

Rule 21. Appeals**21.01 Generally**

This rule governs the procedure for appeals from juvenile traffic and juvenile petty, delinquency, extended jurisdiction juvenile, and certification proceedings in district court. Except as provided by these rules, Minnesota Rules of Civil Appellate Procedure shall govern appeals from juvenile court proceedings. These rules do not limit a child's right to seek extraordinary writs. In order to expedite its decision or for other good cause shown, the court of appeals may suspend any of these rules, except the time for filing a notice of appeal. The court of appeals shall expedite all appeals from juvenile court proceedings pursuant to Rule 21.07.

A party may petition to the Supreme Court of Minnesota for review pursuant to Minn. R. Civ. App. P. 117 or 118.

(Amended effective for all juveniles taken into custody and all juvenile delinquency actions commenced or children taken into custody after 12 o'clock midnight September 1, 2003; amended effective for all juvenile delinquency actions commenced or children taken into custody after 12 o'clock midnight September 1, 2005.)

21.02 Proceedings in Forma Pauperis

Subdivision 1. Generally. An indigent child wanting to appeal, cross-appeal, or defend an appeal taken by the prosecuting attorney shall make application to the office of the state public defender.

Upon the administrative determination by the state public defender's office that the applicant is financially and otherwise eligible for representation, the state public defender is automatically appointed for that purpose without order of the trial court. Any applicant who contests a decision of the state public defender's office regarding eligibility may apply to the Minnesota Supreme Court for relief.

If the parents of a child are financially able to contribute to some or all of the costs of representation, they may be ordered to pay the State of Minnesota all or a portion of those costs.

Subd. 2. Exception for Juvenile Petty Offenders and Juvenile Traffic Offenders. The state public defender may, in its discretion, agree to represent a juvenile traffic offender or a juvenile petty offender who wants to appeal, cross-appeal, or defend an appeal taken by the prosecuting attorney if, after an administrative determination by the state public defender's office, the child is found financially eligible for representation.

(Amended effective for all delinquency actions commenced or children taken into custody after 12 o'clock midnight January 1, 2008.)

21.03 Appeal By Child

Subdivision 1. Right of Appeal. A child may appeal as of right from an adverse final order and certain non-final orders, as enumerated in Rule 21.03, subdivisions 1(A) and (B). In addition, a child shall be permitted to seek a discretionary appeal as provided for in Minn. R. Crim. P. 28.02, subdivision 3. A motion for a new trial is not necessary in order to appeal.

(A) *Final Orders.* Final orders include orders for:

(1) certification to adult court, whether the order is entered or stayed pursuant to Rule 21.03, subdivision 3;

(2) continuance without adjudication and disposition in delinquency proceedings;

- (3) adjudication and disposition in delinquency proceedings;
- (4) adjudication and disposition in juvenile petty or juvenile traffic offender proceedings;
- (5) denial of motion for new trial;
- (6) extended jurisdiction juvenile prosecution designation, whether the order is entered or stayed pursuant to Rule 21.03, subdivision 3;
- (7) conviction, disposition, and sentencing of an extended jurisdiction juvenile;
- (8) an order, on the prosecuting attorney's motion, finding the child incompetent, if the underlying offense would be a felony or a gross misdemeanor if the offense were committed by an adult;
- (9) an order modifying a disposition;
- (10) an order revoking probation including an order adjudicating a child delinquent after the child was granted a continuance without adjudication;
- (11) an order revoking extended jurisdiction juvenile status; and
- (12) an order revoking the stay of the adult sentence of an extended jurisdiction juvenile.

(B) *Non-Final Orders*. A child may appeal from the following non-final orders:

- (1) an order refusing or imposing conditions of release; and
- (2) an order granting a new trial when a child's motion for acquittal is denied, if the underlying offense would be a felony or a gross misdemeanor if the offense were committed by an adult.

Subd. 2. Procedure for Appeals.

