

RULE 7. REFEREES AND JUDGES**Rule 7.01. Referee Authorization to Hear Matter**

A referee may, as authorized by the chief judge of the judicial district, hear any juvenile protection matter under the jurisdiction of the juvenile court.

Rule 7.02. Objection to Referee Presiding Over Matter

A party or the county attorney may object to having a matter heard by a referee. The right to object shall be deemed waived unless the objection is in writing, filed with the court, and served upon all other parties and the county attorney within three days after being informed that the matter is to be heard by a referee. Upon the filing of an objection, a judge shall hear any motion and shall preside at all further motions and proceedings involving the matter.

Rule 7.03. Transmittal of Referees Findings and Recommended Order

Subd. 1. Transmittal. Upon the conclusion of a hearing, the referee shall transmit to a judge the written findings and recommended order. Notice of the findings and recommended order, along with notice of the right to review by a judge, shall be given either orally on the record or in writing to all parties, the county attorney, and to any other person as directed by the court.

Subd. 2. Effective Date. The recommended order is effective upon signing by the referee, unless stayed, reversed, or modified by a judge upon review.

Rule 7.04. Review of Referee's Findings and Recommended Order

Subd. 1. Right to Review. A matter that has been decided by a referee may be reviewed in whole or in part by a judge. Review, if any is requested, shall be from the referee's written findings and recommended order. Upon request for review, the recommended order shall remain in effect unless stayed by a judge.

Subd. 2. Motion for Review. Any motion for review of the referee's findings and recommended order, together with a memorandum of law, shall be filed with the court and served on all parties and the county attorney within five days of the filing of the referee's findings and recommended order. Upon the filing of a motion for review, the court administrator shall notify each party and the county attorney of the judge to whom the review has been assigned.

Subd. 3. Response to Motion for Review. The parties and the county attorney shall file and serve any responsive motion and memorandum within three days from the date of service of the motion for review.

Subd. 4. Timing. Failure to timely file and serve a submission may result in dismissal of the motion for review or disallowance of the submissions.

Subd. 5. Basis of Review. The review shall be based on the record before the referee, and no additional evidence may be filed or considered. No personal appearances will be permitted, except upon order of the court for good cause shown.

Subd. 6. Transcripts. Any party or county attorney desiring to submit a transcript of the hearing held before the referee shall make arrangements with the court reporter at the earliest possible time. The court reporter shall advise the parties and the court of the day by which the transcript will be filed.

Rule 7.05. Order of the Court

When no review is requested, or when the right to review is waived, the findings and recommended order of the referee become the order of the court when confirmed by the judge as written or when modified by the judge sua sponte. The judge shall confirm or modify the order within 15 days of the transmittal of the findings and proposed order.

Rule 7.06. Removal of Judge or Referee

A party or the county attorney may file with the court and serve upon all other parties a notice to remove a particular judge or referee under the procedures and standards set forth in Rule 63 of the Minnesota Rules of Civil Procedure. When a permanent placement matter or termination of parental rights matter is filed in connection with a child is the subject of a pending child in need of protection or services matter, the permanency or termination matter shall be considered a continuation of the protection matter for purposes of this rule. For that reason, if the judge or referee assigned to hear the protection matter is assigned to hear the permanency or termination matter, the parties and the county attorney cannot disqualify the assigned judge or referee as a matter of right.

2019 Advisory Committee Comment

Rule 7 is amended in 2019 as part of a revision of the Rules of Juvenile Protection Procedure. The amendments to Rule 7 are intended to establish a consistent standard for removal of judges or referees.

Former Rule 7.03 governed the process for removing a particular referee from presiding over a case, either as of right or for cause. This closely tracked the process for removing a particular judge from presiding over a case, in former Rule 7.07. Both judges and referees are governed by the Code of Judicial Conduct, and the committee believes the same process should govern removals of judges and removals of referees. Accordingly, former Rule 7.03 has been deleted, and removals of judges and referees are now governed by Rule 7.06. The rule incorporates the judicial removal procedures of Civil Procedure Rule 63, which in turn allows for a limited opportunity to remove a judge as of right, and (as of July 1, 2018) incorporates the Code of Judicial Conduct. The same standard is used in the Rules of Criminal Procedure (Minn. R. Crim. P. 26.03, subd. 14) and the Rules of Juvenile Delinquency Procedure (Minn. R. Juv. Del. P. 22). Rule 7.06 clarifies that for purposes of removals of right, a permanency or termination proceeding filed in connection with a pending CHIPS proceeding is considered a continuation of the CHIPS proceeding. Essentially, each party has a one-time opportunity to remove a judge or referee as of right, and that right does not arise again if a CHIPS proceeding goes on to a permanency or termination proceeding.