

Rule 5A. Notice of Constitutional Challenge to a Statute

A party that files a pleading, written motion, or other document drawing into question the constitutionality of a federal or state statute must promptly:

(1) file a notice of constitutional question stating the question and identifying the document that raises it, if:

(A) a federal statute is questioned and neither the United States nor any of its agencies, officers, or employees is a party in an official capacity; or

(B) a state statute is questioned and neither the state nor any of its agencies, officers, or employees is a party in an official capacity; and

(2) serve the notice and document on the Attorney General of the United States if a federal statute is challenged, or on the Minnesota Attorney General if a state statute is challenged, by U.S. mail to afford the Attorney General an opportunity to intervene.

(Added effective July 1, 2007; amended effective July 1, 2015.)

Advisory Committee Comment - 2007 Amendment

Rule 5A is a new rule, though it addresses subject matter covered by Minn. R. Civ. P. 24.04 prior to the adoption of this rule. The rule imposes an express requirement for notice to the appropriate Attorney General - the Minnesota Attorney General for challenges to Minnesota Statutes and the Attorney General of the United States for challenges to federal statutes. The rule requires the giving of notice, and the purpose of the notice is to permit the Attorney General receiving it to decide whether to intervene in the action. The rule does not require any action by the Attorney General and in many instances intervention will not be sought until the litigation reaches the appellate courts. The federal rule requires service on the appropriate attorney general by certified or registered mail. The committee believes that service of this notice by U.S. mail is sufficient for this purpose.

As part of this change, Minn. R. Civ. P. 24.04 is abrogated as it duplicates this rule's mechanism.