

RULE 16. METHODS OF FILING AND SERVICE**Rule 16.01. Types of Filing**

Subd. 1. Generally; Electronic Filing. When electronic filing is required by Rule 14 of the General Rules of Practice for the District Courts, documents shall be filed electronically. Otherwise, documents may be filed with the court personally, by U.S. mail, or by facsimile transmission.

Subd. 2. Filing by Facsimile Transmission.

(a) Any document not required to be filed through the E-Filing System may be filed with the court by facsimile transmission. Filing shall be deemed complete at the time that the facsimile transmission is received by the court. The facsimile shall have the same force and effect as the original. Only facsimile transmission equipment that satisfies the published criteria of the supreme court shall be used for filing in accordance with this rule.

(b) Within five days after the court has received the transmission, the person filing the document shall forward the following to the court:

(1) a \$25 transmission fee for each 50 pages, or part thereof, of the filing; unless otherwise provided by statute or rule or otherwise ordered by the court;

(2) any bulky exhibits or attachments; and

(3) the applicable filing fee or fees, if any.

(c) If a document is filed by facsimile, the sender's original must not be filed but must be maintained in the files of the person transmitting it for filing and made available to the court or any party or participant to the action upon request.

(d) Upon failure to comply with the requirements of this rule, the court may make such orders as are just including, but not limited to, an order striking pleadings or parts thereof, staying further proceedings until compliance is complete, or dismissing the action, proceeding, or any part thereof.

Rule 16.02. Types of Service

Subd. 1. Personal Service. Personal service means personally delivering the document to the person to be served or leaving it at the person's home or usual place of abode with a person of suitable age and discretion residing therein. Unless otherwise provided by these rules or ordered by the court, the sheriff, a deputy sheriff, or any other person at least 18 years of age who is not a party to the proceeding may make personal service of a summons or other process. The social services reports and guardian ad litem reports required under Rule 27 may be served directly by the social worker or guardian ad litem.

(a) **Service Outside United States.** Unless otherwise provided by law, service upon an individual, other than an infant or an incompetent person, may be effected in a place not within the United States:

(1) by any internationally agreed means reasonably calculated to give notice, such as those means authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents; or

(2) if there is no internationally agreed means of service or the applicable international agreement allows other means of service, provided that service is reasonably calculated to give notice:

(a) in the manner prescribed by the law of the foreign country for service in that county in an action in any of its courts of general jurisdiction; or

(b) as directed by the foreign authority in response to a letter rogatory or letter of request; or

(c) unless prohibited by the law of the foreign country, by:

(i) delivery to the individual personally of a copy of the summons and the petition; or

(ii) any form of mail requiring a signed receipt, to be addressed and dispatched by the court administrator to the party to be served; or

(3) by other means not prohibited by international agreement as may be directed by the court.

Subd. 2. U.S. Mail. Service by U.S. mail means placing the document in the U.S. mail, first class, postage prepaid, addressed to the person to be served.

Subd. 3. Publication. Service by publication substitutes for personal service when authorized by the court. Service by publication means the publication in full of the summons, notice, or other documents in the regular issue of a qualified newspaper as specified in Rule 44.02, subdivision 3, (for child in need of protection or services matters) or Rule 53.02, subdivision 3, (for permanency or termination of parental rights matters). The court shall authorize service by publication only if the petitioner has filed a written statement or affidavit describing diligent efforts to locate the person to be served. Service by publication shall be completed in a location approved by the court. The published summons shall be directed to the person for whom personal service was not accomplished and shall not include the child's name or initials.

Subd. 4. Electronic Service. Electronic service means service through the E-Filing System under the procedures of Rule 14 of the General Rules of Practice. Electronic service shall be used when required by Rule 14.

Subd. 5. Waiver of Personal Service.

(a) Waivers of personal service may be made by mailing by first-class U.S. mail, postage prepaid to the person to be served, a copy of the document to be served together with two copies of a notice and waiver of service by mail conforming substantially to a form to be developed by the State Court Administrator, along with a return envelope, postage prepaid, addressed to the sender.

(b) Any person served by U.S. mail who receives a notice and waiver of service by mail form shall, with 20 days of the date the notice and waiver form is mailed, complete the waiver form and return one copy of the completed form to the serving party.

(c) If the serving party does not receive the completed waiver form within 20 days of the date it is mailed, service is not valid upon that person. The serving party shall then serve the document by any means authorized under this rule.

