is able to hear a certain case, court administration shall complete the request for assignment form and forward to district administration. The request for assignment form shall state the county of origin, file number, title of case, attorneys of record, brief description of issue, and reason resident and regularly assigned judges cannot hear the case (copy attached).
2. Once district administration receives this information they shall forward the information and provide direct assistance to the appropriate Chief or Assistant Chief Judge for the county in which the assignment is to be made.
3. Once assignment is made, the court administrator will be notified by district administration and that case will be assigned to that judge and notice will be issued to the parties of record.

Recodified: August 2015.

CONFLICT CASES

COUNTY OF ORIGIN _____ FILE NUMBER _____

TITLE OF CASE _____

vs.

PLAINTIFF/PETITIONER ATTORNEY _____

DEFENDANT/RESPONDENT ATTORNEY _____

OTHER ATTORNEY(S) _____

BRIEF DESCRIPTION OF ISSUE _____

REASON FOR CONFLICT _____

ADMINISTRATIVE POLICY NO. 3.2

CONFLICT OF INTEREST; RECUSAL

When a case which may involve a conflict of interest or other possible basis for disqualification under Civ. Pro. R. 63.02 comes to the attention of the Court Administrator, and if the case has not yet been scheduled or assigned to a Judge for hearing, the Court Administrator shall attempt, by appropriate consultations with the Judges serving that county, to schedule and assign the case in such a way as to avoid any possible conflict of interest or Civ. Pro. R. 63.02 problems. Whenever feasible, a recusal order shall also be prepared and filed.

If the case has already been scheduled and assigned, and if the Judge to whom the case is assigned then determines that a conflict of interest or other reason for disqualification exists, the Court Administrator, in consultation with the District Administrator to the extent necessary, shall arrange for the reassignment of the case, minimizing delay or the need for rescheduling whenever possible. A recusal order shall also be prepared and filed.

To assist the Judges of the District in the early identification of cases covered by this policy, the District Administrator shall establish and implement procedures which permit each Judge the opportunity to review the calendar of upcoming cases assigned to that Judge in the week prior to the week in which the case is scheduled to be heard.

Approved: September 16, 1988
Effective: September 16, 1988
Amended and Recodified: August 2015.

ADMINISTRATIVE POLICY NO. 3.3

JUDGE ASSIGNMENT FOR POST-CONVICTION RELIEF

When a petition for post-conviction relief is filed pursuant to Minn. Stat. 590.01, the Court Administrator shall refer the petition to the judge who presided at the proceedings which resulted in conviction for the purpose of determining whether allegations in the petition will result in the judge's recusal. If the judge who previously presided does not believe recusal is necessary, then the case should be scheduled on that judge's individual calendar time, with notice of the assignment and court date to be given. If recusal occurs, the case should be randomly assigned and set on for hearing on individual calendar time, with appropriate notice of the assignment and court date to be given.

In any event, the filing of a motion for post-conviction relief under Minn. Stat. 590.01 shall not be deemed a "new proceeding," entitling either the defendant or the prosecuting attorney to exercise a right of removal pursuant to Minn. R. Civ. P. 63.03.

Approved: May 15, 1992

Amended and Recodified: August 2015.

STATE OF MINNESOTA

SEVENTH JUDICIAL DISTRICT

ADMINISTRATIVE POLICY NO. 4.1

ITV PROCEDURES - CIVIL

R. Gen. Practice, R. 131, which became effective March 1, 2009, replaces and supercedes this policy.

Amended: August 2015.

STATE OF MINNESOTA

SEVENTH JUDICIAL DISTRICT

ADMINISTRATIVE POLICY NO. 4.2

ITV PROCEDURES – CRIMINAL

R. Minn. Crim. Proc. 1.05, which became effective July 15, 2010, replaces and supercedes this policy. Note: Subd. 11 of the Rule states that Administrative Procedures for Conducting ITV hearings are governed by the General Rules of Practice.

Amended: August 2015.

ADMINISTRATIVE POLICY NO. 4.3

COMPUTER TECHNOLOGIES

It is the policy of the Seventh Judicial District that:

A. Computer Software

1. The Seventh Judicial District respects the Licensing/Copyright agreements for any computer software utilized on computer hardware, whether purchased by the District ITD or State Court Departments (e.g., Finance, HR). All software programs used by the Seventh Judicial District should be properly licensed. Only software purchased by the Seventh Judicial District should be used, unless approved by the District prior to installation.
2. Usage of unlicensed copies of software, with the exception of “shareware”, is strictly prohibited.
3. No outside software shall be installed on Seventh Judicial District computers or any county-owned computer that is connected to District communication devices.
4. The Seventh Judicial District reserves the right to inspect all computing hardware in conjunction with Court Administrators and/or designees to ensure compliance with this policy.
5. Unless authorized by the Seventh Judicial District, users shall not download software residing on the Internet.
6. For security reasons, users should not share their passwords.
7. The Minnesota Judicial Branch offers free public Wi-Fi access for employees and the public in the Minnesota Judicial Center and all county courthouses; however, all Wi-Fi users must agree to the terms and conditions of use before such access will be granted.
8. The Minnesota Judicial Branch is moving towards eCourt (electronic paperless court), and all judges and staff in the 7th District will receive adequate training and support during this phased-in process. On or before August 15, 2015, all courtrooms in the 7th District are required to have judicial benches of adequate size to support efficient use of the required computer technology, the wiring and electrical power necessary to support it, and appropriate adjacent seating for the support staff in the courtroom.