(A) *Orders Revoking Extended Jurisdiction Juvenile Status and Orders Revoking the Stayed Adult Sentence of an Extended Jurisdiction Juvenile*. Probationer appeals under Rule 21.03, subdivision 1(A)(11) and (12) shall be governed by the procedure provided for appeal from a sentence by Minn. R. Crim. P. 27.04, subdivision 3(4) and 28.05.

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

(1) *Time for Taking an Appeal*. An appeal shall be taken within thirty (30) days after service of the notice of filing of the appealable order upon the child's counsel by the court administrator as provided in Rule 28.

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

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

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

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

(d) the statement of the case as provided for by Minn. R. Civ. App. P. 133.03.

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

Whether a filing fee is required shall be determined pursuant to Minn. R. Civ. App. P. 103.01, subdivision 3. A cost bond is not required.

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

(3) *Transcript of Proceedings and Transmission of the Transcript and Record.* The Minnesota Rules of Civil Appellate Procedure shall govern the transcription of the proceedings and the transmission of the transcript and record to the court of appeals except as modified here:

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

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

(c) If the parties have stipulated to the accuracy of a transcript of video or audio exhibits and made the transcript part of the district court record, it becomes part of the record on appeal, and it is not necessary for the court reporter to transcribe the exhibits. If no such transcript exists, a transcript need not be prepared unless expressly requested by the appellant or the respondent. If the exhibit must be transcribed, the court reporter need not certify the correctness of this transcript.

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

(a) Extended Jurisdiction Juvenile and Certification Determinations.

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

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

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

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

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

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

file the appellant's brief and addendum within forty-five (45) days after the filing of the notice of appeal.

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

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

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

Subd. 3. Stay Pending Appeal.

(A) *Generally.* Pending an appeal, a stay may be granted by the juvenile court or the court of appeals. A motion for stay initially shall be presented to the juvenile court.

In cases certified to adult court, if a stay was granted by the juvenile court, the district court shall stay further adult criminal proceedings pending the filing of a final decision on appeal. By agreement of the parties, the adult case may proceed through the omnibus hearing.

If a stay is granted, conditions of release must be set pursuant to Rule 21.03, subdivision 4(B).

(B) *Placement Pending Appeal.*

(1) *Upon Certification.* If the district court determines that a certified child should be detained, placement pending appeal shall be governed by Minn. R. Crim. P. 6.02, and detention in an adult facility shall be presumed.

(2) *Other Cases.* If the child is detained, the reasons for the place of detention must be stated on the record, and the detention must comply with Minnesota Statutes, section 260B.176.

Subd. 4. Release of Child.

(A) *Motion for Release Pending Appeal.* When release is not addressed in the motion for a stay, application for release pending appeal shall be made to the trial court. If the trial court refuses to release a child pending appeal, or imposes conditions of release, the trial court shall state the reasons on the record. Thereafter, if an appeal is pending, a motion for release or for modification of the conditions of release pending review may be made to the court of appeals. The motion shall be determined upon such documents and portions of the record as the parties shall present. The court of appeals may order the release of a child with or without conditions, pending disposition of the motion. The motion shall be determined on an expedited basis.

(B) *Conditions of Release.* Minn. R. Crim. P. 6.02 shall govern conditions of release upon certification. If a stay is granted under Rule 21.03, subdivision 3 of this rule, Minnesota Statutes, section 260B.176, shall govern conditions of release. The child has the burden of proving that the appeal is not frivolous or taken for delay and that the child does not pose a risk for flight, is not likely to commit a serious crime, and is not likely to tamper with witnesses. The trial court shall make written findings on each of the above factors. The trial court shall take into consideration that:

(1) the child may be compelled to serve the sentence or disposition imposed before the appellate court has an opportunity to decide the case; and

(2) the child may be confined for a longer time pending the appeal than would be possible under the potential sentence or disposition for the offense charged.

(C) *Credit for Time Spent in Custody.* The time a child is in custody pending an appeal may be considered by the trial court in determining the disposition imposed in juvenile proceedings.

