

**Rule 22. Subpoena****Rule 22.01 For Attendance of Witnesses; For Documents**

**Subd. 1. Witnesses.** A subpoena may be issued for attendance of a witness:

- (a) before a grand jury;
- (b) at a hearing before the court;
- (c) at a trial before the court; or
- (d) for the taking of a deposition.

The subpoena must command attendance and testimony at the time and place specified.

**Subd. 2. Documents.**

(a) A subpoena may command a person to produce books, papers, documents, or other designated objects.

(b) The court may direct production in court of the books, papers, documents, or objects designated in the subpoena, including medical reports and records ordered disclosed under Rule 20.03, subd. 1, before the trial or before being offered in evidence, and may permit the parties or their attorneys to inspect them.

(c) A subpoena requiring the production of privileged or confidential records about a victim as defined in Minnesota Statutes, section 611A.01, paragraph (b), may be served on a third party only by court order. A motion for an order must comply with Rule 10.03, subdivision 1. Before entering the order, the court may require giving notice to the victim so that the victim can move to quash or modify the subpoena or otherwise object.

**Subd. 3. Unrepresented Defendant.** A defendant not represented by an attorney may obtain a subpoena only by court order. The request and order may be written or oral. An oral order must be noted in the court's record.

**Subd. 4. Grand Jury Subpoena.** A grand jury subpoena must be captioned "In the matter of the investigation by the grand jury of ....." (Insert here the name of the county or counties conducting the investigation.)

**Subd. 5. Motion to Quash.** The court on motion promptly made may quash or modify a subpoena if compliance would be unreasonable.

(Amended effective September 1, 2011; amended effective March 1, 2015.)

**Rule 22.02 By Whom Issued**

**Subd. 1. By the Court.** The court administrator issues a subpoena under the court's seal, signed but otherwise blank, to the attorney for the party requesting it, who must fill in the blanks before service. The subpoena must state the name of the court and the title of the proceeding if the subpoena is for a hearing, trial, or deposition.

**Subd. 2. By an Attorney.** Alternatively, an attorney, as an officer of the court, may issue a subpoena in a case in which the attorney represents a party. The attorney must personally sign the completed subpoena on behalf of the court, using the attorney's name. A subpoena issued by an attorney need not bear a seal, but must otherwise comply with the format requirements in subdivision 1. The completed subpoena must include:

- (a) the attorney's printed name;
- (b) attorney-registration number;
- (c) office address and phone number; and
- (d) the party the attorney represents.

**Subd. 3. Deposition and Grand Jury Subpoenas.** Subpoenas for a deposition may be issued only if the court under Rule 21.01 has ordered a deposition, or the parties under Rule 21.08 have stipulated to one. When so ordered or stipulated, deposition subpoenas may be issued only as provided in subdivision 1 or 2 above, or in the case of unrepresented defendants, only by court order under Rule 22.01, subd. 3. Grand jury subpoenas may be issued only by the court administrator.

(Amended effective September 1, 2011.)

### **Rule 22.03 Service**

A subpoena may be served by the sheriff, a deputy sheriff, or any person at least 18 years of age who is not a party.

Service of a subpoena on a person must be made by delivering a copy to the person or by leaving a copy at the person's usual place of abode with a person of suitable age and discretion who resides there.

A subpoena may also be served by U.S. mail, but service is effective only if the person named returns a signed admission acknowledging personal receipt of the subpoena. Fees and mileage need not be paid in advance.

### **Rule 22.04 Place of Service**

A subpoena may be served anywhere in the state.

(Amended effective September 1, 2011.)

### **Rule 22.05 Contempt**

Failure to obey a subpoena without adequate excuse is a contempt of court.

### **Rule 22.06 Witness Outside the State**

The attendance of a witness who is outside the state may be secured as provided by Minnesota Statutes, section 634.07 (Nonresidents Required to Testify in State).

(Amended effective September 1, 2011.)

### ***Comment - Rule 22***

*In addition to Rule 22.01, subd. 3, Minnesota Statutes, section 611.06, also addresses the issuance of subpoenas to unrepresented defendants and states that Rule 22.01, subd. 3 applies. The statute also requires that the issuance of subpoenas to self-represented defendants is without cost to the defendant.*

*Rule 22 applies only to criminal proceedings in Minnesota. It does not affect Minnesota Statutes, section 634.06, which provides a method for compelling Minnesota residents to testify in criminal cases in other states.*

*The addition of paragraph (c) to Rule 22.01, subd. 2 is to formalize the process as set forth in State v. Paradee, 403 N.W.2d 640 (Minn. 1987); and State v. Hummel, 483 N.W.2d 68 (Minn. 1992).*