B. E-Mail and Internet

1. Each user is given a limited amount of e-mailbox space. It is the responsibility of the user to routinely delete messages that have been read.
2. Employee access to and use of electronic tools such as e-mail and Internet is intended for business-related purposes. Limited and reasonable use of these tools for occasional employee personal purpose that does not result in any additional costs from loss of time or diversion of resources from their intended business purpose is permitted.
3. Employees are responsible for the appropriate use of these communication tools. Internet and e-mail use must be able to withstand public scrutiny without embarrassment to the judicial branch, its customers or its employees if messages are forwarded beyond the intended recipients, accessed or inadvertently disclosed, subpoenaed in a legal action, or otherwise made public.
4. Uses of the Internet and other electronic communication tools that will not be tolerated include, but are not limited to:
 - illegal activities;
 - wagering, betting, or selling chances;
 - harassment or bullying;
 - commercial activities;
 - solicitation, except on agency sanctioned activities;
 - promotion of political or private causes, positions or activities, and/or other unethical activities;
 - activities that demean the dignity of the court.

Approved: September 18, 1995

Amended and Recodified: August 2015.

ADMINISTRATIVE POLICY NO. 4.4

WEAPONS AND HAZARDOUS EXHIBITS IN THE COURTROOM

1. Each court in the Seventh Judicial District shall issue a standing order incorporating the procedures set forth below to be followed in all civil and criminal cases. This order, together with a copy of the Statements of Policy and Procedure shall be distributed to the following persons:

- a. All prosecutors
- b. All public and private defense counsel practicing in the court
- c. All court personnel
- d. The Minnesota Department of Public Safety and all police departments within the court's territorial jurisdiction
- e. All county commissioners and department heads of county agencies

2. Each court shall cause a sign to be prominently displayed to read as follows:

“It is a felony to possess a weapon in a court building. Minn. Stat. 609.66, subd. 1g.(a) (1). Everyone entering the court building shall be subject to search of their persons and any bags, parcels, briefcases, or other containers which they wish to carry with them into the courthouse. Anyone refusing to submit to such a search shall be refused admission into the facility.”

Except for use as an exhibit in an official proceeding, no firearm or other weapon shall be taken into a courtroom, even if the person possessing the firearm also has a permit to carry a pistol. Firearms or other weapons intended for use as exhibits shall be checked for safety by the bailiff and properly sealed or blocked in accordance with court policy and procedure before they are taken into the courtroom.

Only police officers on official duty shall be allowed to carry a firearm into a courtroom or other area within the court building. All others shall be required to leave their weapons in their vehicle or in the custody of the bailiff for safe-keeping.

***Caveat:** Though Minnesota Stat. 609.66, subd 1g (a) (1) makes it a felony to possess a dangerous weapon in a courthouse complex, subd. 1g (b) of the same statute provides that the provision in subs. 1g.(a) (1) does not apply to:*

(1) licensed peace officers or military personnel who are performing official duties,

- (2) *persons who carry pistols according to the terms of a permit issued under section 624.714 and who so notify the sheriff or the commissioner of public safety, as appropriate, or*
- (3) *persons who possess dangerous weapons for the purpose of display as demonstrative evidence during trial or hearing or exhibition in compliance with advance notice and safety guidelines set by the sheriff or the commissioner of public safety; or*
- (4) *persons who possess dangerous weapons in a courthouse complex with the express consent of the county sheriff.*

3. Procedure for the handling of weapons evidence in the courtroom:

a. Any person intending to offer a weapon as evidence in either a civil or criminal case shall notify the Court and opposing counsel of their intent prior to commencement of the trial or hearing;

b. The Court shall review the policies and procedures for handling of weapons with the attorneys at the pretrial conference;

c. No weapon shall be brought into the courthouse without one or more of the following precautions being taken to ensure its safe handling:

1) All firearms are to be unloaded prior to being brought into the court building;

2) A mechanical trigger block shall be placed on every firearm by trained personnel within the sheriff's department or as authorized by the sheriff after inspection to ensure the firearm is completely unloaded. The following types of mechanical blocks may be utilized:

- a) plastic tie wrap
- b) a trigger lock
- c) an electrician's strap
- d) a padlock (the preferred method for securing a handgun)
- e) bicycle cable

d. All other dangerous weapons or devices used as a weapon shall be placed in a secure plastic box or in a heat-sealed evidence bag, double layered;

e. All ammunition shall be removed from the firearm and placed in a heat-sealed evidence bag or secure plastic box;

f. Ammunition and firearms are to be kept separate in the courtroom and shall not be sent into the jury room or retained by the jurors at the same time;

g. Jurors may be advised of the procedures followed by the Court with respect to the inspection and handling of weapons in their case;

h. No one shall be allowed to display a firearm or weapon until foundation for its admissibility has been laid. In the event counsel wishes to display the weapon during opening statements, they may do so by photograph or drawing;

i. Once the weapon has been received in evidence, it shall be consigned to the custody of the court clerk for the duration of the trial. At no time shall the weapon be allowed to be placed on counsel table or at the witness box, except upon prior approval of the Court for use by the witness during testimony. The Court shall provide the clerk with a secure drawer or cabinet in which to place the weapon during recess or when not under the direct visual supervision of the clerk or bailiff;

j. In the event the jury wishes to examine a firearm and the ammunition, each will be sent into the jury room separately and returned to the jury bailiff before the other is sent in for examination;

- 1) The Court may include a special instruction to the jury with respect to receipt of a weapon in the jury deliberation room.

k. In the event it is necessary to counsel's case to demonstrate loading or how the gun was handled by the defendant, or to demonstrate the effect of a silencer, counsel shall obtain prior authorization from the Court, and procedures designed for a safe demonstration shall be developed. Procedures may include:

- 1) Use of dummy ammunition (bullets that have the primer and powder removed);

- 2) All inert ammunition should be test-fired outside of court before the demonstration will be allowed;

- 3) All demonstrations are to be conducted by a range master, firearms instructor, qualified Criminalist, or other qualified person;

- 4) The jury shall be given a full explanation of the procedure that is to be followed during the demonstration;

- 5) The sheriff and bailiffs must be notified in advance if any demonstration will include the firing of a weapon in the courtroom.