(Amended effective for all juveniles taken into custody and all juvenile delinquency actions commenced or children taken into custody after 12 o'clock midnight September 1, 2003; amended effective for all juvenile delinquency actions commenced or children taken into custody after 12 o'clock midnight September 1, 2005; amended effective for all juvenile delinquency actions commenced or children taken into custody after 12 o'clock midnight January 1, 2007; amended effective for all delinquency actions commenced or children taken into custody after 12 o'clock midnight January 1, 2008; amended effective for all delinquency actions commenced or children taken into custody after 12 o'clock midnight January 1, 2011; amended effective July 1, 2015.)

21.04 Appeal by Prosecuting Attorney

Subdivision 1. Scope of Appeal. The prosecuting attorney may appeal as of right from:

- (A) sentences or dispositions imposed or stayed in extended jurisdiction juvenile cases;
- (B) denial of a motion for certification or denial of a motion for designation as an extended jurisdiction juvenile prosecution;
- (C) denial of a motion to revoke extended jurisdiction juvenile status following an admission of a violation of probation or a determination that a violation of probation has been proven;
- (D) denial of a motion to revoke the stay of the adult sentence of an extended jurisdiction juvenile following an admission of a violation of probation or a determination that a violation of probation has been proven;
- (E) pretrial orders, including suppression orders;
- (F) orders dismissing the charging document for lack of probable cause when the dismissal was based solely on a question of law; and
- (G) a continuance ordered in contravention of Minnesota Statutes, section 260B.198, subdivision 7.

Appeals from disposition or sentence shall only include matters that arose after adjudication or conviction. In addition to all powers of review presently existing, the appellate court may review the sentence or disposition to determine whether it is consistent with the standards set forth in Rule 15.05, subdivisions 2 and 3.

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

Subd. 3. Procedure for Appeals.

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

(B) Prosecutorial appeals under Rule 21.04, subdivision 1(C) and (D) shall be governed by the procedure provided for appeal from a sentence by Minn. R. Crim. P. 27.04, subdivision 3(4) and 28.05.

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

(1) *Time for Appeal.* The prosecuting attorney may not appeal until all issues raised during the evidentiary hearing and pretrial conference have been determined by the trial court. The appeal shall be taken within twenty (20) days after notice of entry of the appealable order is served upon the prosecuting attorney by the court administrator. An appeal by the prosecuting attorney under this rule bars any further appeal by the prosecuting attorney from any existing orders not included in the appeal. No appeal of a pretrial order by the prosecuting attorney shall be taken after jeopardy has attached. An appeal under this rule does not deprive the trial court of jurisdiction over pending matters not included in the appeal.

(2) *Notice of Appeal and Filing.* Rule 21.03, subdivision 2(B) shall govern notice of appeal and filing of an appeal by the prosecuting attorney. If a transcript of the proceedings is necessary, the prosecuting attorney must file a copy of the request for transcript with the clerk of the appellate court.

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

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

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

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

Subd. 4. Stay. Upon oral notice that the prosecuting attorney intends to appeal a pretrial order, the trial court shall order a stay of the proceedings for twenty (20) days to allow time to perfect the appeal.

Subd. 5. Conditions of Release. Upon appeal by the prosecuting attorney of a pretrial order, the conditions for the child's release pending the appeal shall be governed by Rule 5, or, for children certified to adult court, Minn. R. Crim. P. 6.02, subs 1 and 2. The trial court shall consider whether the child may be confined for a longer time pending the appeal than would be possible under the potential sentence or disposition for the offense charged.

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

(Amended effective for all juveniles taken into custody and all juvenile delinquency actions commenced or children taken into custody after 12 o'clock midnight September 1, 2003; amended effective for all juvenile delinquency actions commenced or children taken into custody after 12 o'clock midnight September 1, 2005; amended effective for all juvenile delinquency actions commenced or children taken into custody after 12 o'clock midnight January 1, 2007; amended effective for all delinquency actions commenced or children taken into custody after 12 o'clock midnight January 1, 2008; amended effective for all delinquency actions commenced or children taken into custody after 12 o'clock midnight January 1, 2011; amended effective July 1, 2015.)

