

Rule 144. Cases Involving Constitutional Questions Where State is Not a Party

When the constitutionality of an act of the legislature is questioned in any appellate proceeding to which the state or an officer, agency or employee of the state is not a party, the party asserting the unconstitutionality of the act shall promptly file and serve on the attorney general notice of that assertion. Service of this notice on the attorney general may be effected by any means authorized by these rules. The attorney general has the opportunity to intervene within 30 days of that notice.

(Amended effective for appeals taken on or after January 1, 1992; amended effective July 1, 2014; amended effective March 1, 2024.)

Advisory Committee Comment - 2014 Amendments

The amendment to Rule 144 is intended to clarify the existing rule and to adapt it to the e-service and e-filing environment. As amended, the rule makes it clear that notice of a challenge to constitutionality should be served on all parties and the attorney general and also filed with the clerk of the appellate courts. The rule assumes that the Office of the Minnesota Attorney General will designate a means of service upon the office and consent to service using the appellate courts' e-filing and e-service system, which would be the easiest and fastest way to provide the notice required by this rule.

Advisory Committee Comment - 2024 Amendment

Rule 144 is amended in 2024 to mirror Civil Rule of Procedure 5A by adding the term "promptly" to indicate the timeframe for notifying the attorney general of a constitutional challenge. The 2024 amendments also add a 30-day deadline for the attorney general to seek to intervene after that notice. These amendments are intended to provide clearer timeframes for notice and intervention, and are not intended to expand or contract substantive law.