4. At the conclusion of the trial, or in criminal cases at sentencing, the Court shall, upon counsel's request, address return of exhibits. If no such request is made, exhibits shall be immediately returned to the offering party for safekeeping or for transmittal to the appropriate law enforcement or investigating agency for safekeeping. Factors to be considered (e.g., safety, preservation, rights and interests of the parties, and chain of custody) and some examples of appropriate dispositions are outlined in the Judicial Training bulletin referenced above. A photograph of the returned exhibit shall be substituted and made a part of the record for appeal.

If, in accordance with current Judicial Branch Policy, exhibits are to be returned to counsel for safekeeping pending appeal, the Court may require counsel to submit an affidavit setting forth the specific measures taken to ensure safekeeping of the exhibits.

Appendices:

Minnesota Judicial Training Update 14-3 - Weapons and Hazardous Exhibits in the Courtroom
Judicial Branch Policy 507
Judicial Branch Policy 21

Amended and Recodified: August 2015.

STATE OF MINNESOTA

SEVENTH JUDICIAL DISTRICT

ADMINISTRATIVE POLICY NO. 4.5

POTENTIALLY HAZARDOUS EXHIBIT PROCEDURES

Because potentially hazardous exhibit procedures are addressed in Policy 4.4, this policy has been replaced by Policy 4.4.

Amended: August 2015.

ADMINISTRATIVE POLICY NO. 4.6

ELECTRONICS IN THE COURTROOM

For the purposes of this policy, "court facility" is the entire building if the building is used exclusively for court operations. If the building is not used exclusively for court operations, then "court facility" means courtrooms, court administration offices, jury gathering or deliberation rooms, other locations used for court functions and any adjacent common areas. Where there exists a point of entry security screening station, any point past the point of entry should be considered the court facility.

Each County may set forth Rules and Procedures for restricting electronic devices into the court facility as long as those Rules do not restrict access to electronic devices to the persons identified below for using electronic devices in the courtroom and hearing rooms to assist with calendar issues and other case processing matters.

Licensed attorneys, licensed law enforcement personnel, self-represented litigants, guardians ad litem, corrections officers, interpreters and other persons authorized by the presiding judge may have in the courtroom cell phones, electronic tablets and lap top computers powered ON and in SILENT mode for the purpose of obtaining necessary information to conduct business with the courts. Voice communication and recording of pictures, video or audio shall not be made or displayed in the courtroom by any person unless specifically and expressly approved by the presiding judge.

Law enforcement and court personnel are authorized to search persons and inspect electronic devices in any court facility to insure compliance with this policy. An electronic device that is possessed or used in a manner that is not in compliance with this policy may be immediately seized. Any person violating this policy may be subject to a contempt of court order and the imposition of appropriate sanctions.

A copy of this policy shall be posted at appropriate public locations at each court facility as determined by the court administrator and facility manager.

Approved: August 2015
Amended: November 2016

ADMINISTRATIVE POLICY NO. 5.1

BANKRUPTCY – SUSPENSION OF FILE

It is hereby ordered that once a Notice of Bankruptcy has been filed in the Seventh Judicial District on any case other than those set forth in 11 U.S.C. § 362(b), the file shall be administratively closed and set for a case status review at six-month intervals to check the status of the bankruptcy.

Once the bankruptcy status has been removed, the case shall be reactivated and placed on the proper judge's pending list.

Amended and Recodified: August 2015.

STATE OF MINNESOTA

SEVENTH JUDICIAL DISTRICT

ADMINISTRATIVE POLICY NO. 5.2

ATTORNEY FEES: PRO BONO CASES

In those family law cases where the Court determines it would award attorney fees under Minn. Stat. 518.14 to a private attorney, then the court shall award such fees to a pro bono attorney or legal service organization.

See Blum v. Statson, 465 U.S. 886 (1984), and *Rodriquez v. Taylor*, 569 F.2d 1231, 1245 (3rd Cir., 1977).

Approved: May 3, 1996

Recodified and Renumbered: August 2015.

ADMINISTRATIVE POLICY NO. 6.1

FAILURE TO APPEAR - PETTY AND MISDEMEANOR CASES

I. Failure to Appear on Traffic Petty Misdemeanor Violations:

It is the policy of the Minnesota Judicial Branch, pursuant to Minn. Stat. §609.491, subd. 1, that court administration shall enter a plea of guilty and conviction when a person fails to appear for a petty misdemeanor offense. If the petty misdemeanor offense was payable, the guilty plea and conviction shall be entered if the person has neither paid the fine nor appeared by the scheduled court date.

If the person has failed to pay his/her fine and also failed to appear for the scheduled hearing, Court Administration shall enter the guilty plea, conviction, and sentence on the 10th day following the person's failure to appear for the scheduled hearing. The conviction and sentence shall be deemed to have been entered on the date that it is processed by Court Administration. See Minn. Stat. §609.491, subd. 1.

A conviction *shall not* be entered under Minn. Stat. §609.491, subd. 1, when a person fails to appear if:

1. A person is charged with multiple offenses and at least one of those offenses is not a petty misdemeanor;
2. A person makes some attempt to appear in court for a petty misdemeanor offense, but later fails to appear for a scheduled court date, *State v. Haney*, 600 N.W.2d 469 (Minn. App. 1999); or
3. The offense charged is a *misdemeanor* with a payable fine of \$300 or less.

II. Failure to appear on Misdemeanor Citations or exception cases as noted above:

Charge where suspension of driver license is not authorized:

Upon defendant's failure to appear in response to a long form complaint or citation, a warrant of arrest may issue if based upon sworn facts establishing probable cause, which may be set forth in or with the citation and attached to the complaint, as provided in Minnesota Rules of Criminal Procedure 6.01, Subdivision 3. A warrant of arrest may also issue if the judge has personal knowledge, acting in an official capacity, that the defendant had notice of the scheduled court appearance but did not appear. The cases shall be called in open court and upon determination that the defendant is not present, the Court must make findings of probable cause based on sworn facts or personal knowledge and may order that a bench warrant be issued with bail as determined appropriate by the Court. For offenses that are on the approved State Payables List the bail should be the amount of the fine, surcharge and law library fee to allow the defendant to post the fine amount and waive any further appearances.