21.05 Appeal by Parent(s), Legal Guardian or Legal Custodian of the Child

A parent, legal guardian, or legal custodian who participated separately pursuant to Rule 2.04, subdivision 3 may appeal from a disposition.

A parent, legal guardian, or legal custodian who is indigent may apply to the office of the state public defender for legal representation.

Parents' right to appeal is limited to cases where they have a liberty or property interest involved and their interest is adverse to that of the child.

The procedure for appeals by a parent, legal guardian, or legal custodian shall be governed by Rule 21.03, subdivision 2.

(Amended effective for all juveniles taken into custody and all juvenile delinquency actions commenced or children taken into custody after 12 o'clock midnight September 1, 2005.)

21.06 Certified Questions to the Court of Appeals

After adjudication or sentencing, or before hearing on a motion to dismiss, the trial court may report any question of law which is important and doubtful to the court of appeals, if the child requests or consents. Upon report of the question all further district court proceedings shall be stayed. Other cases pending in the trial court which involve or depend on the same question shall also be stayed if a stay is requested or consented to by the juvenile involved.

The aggrieved party shall file a brief with the court of appeals and serve it on all parties within fifteen (15) days of the trial court's report of the question. Other parties shall have eight (8) days to file responsive briefs. The court of appeals shall expedite its decision on certified questions.

21.07 Time for Issuance of Decision

All decisions regarding appeals of certification determinations pursuant to Rule 18.07 or extended jurisdiction juvenile determinations pursuant to Rule 19.07 shall be issued within sixty (60) days of the date the case is deemed submitted pursuant to the Rules of Civil Appellate Procedure. The court of appeals shall issue its decision in all other appeals within ninety (90) days of the date the case is deemed submitted pursuant to the Rules of Civil Appellate Procedure.

(Added effective for all juvenile delinquency actions commenced or children taken into custody after 12 o'clock midnight September 1, 2005.)

Comment--Rule 21

An appeal may be taken by petitioning the Supreme Court of Minnesota for review pursuant to Minn. R. Civ. App. P. 117 or by petitioning for accelerated review pursuant to Minn. R. Civ. App. P. 118.

The scope of review shall be pursuant to Minn. R. Civ. App. P. 103.04.

Minn. R. Juv. Del. P. 21.03 subd 1(A) (7) and (10) includes the right to appeal a stayed sentence and the execution of a stayed sentence. See Minn. R. Crim. P. 27.04 subd 3(4) and 28.05 subd 2. An order continuing the matter without adjudication and imposing a disposition pursuant to Minnesota Statutes 2002, section 260B.198, subdivision 1, paragraph (a) or (b), is an appealable final order as is a subsequent order adjudicating the child and imposing a disposition pursuant to Minnesota Statutes 2002, section 260B.198, subdivision 1.

A child's representation by the public defender is governed by Minnesota Statutes, chapter 611. The public defender is not required to appeal from misdemeanor dispositions or adjudications, but may do so at its discretion.

The parents or the child may be required to contribute to some or all of the costs of representation. See Minn. R. Juv. Del. P. 3.06 subd 2. See also Minnesota Statutes 2002, section 260B.331, subdivision 5.

Minn. R. Juv. Del. P. 21.03 subd 2(C)(1) refers to "necessary transcripts" because in some cases only a partial transcript will be required. Minn. R. Civ. App. P. 110.02 shall govern partial transcripts.

Whether or not the order for certification should be stayed is discretionary with the court. Certification orders are governed by Minn. R. Juv. Del. P. 18.07. If a stay is granted, the child will be detained in a juvenile facility if detention is necessary. If the stay of the certification order is not granted and detention is necessary, the child will more likely be detained in an adult facility pending the appeal.

Minn. R. Juv. Del. P. 21.04 subd 1(D), which allows prosecutors to appeal orders dismissing a charging document for lack of probable cause when dismissed solely on a question of law, is based on In re Welfare of C.P.W., 601 N.W.2d 204, 207 (Minn. Ct. App. 1999).