

**Rule 120. Writs of Mandamus and Prohibition Directed to a Judge or Judges and Other Writs****120.01 Petition for Writ**

Application for a writ of mandamus or of prohibition or for any other extraordinary writ in the Supreme Court directed to the Court of Appeals, the Tax Court, or the Workers' Compensation Court of Appeals, or in the Court of Appeals directed to a trial court, shall be made by petition. The petition shall specify the lower court and the name of the judge and shall contain:

- (a) a statement of the facts necessary to an understanding of the issues presented by the application;
- (b) a statement of the issues presented and the relief sought; and
- (c) a statement of the reasons why the extraordinary writ should issue.

A copy of any order or written action the application seeks to address and any findings of fact, conclusions of law, or memorandum of law relating to it shall be included in an addendum, which may include any portion of the record necessary for an understanding of the application.

The petition shall be titled "In re (name of petitioner), Petitioner," followed by the trial court caption, and shall be captioned in the court in which the application is made, in the manner specified in Rule 120.04.

(Amended effective January 1, 1999; amended effective March 1, 2001; amended effective July 1, 2014.)

**120.02 Submission of Petition; Response to the Petition**

The petition shall be served on all parties and filed with the clerk of the appellate courts. In criminal cases, the State Public Defender and the Attorney General for the State of Minnesota shall also be served. If the lower court is a party, it shall be served; in all other cases, it should be notified of the filing of the petition and provided with a copy of the petition and any response using the trial court's electronic filing and service system. All parties other than the petitioner shall be deemed respondents and may answer jointly or separately within 7 days after the service of the petition. If a respondent does not desire to respond, the clerk of the appellate courts and all parties shall be advised by letter within the 7-day period, but the petition shall not thereby be taken as admitted.

(Amended effective for appeals taken on or after January 1, 1992; amended effective January 1, 1999; amended effective January 1, 2009; amended effective January 1, 2020; amended effective March 1, 2024.)

***Advisory Committee Comment - 2008 Amendments***

*Rule 120.02 is amended to add a single requirement for writ practice in criminal cases. The additional requirement of service on the public defender and attorney general is patterned on similar service requirements in the rules of criminal procedure. See, e.g., Minn. R. Crim. P. 28.04, subd 2(2)(appeal by prosecutor of pretrial order), subd 6(1) (appeal of postconviction order), subd 8(1) (appeal from judgment of acquittal, vacation of judgment after guilty verdict, or from order granting a new trial); Minn. R. Crim. P. 28.02, subd 4. The requirement for notice in petitions for extraordinary writs is especially appropriate given the short time periods for writ practice. See generally State v. Barrett, 694 N.W.2d 783 (Minn. 2005)(discussing importance of service requirements).*

***Advisory Committee Comment - 2024 Amendment***

*Rule 120.02 is amended in 2024 to clarify that petitions for extraordinary writs should be served upon the trial court using the trial court's electronic filing and service system.*

**120.03 Procedure Following Submission**

If the reviewing court is of the opinion that the writ should not be granted, it shall deny the petition. Otherwise, it may:

- (a) issue a peremptory writ, or
- (b) grant temporary relief and direct the filing of briefs.

There shall be no oral argument unless the reviewing court otherwise directs.

**120.04 Filing; Form of Documents**

Upon receipt of a \$550 filing fee, the clerk of the appellate courts shall file the petition. All documents and briefs must be in the form specified in Rule 132.02. The petition and proof of service shall be filed with the clerk of the appellate courts, but the reviewing court may direct that additional copies be provided. Service of all documents and briefs may be made personally, by mail, or electronically if authorized or required by order of the Minnesota Supreme Court.

(Amended effective July 1, 1989; amended effective July 1, 1993; amended effective January 1, 1999; amended effective July 1, 2003; amended effective July 1, 2009; amended effective July 1, 2014.)

***Advisory Committee Comment - 1998 Amendments***

*The primary purpose of these amendments is to modify extraordinary writ procedure to allow a party to seek relief without requiring that party to sue the trial court. This change follows in some respects the amendments made to the federal rules of appellate procedure in 1997. The rule, however, retains most of the remaining procedural requirements of the existing rule inasmuch as they work well in practice in Minnesota.*

*The rule eliminates any requirement that the trial court judge be named as a party. It is still possible to name the judge as a respondent in the writ proceeding, but this rule does not require it. This change is intended to make it less likely that the seeking of the writ will interfere with the orderly handling of ongoing proceedings in the trial court. The rule also eliminates the requirement that a proposed writ be filed because that document is of little use to the courts.*

*The forms relating to this rule are also amended as part of these changes.*

***Advisory Committee Comment - 2014 Amendments***

*Rule 120.04 is amended to provide for electronic filing of extraordinary writ applications. The rule provides for service electronically using the appellate courts' e-filing and e-service system where authorized by supreme court order. As is true throughout these rules, only a single copy of any document is required to be filed, regardless of the method of filing.*

*Rule 120 is also amended to change references to "papers" to "documents." This change is not intended to change the interpretation of the rule, other than to recognize that not all appellate court findings are in paper format.*

**Rule 120.05 Review in Supreme Court**

Denial of a writ under this rule or Rule 121 by the Court of Appeals is subject to review by the Supreme Court through petition for review under Rule 117. Review of an order denying an extraordinary writ should not be sought by filing a petition for a writ under this rule with the Supreme Court unless the criteria for issuance of the writ are applicable to the Court of Appeals order for which review is sought.

(Added effective March 1, 2001.)

***Advisory Committee Comment - 2000 Amendments***

*Rule 120 is amended to make explicit two aspects of extraordinary writ practice that some practitioners have overlooked. First, an extraordinary writ directed to the Tax Court or the Workers' Compensation Court of Appeals may be sought in the Supreme Court. See Minnesota Statutes 1998, section 480.04. Second, the normal method of seeking review in the Supreme Court of a denial of an extraordinary writ by the Court of Appeals is by petition for review under Rule 117, not by petition for a writ under this rule. The same is true for review of denial of an emergency writ under Rule 121.*