Charge where suspension of driver license is authorized:

Court Administration will follow the approved process to suspend the driver license for FTA as outlined in MNCIS on-line procedures.

Approved: December 1, 1989
Effective: January 1, 1990
Amended and Recodified: August 2015.

STATE OF MINNESOTA

SEVENTH JUDICIAL DISTRICT

ADMINISTRATIVE POLICY NO. 6.2

LONG FORM COMPLAINT CONTINUANCES

When a person appears on a citation or ticket and demands a formal complaint, that demand shall be treated as a request for a continuance, and a new arraignment (first appearance pursuant to Rule 5.01 of the Minnesota Rules of Criminal Procedure) shall be scheduled. The defendant shall sign a written promise to appear for that purpose. Whenever possible, the continued arraignment shall be utilized as a pre-trial.

When the formal complaint is filed, the Court Administrator shall mail a copy to the defendant and to counsel if time permits receipt by mail prior to the next court date.

Approved: May 18, 1990

Renumbered and Recodified: August 2015.

ADMINISTRATIVE POLICY NO. 6.3

PRESENTENCE INVESTIGATION AND VICTIM IMPACT STATEMENTS

When a judge has ordered a written Presentence Investigation (PSI) or Victim Impact Statement (VIS) report from the Minnesota Department of Corrections, court services, community corrections, or other agency/individual, the following shall govern:

1. The matter shall be set for sentencing no later than 45 days after a guilty plea or verdict. Defendant and counsel shall be notified of sentencing date by the court administrator's office prior to leaving the building after a plea or conviction. The agency/individual conducting the investigation shall be sent a copy of the notice setting forth the time and date of sentencing.

In extenuating circumstances where the above time frame cannot be met, the Minnesota Department of Corrections, court services, community corrections, or other agency/individual shall notify the court administrator seven (7) days prior to the original sentencing date to request an extension.

2. The agency/individual conducting the investigation shall send the PSI or VIS report, along with any attachments thereto, to the ordering judge seven (7) days prior to sentencing, unless otherwise directed by the judge.

3. The agency conducting the investigation shall send a copy of the PSI or VIS report and attachments, all of which shall be considered confidential, to the court administrator's office where the case is venued seven (7) days prior to sentencing. Once received by the court administrator's office, the PSI or VIS report and attachments shall be handled in accordance with applicable SCAO policies as to data classification and dissemination.

4. The agency/individual conducting the investigation shall send a copy of the PSI or VIS report and attachments to the counsel for the defense and to the prosecuting attorney seven (7) days prior to sentencing. Neither counsel nor pro se litigant shall duplicate any part of a PSI or

VIS received by them, with the exception of the sentencing worksheet. This policy supersedes any orders or previous district policies concerning PSI or VIS reports.

Approved: November 7, 1997
Renumbered and Recodified: August 2015.

ADMINISTRATIVE POLICY NO. 6.4

PETTY MISDEMEANOR CONVICTION DETERMINED BY SENTENCE

Pursuant to Rule 23.02 of the Minnesota Rules of Criminal Procedure, when the sentence, as imposed, is within petty misdemeanor limits as set forth in M. S. § 609.02, subd. 4a, the conviction shall be deemed a conviction for a petty misdemeanor only.

RULE 23.01 DEFINITION OF PETTY MISDEMEANOR

As used in these rules, petty misdemeanor means a misdemeanor offense punishable only by fine of not more than \$300 or such other dollar amount as is established by Minn. Stat. 609.02 subd. 4a or other statute as the maximum fine for a petty misdemeanor.

**RULE 23.02 DESIGNATION AS PETTY MISDEMEANOR BY
SENTENCE IMPOSED**

A conviction is deemed to be for a petty misdemeanor as defined by Rule 23.01 if the sentence imposed is within the limits provided by that rule for a petty misdemeanor.

MINNESOTA STATUTES § 609.02, subd. 4a. Petty Misdemeanor.

“Petty misdemeanor” means a petty offense which is prohibited by statute which does not constitute a crime and for which a sentence of a fine of not more than \$300 may be imposed.

Approved: May 18, 1990
Renumbered and Recodified: August 2015.

ADMINISTRATIVE POLICY NO. 6.5

RESTITUTION

When restitution is requested in juvenile delinquency or criminal cases, the prosecuting attorney, probation department or office of court services shall cause "all information regarding restitution" to be filed with the Court and provided to the offender at least three business days prior to the sentencing or dispositional hearing, as required by Minn. Stat. Section 611A.04, Subd. 1(a), or before the restitution hearing, if one is so ordered.

2. Pursuant to Section 611A.04, Subd. 2, all restitution ordered by the Court shall be paid by the offender to the court administrator.
3. Again pursuant to Section 611A.04, Subd. 2, the court administrator shall keep records of the amount of restitution ordered in each case, any change made to the restitution order, and the amount of restitution actually paid by the offender. The court administrator shall disburse restitution in incremental payments and may not keep a restitution payment for longer than 30 days; except that the court administrator is not required to disburse a restitution payment that is under \$10 unless the payment would fulfill the offender's restitution obligation.
4. The court administrator and probation department or office of court services in each county shall establish local policies and procedures, satisfactory to the judges serving in that county, so that the court administrator is promptly informed of (a) any restitution payment schedule arranged for an offender by probation or court services, and (b) of any failure by the offender to comply with such a payment schedule.
5. When an offender is ordered to pay restitution, and when restitution is not paid in full at the time of sentencing or disposition, and when the offender is also required to pay a fine or other financial obligations, and when those obligations are not paid in full at the time of disposition or sentencing, payments received by the court administrator on the offender's various court-ordered financial obligations shall be applied in accordance with the following order of priority, unless the court specifically directs otherwise:

- a. Restitution to victims
 - b. Chemical Dependency Assessment
 - c. Repeat Offender Surcharge
 - d. Minimum Fines pursuant to M.S. 609.101
 - e. Assessment or Surcharge
 - f. Criminal Charge Surcharge
 - g. Public Defender Reimbursement
 - h. Law Library
 - i. Court Costs or Costs of Prosecution
 - j. Other (e.g., Drug Task Force, etc.)
 - k. Fines
6. Unless the Court directs otherwise, funds received from an offender shall be applied to pay each category of obligation in order of priority in full before money received is applied on the next category.