(d) If the person served by U.S. mail does not complete and return the notice and waiver form within 20 days of the date it is mailed, the court may order the costs of personal service to be paid by the person served.

Subd. 6. Alternative Electronic Service by Agreement. Unless other means of service (such as personal service or electronic service) are required, any document may be served by e-mail or other electronic means as agreed to by the person to be served on the record or in writing.

Rule 16.03. Service Upon Counsel; Social Services Agency

Unless personal service upon a party or participant is required, service upon the party or participant's counsel shall be deemed service upon the party or participant. Service upon the county attorney shall be deemed service upon the responsible social services agency. Reports and other documents that are not court orders should not be served directly upon a represented party.

Rule 16.04. Completion of Service

Personal service is complete upon delivery of the document. Service by U.S. mail is complete upon mailing. Completion of service by electronic means is governed by Rule 14.03(e) of the General Rules of Practice. When a waiver of service is filed with the court, these rules apply as if the document had been served on the date of signing of the waiver. Service by alternative electronic means is complete upon the completion of transmission of the documents.

Rule 16.05. Proof of Service

Subd. 1. Generally. On or before the date set for appearance, the person serving the document shall file with the court an affidavit of service stating:

- (a) whether the document was served;
- (b) the method of service;
- (c) the name of the person served; and
- (d) the date and place of service.

If the recipient signed a waiver of service, the waiver may be filed in lieu of an affidavit. If the document was served through electronic service pursuant to Rule 14 of the General Rules of Practice, the E-Filing System's records of service are sufficient proof of service.

Subd. 2. Exceptions.

(a) **Social Worker and Guardian ad Litem Court Reports.** Social workers and guardians ad litem are not required to file proof of service when serving the court reports required under Rule 27 and, instead, shall include with their report a certificate of distribution under oath or penalty of perjury under Minnesota Statutes, section 358.116, stating:

- (1) the name of the person served;
- (2) the method of service;
- (3) the date and place of service; and
- (4) the name of the person submitting the certificate of distribution.

(b) **Court Administrators.** If the court administrator served the document, the court administrator may file a written statement in lieu of an affidavit.

(Amended effective January 1, 2024.)

2019 Advisory Committee Comment

Rule 16 is amended in 2019 as part of a revision of the Rules of Juvenile Protection Procedure. Rule 16 was formerly codified as Rule 31.

Rule 16 addresses different methods of filing and service. Rule 16.01 reflects that, in many situations, General Rule of Practice 14 requires documents to be filed through the court's E-Filing System. Filers who are not governed by General Rule of Practice 14 can deliver their documents to the courthouse, mail them, or file them by facsimile. Facsimile filing is subject to an administrative processing fee due to the significant administrative burdens it imposes on court administration staff. As has been the case throughout its history, facsimile filing is not intended to be a routine filing method. The rule does not provide a specific mechanism for collecting the transmission fee required under the rule. Because prejudice may occur to a party if a filing is deemed ineffective, the court should determine the appropriate consequences of failure to pay the necessary fee.

Rule 16.02 describes the various means of service. In many situations, General Rule of Practice 14 requires the use of service through the E-Filing System. In many other situations, service by U.S. mail is permissible. In some situations, personal service is required. Subdivisions 1 and 5 of Rule 16.02 clarify the differences between personal service and a waiver of personal service, and between electronic service and electronic service by agreement. People who would be entitled to personal service may agree to waive personal service and receive the documents by mail. If they do not agree to waive personal service, then personal service is still required. However, the court may order them to pay the costs of personal service. This clarification in subdivision 5 is similar to the 2018 clarification to Rule 4.05 of the Minnesota Rules of Civil Procedure. Likewise, subdivision 6 clarifies that in situations where a particular means of service is not required, parties may agree to service by electronic means, such as e-mail or social media. Importantly, Rule 14 of the General Rules of Practice does not permit parties who are required to use electronic service to agree to other means of service.

Rule 16.05 describes various requirements for proof of service. Under General Rule of Practice 14.05, the E-Filing System's service records are sufficient proof of service for all purposes. The E-Filing System's service records are automatically imported into the case court records when documents are simultaneously e-filed and e-served. For documents not simultaneously e-filed and e-served, and for all other methods of service, proof of service must be filed with the court as described in Rule 16.05.