Approved: September 22, 1993

Amended, Renumbered and Recodified: August 2015.

ADMINISTRATIVE POLICY NO. 6.6

GROSS MISDEMEANOR AND MISDEMEANOR DETAINERS

When a defendant is sentenced to serve time in jail on a misdemeanor or gross misdemeanor sentence which is to run concurrently with a felony sentence on which the defendant has been committed to prison, so long as the misdemeanor or gross misdemeanor sentence will expire before the release date on the felony sentence, the existence of the misdemeanor or gross misdemeanor sentence shall not be lodged as a detainer against the defendant or otherwise have any effect on programming decisions made by the Department of Corrections with respect to the defendant's status on the felony sentence, unless specified otherwise by the judge who imposed the misdemeanor/gross misdemeanor sentence.

Approved: September 18, 1995
Renumbered and Recodified: August 2015.

ADMINISTRATIVE POLICY NO. 6.7

OUTSTANDING WARRANTS

The Seventh Judicial District wishes to limit the length of time warrants remain outstanding in misdemeanor, juvenile files and civil contempt matters.

Warrants issued in misdemeanor files in the District shall be referred to the prosecutor ten years after issuance requesting review of the file to determine if the warrant should remain or if they want to dismiss the charges. Court Administration shall review and verify the status of outstanding misdemeanor warrants at five (5) years to ensure validity and currency of each warrant

Juvenile warrants shall be referred to the prosecutor when the juvenile reaches the age of nineteen for review of the file to determine if the warrant should remain or if they want to dismiss the charges.

All warrants issued for civil contempt of court shall remain in effect for two years, and then be recalled by (returned to) the Court Administrator's Office for cancellation, unless a Judge of the District otherwise specifically directs that a particular warrant remain in effect for a longer period of time.

At the time that warrants are recalled or returned in accordance with this Policy, Court Administration staff shall determine whether the defendant ever appeared in court, ever posted bail, or breached any condition of release that had been set, and appropriate action shall be taken, including forfeiture of bail.

Amended February 13, 2015
Renumbered and Recodified: August 2015.

ADMINISTRATIVE POLICY NO. 6.8

PUBLIC DEFENDER APPOINTMENT AND REIMBURSEMENT

It is the policy of the Seventh Judicial District that public defender appointments and reimbursements shall be handled as follows:

- Defendant completes the Application for Public Defender.
- Judge completes the Order on Application for Public Defender.
- If reimbursement is required, the defendant shall initial and date the Order on Application for Public Defender. [The defendant has the right to know conditions of the public defender appointment.]
- Court Administration may enter all reimbursement amounts in the TCIS Special Account Screen for immediate collection.

If the judge orders reimbursement, the recommended procedure would be to specify a finite reimbursement amount.

Example:

The Court finds the reimbursement is:

Not required.

Required as follows: \$75.00 [Total amount of reimbursement required.]

Other amount as ordered by the Court.

If the judge reserves or rescinds the issue of reimbursement, the recommended procedure would be to complete an Amended Order on Application for Public Defender at the same time as sentencing or conclusion of the case. [Reimbursement should not be ordered on the sentencing order. A sentencing order and a public defender order would need to be completed.]

The Order on Application for Public Defender is a standalone order. If the defendant fails to comply with the order, civil actions shall be taken.

Court Administration staff has the authority to proceed with collection efforts for reimbursement of public defender reimbursement accounts such as but not limited to revenue recapture, civil judgment, and civil contempt.

Approved: September 24, 1999

Amended, Renumbered and Recodified: August 2015.

ADMINISTRATIVE POLICY NO. 6.9

ORDERS DIRECTING PAYMENT OF MONEY
AS CONDITION OF APPOINTMENT OF COUNSEL

When an order appointing counsel is conditioned upon payment of money by the person for whom counsel is appointed, the order requiring payment shall remain in effect, and be enforceable, even if the topic of payment is not covered in a subsequent sentencing order, unless the Judge specifically addresses the matter in the sentencing order.

Further, plea recommendations or agreements, even when accepted by the Court, which fail to address a previously entered financial contribution order do not void or invalidate such orders or render them unenforceable.

This policy applies in juvenile cases, paternity actions, criminal proceedings, and in any other instance where an Order appointing counsel is conditioned upon the payment of money by the person for whom counsel is appointed.

Approved: May 5, 1989

Renumbered and Recodified: August 2015.

ADMINISTRATIVE POLICY NO. 6.10

ELECTRONIC HOME MONITORING

A. Conditions for Use of Post Sentence Electronic Home Monitoring

1. No use of alcohol or illegal drugs.
2. Defendant to pay predetermined daily fees subject to waiver by court due to defendant's indigent status.

B. Formulas for Calculation of Time

1. One day of electronic home monitoring shall be the equivalent of one day of jail ordered.
2. "Good time" diminution of sentence under M. S. § 643.29 does not apply to electronic home monitoring.
3. If defendant is found in violation of an electronic home monitoring sentencing order, defendant will receive credit against any jail sanction that might be imposed for not more than one-half of any electronic home monitoring days that were satisfactorily completed prior to the violation.

C. Violations

Probable cause to believe that a violation has occurred shall justify revocation of the defendant's electronic home monitoring privileges by the Sheriff and permit the arrest and immediate jailing of the defendant. Defendant may, upon written request, be given an opportunity to be heard by the court following such an administrative revocation of electronic home monitoring privileges.

POLICY 7.0 FAMILY CASES

RESERVED

POLICY 8.0 JUVENILE CASES

RESERVED

ADMINISTRATIVE POLICY NO. 9.1

PROBATE FILING FEES

1. When a Petition for Special Guardianship or Conservatorship is filed, and subsequent establishment of a General Guardianship or Conservatorship is contemplated, payment of a single filing fee is all that will be required, provided:

- a. that the same person is the subject of both the special and general proceeding;
- b. that the same basic purpose is being pursued in both proceedings;
- c. that a Petition for appointment of a General Guardian or Conservator be filed either (a) at the time of the filing of the Special Petition, or (b) within ten (10) days after the date on which the Special Petition is filed.

2. When a probate proceeding has been commenced, no Complaint brought or served by or on behalf of the personal representative or the estate which seeks an award of damages or other affirmative relief may be filed or acted upon by the Court unless a separate filing fee has been paid.

Approved: September 16, 1988

Effective: September 16, 1988

Recodified: August 2015.

ADMINISTRATIVE POLICY NO. 9.2

ATTORNEY FEES FOR WARD/CONSERVATEE

When an attorney provides legal services for which the attorney is entitled to be compensated under Minn. Stat. §525.703, subd. 2, or 525.5501, subd. 3, (appointment of counsel for conservatee-ward upon filing of petition for initial appointment of guardian or conservator), and when the ward is indigent and has been granted in forma pauperis status, the attorney's fees to be paid will be calculated and paid at the hourly rate then paid for public defender work in the same county in accordance with existing contracts and law, with the actual amount to be paid to be determined upon the Court's normal discretionary review of all pertinent factors that might bear upon the attorney's request for compensation.

Renumbered and Recodified: August 2015.

ADMINISTRATIVE POLICY NO. 9.3

EDUCATIONAL VIDEO FOR GUARDIANS AND CONSERVATORS

Prior to the appointment of any person or entity to serve as a guardian or conservator, the proposed guardian or conservator must first view the educational video provided by court administration. Once a person or entity has viewed this video, they need not again view the video for future appointments for the following ten years. A judge may waive the requirement to view the video as appropriate.

Renumbered and Recodified: August 2015.

ADMINISTRATIVE POLICY NO. 10.1

LEAVES BY JUDGES ON MASTER AND UNASSIGNED CALENDARS

To maintain equal and equitable judge coverage in all counties of the Seventh Judicial District, and to ensure fair treatment of all judges of the judicial district, the following policy regarding the taking of leave by judges assigned to the master and unassigned calendars has been adopted:

1. The master calendar shall be given priority to the individual calendar in all ten counties of the Seventh Judicial District.
2. Each judge of the Seventh Judicial District shall be allowed to take fifteen (15) days leave (i.e., vacation or professional duty leave, exclusive of official judicial leave and meetings called by the chief or assistant chief judges of the judicial district) from master or unassigned calendar assignments per fiscal year. When requests for such leave are granted, the District Administration office shall arrange for coverage of the appropriate calendar.
3. Requests for leave from master and unassigned calendar assignments (i.e., vacation or professional duty leave exclusive of official judicial leave and meetings called by the chief or assistant chief judges of the judicial district) in excess of fifteen (15) days shall be referred to the chief or assistant chief judge of the judicial district for approval or denial. If the request for leave is granted, it shall be the responsibility of the judge taking the leave to arrange coverage of his or her assigned calendar. The judge taking leave shall arrange for a judge other than a designated unassigned judge to provide the necessary coverage.
4. Judges may earn and accumulate "master calendar vacation days" beyond the initial fifteen (15) days allowed. They shall do this by notifying district administration of availability to work as a substitute judge on the master calendar. If used, the judge shall have the time credited to his or her "bank" of days that may be taken from a master calendar or unassigned assignment (subject to provisions 2, 3, and 5 of this policy).
5. Judges shall submit leave statements for vacation, quasi-judicial or official judicial leave to district administration forty-five (45) calendar days before taking any leave.

Adopted and Effective: September 1, 1993

Recodified: August 2015.

ADMINISTRATIVE POLICY NO. 11.1

COURT REPORTER REASSIGNMENT POLICY

The judge is the appointing authority for their official court reporter. If the official court reporter's appointing judge is on unassigned status, judicial, quasi-judicial, vacation or sick leave, the court reporter must be available, unless on authorized leave and may be reassigned to any judge serving in the Seventh Judicial District on master and individual calendars by the managing court reporters¹, subject to objection by that reporter's appointing authority. The Employer's Travel and Reimbursement Policy will apply when the reporter reports in person.

A. Vacation and Sick Leave Procedure

1. All requests for time off should be submitted via a "Request for Leave form.:" The reporter submitting the leave slip shall make the appropriate notations on the Outlook Calendar and also e-mail the leave slip to his/her managing reporter and 7th Court Reporter Leave Statement. The request form must be received ten working days (excludes Saturdays, Sundays, and holidays) before the requested time off.
2. Exceptions to the ten-day notice may be made to accommodate emergency or extraordinary situations. Chief judge approval may be necessary if court reporter coverage is needed within the district.
3. Outlook will show where coverage is needed, the reporter who has been assigned, and the reporters that are unavailable to cover due to approved leaves. Outlook will also show all judges being covered by LRM. Available reporters will sign up where coverage is needed; realizing that changes in calendars may require assignment revisions by the managing court reporters. If the court reporter removes their name from the Outlook calendar, the court reporter must notify the managing court reporters.

B. Emergency Sick Leave Procedure

Court Reporter emergency sick leave requests require notification to the managing court reporters emergency contact by 7:00 a.m. on the day of the absence. Once a replacement reporter is assigned to cover, the court reporters will notify the affected county of the replacement reporter's estimated time of arrival, if able to.

C. Coverage Shortages

On those occasions where no official court reporter is available, free-lance court reporters will be utilized to keep the record when authorized by the chief judge or assistant chief judge.

¹ In the event of a change in procedure resulting in the court reporters deciding to no longer manage assignments, the responsibility for assignment shall revert to the scheduling coordinator in the District Administration Office.

When a scheduled court calendar settles or is cancelled, it is the court reporter's responsibility to immediately notify the managing court reporters by email, check the Outlook calendar and be available for reassignment.

For the purposes of calendar coverage, the district shall be divided into three sections, and the managing court reporters from each section will be primarily responsible to providing coverage within their section. However, if no reporter is available within the section, another reporter outside of the section may be assigned. The sections are divided by counties as follows:

1. Benton, Mille Lacs, Stearns
2. Douglas, Morrison, Todd, Wadena
3. Becker, Clay, Otter Tail

Managing Court Reporters will be selected by the court reporters for each area. The term of service will be for a minimum one-year commitment. The goal is to have staggered terms to allow consistency as agreed to by the reporters.

D. Reassignment During a Judge's Unassigned Week

Given the multiple statutory duties of court reporters, a judge may object to the reassignment of his/her court reporter for no more than two (2) days during the judge's unassigned week. These statutory duties do not include transcript work not requested by the judge.

E. Reassignment

Court Reporters will be notified via email regarding their reassignment. For absences with shorter notice provided due to illness or other emergencies, court reporters will be notified by phone. Each court reporter will, at all times, keep the managing court reporters informed of their current home and cell phone numbers and home email addresses.

An in-person reassignment greater than 65 miles from a reporter's work county is voluntary. The managing court reporters may assign a court reporter to any calendar where coverage is needed. In the event of a disagreement between a court reporter or affected judge about the reassignment, the chief judge or assistant chief judge, shall assist with resolution of the disagreement giving due consideration to the affected judge's authority to determine the method of taking the record.

F. Grand Jury Court Reporter Assignments

Where the county attorney does not otherwise employ the services of a qualified court reporter for grand jury proceedings, the court is responsible for arranging for a qualified court reporter. Taking into consideration the duty to avoid unnecessary expenditures, grand jury reporting will be covered by official court reporters. The reporter for the judge assigned to charge the grand jury will be assigned to cover the grand jury proceeding, unless the court reporter is unavailable due to authorized leave. The reporter will cover the proceeding as part of his/her regular duties.

The court reporter may charge for the cost of any transcripts requested. If the charging judge has a calendar, reporter coverage will be arranged by the managing court reporters.

Approval of this policy replaces Seventh Judicial District Administrative Policies 11.1, 11.2, 11.3, and 11.6.

Amended: February 22, 2013 Seventh Judicial District Bench Meeting
Revisions proposed from court reporters June 3, 2015.
Renumbered: August 2015.

STATE OF MINNESOTA

SEVENTH JUDICIAL DISTRICT

ADMINISTRATIVE POLICY NO. 11.2

COURT REPORTER TRANSCRIPTS

The court reporter shall prepare transcripts as requested by the judge. In addition, the court reporter shall prepare transcripts as requested by a party in accordance with applicable statutes, rules and policies of the state court administrator's office.

Approved: December 5, 1988

Amended, Renumbered and Recodified: August 2015.

ADMINISTRATIVE POLICY NO. 11.3

TRANSCRIPT OF VIDEOTAPES AND AUDIOTAPES

Except as provided by Minn. Stat. § 634.36, any audiotape, videotape or other prerecorded evidence or testimony, whether an exhibit, deposition, interview, statement, or otherwise, offered by a party shall be accompanied by a written transcript thereof, which transcript, upon acceptance or redaction by the parties, shall constitute the record thereof for all purposes, including appeal.

Approved: December 2, 1998

Amended, Renumbered and Recodified: August 2015.

STATE OF MINNESOTA

SEVENTH JUDICIAL DISTRICT

ADMINISTRATIVE POLICY NO. 11.4

PER DIEM RATES FOR FREELANCE COURT REPORTERS

It is the policy of the Seventh Judicial District that the rates for freelance court reporters used for court proceedings shall be \$180 plus mileage for a full day and \$120 plus mileage for a scheduled half day. Whenever a need for a freelance reporter exists for reporting of court proceedings, including grand jury, District Administration shall be contacted and arrange for court reporter coverage.

Approved: November 22, 1991

Amended, Renumbered and Recodified: August 2015.

ADMINISTRATIVE POLICY NO. 11.5

COURT REPORTER CONTINUING EDUCATION REIMBURSEMENT

Each Seventh Judicial District Official Court Reporter will be eligible for reimbursement for all required and discretionary court reporter continuing education courses, seminars, conferences and workshops at the discretion of the appointing judge subject to the availability of funds. Pursuant to the *Minnesota Judicial Branch Policy - Education Policy and the Minnesota Judicial Branch Policy - Reimbursement for Education Expenses* east Seventh Judicial District Court Reporter's reimbursement will be capped at \$500 each fiscal year for each full-time court reporter. The amount will be pro-rated for part-time court reporters. Unreimbursed funds will not be carried forward to the next fiscal year.

The \$500 reimbursement includes registration costs for courses, seminars, conferences, workshops, meals and lodging expenses. Mileage up to 300 miles one-way and related travel expenses that are incurred and in compliance with appropriate reimbursement and travel policies will also be reimbursed. Prior to registering and attending a course, seminar, conference or workshop located more than 300 miles from their chambered county, a court reporter shall obtain the approval of their appointing judge, chief judge and district administrator.

Approved: January 2, 2007

Amended, Renumbered and Recodified: April 2015

STATE OF MINNESOTA

SEVENTH JUDICIAL DISTRICT

ADMINISTRATIVE POLICY NO. 12.1

ASSIGNMENT OF LAW CLERKS

- 1) Law clerks work for the entire Seventh Judicial District.
- 2) A nonresident judge shall have access to the law clerk(s) in the county to which s/he is assigned.

Approved: January 26, 1990

Recodified: August 2015.

ADMINISTRATIVE POLICY NO. 12.2

HIRING PRIORITIES AND TEMPORARY REASSIGNMENT OF LAW CLERKS

Each district judge may appoint a competent law clerk. Consistent with Administrative Policy No. 12.1, which states that law clerks work for the entire Judicial District, it is the policy of the District Judges to attempt to work out amongst themselves agreements for sharing or assignment of law clerks and to explore reasonable alternatives before hiring a new law clerk.

It is agreed that the Chief Judge of the District shall have the authority to reassign a law clerk when the law clerk's appointing Judge is on medical leave or disability leave for a time that is expected to extend beyond 60 days, or when a Judge is on a leave of absence for more than 60 days or on disability retirement.

In deciding when and where to reassign a law clerk, the Chief Judge shall give due consideration to the following principles:

- Any existing law clerk vacancies.
- The possibility, due to geographic location, of sharing a law clerk among one or more Judges.
- The judicial rotation schedule.
- The personal needs of a Judge because of case mix or research and technical skills.
- The right of the Judge to accept or decline the proposed reassignment of a law clerk.

Law clerks who are temporarily reassigned and who accept that reassignment from the Chief Judge shall be paid mileage and meals under the current travel policy available to Judges and law clerks in the District.

Upon the return of an appointing Judge who has been on extended leave, that Judge's reassigned law clerk will return to the assignment with the original appointing authority.

Approved: April 30, 2004
Amended and Recodified: August 2015.

STATE OF MINNESOTA

SEVENTH JUDICIAL DISTRICT

ADMINISTRATIVE POLICY NO. 13.1

FUNERAL LEAVE

This policy has been superseded by Section 13.4(i) of the Minnesota Judicial Branch Human Resources Rules. See Section 1.2 of said Rules for employee applicability.

Recodified: August 2015.

STATE OF MINNESOTA

SEVENTH JUDICIAL DISTRICT

ADMINISTRATIVE POLICY NO. 14.1

REQUEST FOR DISCLOSURE OF SOCIAL SECURITY NUMBER

Take no action absent passage of statutory authority, pursuant to attached federal statute.

Approved: May 5, 1989

Recodified: August 2015.

Disclosure of Social Security Number

Section 7 of Pub.L. 93-579 provided that:

"(a)(1) It shall be unlawful for any Federal, State or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security account number.

"(2) the [The] provisions of paragraph (1) of this subsection shall not apply with respect to--

"(A) any disclosure which is required by Federal statute, or

"(B) the disclosure of a social security number to any Federal, State, or local agency maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual.

"(b) Any Federal, State, or local government agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it."

Guidelines and Regulations for Maintenance of Privacy and Protection of Records of Individuals

Section 6 of Pub.L. 93-579, which provided that the Office of Management and Budget shall develop guidelines and regulations for use of agencies in implementing provisions of this section and provide continuing assistance to and oversight of the implementation of the provisions of such section by agencies, was repealed by Pub.L. 100-503, § 6(c), Oct. 18, 1988, 102 Stat. 2513.

Implementation Guidance for 1988 Amendments

Section 6(b) of Pub.L. 100-503 provided that: "The Director shall, pursuant to section 552a(v) of title 5, United States Code, develop guidelines and regulations for the use of agencies in implementing the amendments made by this Act [amending this section and repealing provisions set out as a note under this section] not later than 8 months after the date of enactment of this Act [Oct. 18, 1988]."

Limitation on Application of Verification Requirement

Section 7201(c) of Pub.L. 101-508 provided that: "Section 552a(p)(1)(A)(ii)(II) of title 5, United States Code [subsec. (p)(1)(A)(ii)(II) of this section], as amended by section 2 [probably means section 7201(b)(1) of Pub.L. 101-508], shall not apply to a program referred to in paragraph (1), (2), or (4) of section 1137(b) of the Social Security Act (42 U.S.C. 1320b-7), until the earlier of--

"(1) the date on which the Data Integrity Board of the Federal agency which administers that program determines that there is not a high degree of confidence that information provided by that agency under Federal matching programs is accurate; or

"(2) 30 days after the date of publication of guidance under section 2(b) [probably means section 7201(b)(2) of Pub.L. 101-508, set out as a note under this section]."

Privacy Protection Study Commission

Section 5 of Pub.L. 93-579, as amended by Pub.L. 95-38, June 1, 1977, 91 Stat. 179, which established the Privacy Protection Study Commission and provided that the Commission study data banks, automated data processing programs and information systems of governmental, regional and private organizations to determine standards and procedures in force for protection of personal information, that the Commission report to the President and Congress the extent to which requirements and principles of section 552a of title 5 should be applied to the information practices of those organizations, and that it make other legislative recommendations to protect the privacy of individuals while meeting the legitimate informational needs of government and society, ceased to exist on September 30, 1977, pursuant to section 5(g) of Pub.L. 93-579.

Publication of Guidance Under Subsection (p)(1)(A)(ii)

Section 7201(b)(2) of Pub.L. 101-508 provided that: "Not later than 90 days after the date of the enactment of this Act [Nov. 5, 1990], the Director of the Office of Management and Budget shall publish guidance under subsection (p)(1)(A)(ii) of section 552a of title 5, United States Code [subsec. (p)(1)(A)(ii) of this section], as amended by this Act."