

Rule 363. Default**Rule 363.01 Scope**

The default procedure set forth in this rule applies to actions to establish support under Minnesota Statutes, section 256.87 (Rule 370), proceedings to modify support or set support (Rule 372), proceedings to change venue under Rule 353.01, subd. 2(c), and proceedings to reinstate a recreational license under Minnesota Statutes, section 518A.68, paragraph (c).

(Amended effective November 22, 2023.)

Advisory Committee Comment - 2023 Amendments

Rule 363.01 is modified in 2023 to recognize that magistrates can process default proceedings under Rule 353.01 and default proceedings to reinstate a recreational license under Minnesota Statutes, section 518A.68, paragraph (c). Reinstatements of a recreational license are required under the statute if the obligor is compliant with a payment agreement or subpoena or the IV-D case is closing. These reinstatements are usually not contested and it wastes court hearing time slots to require these cases on the Ex Pro calendar. A party retains the ability to request a hearing if they disagree with the reinstatement.

Rule 363.02 Procedure

The initiating party may proceed by default if:

- (a) all non-initiating parties have been properly served with the summons or notice of motion;
- (b) the summons or notice of motion did not contain a hearing date; and
- (c) there has been no written answer or return of the request for hearing form from any party within 21 days from the date the last party was served.

The initiating party shall file an order with the court within 45 days from the date the last non-initiating party was served with the summons and complaint or notice of motion and motion. The initiating party shall also file with the court a separate current affidavit of default and a current affidavit of non-military status regarding each non-initiating party. If an order is not filed with the court within 45 days, the court administrator shall mail a notice to all parties that the matter shall be scheduled for hearing unless the initiating party files an order along with all necessary documents within 14 days from the date notice was mailed. If the initiating party fails to file the necessary documents within the allotted 14 days, the court administrator shall set the matter on for hearing and serve upon all parties and the county agency by U.S. mail at least 14 days before the scheduled hearing, notice of the date, time, and location of the hearing. The notices shall be sent by electronic means in accordance with Rule 14 to any party who has agreed to or is required to accept electronic service under Rule 14.

(Amended effective July 1, 2015; amended effective July 1, 2019; amended effective November 22, 2023.)

Advisory Committee Comment - 2019 Amendment

Rules 372.05 and 363.02 and .03 are amended in 2019 to harmonize the rules and create a uniform 21-day period for responding to motions for child support.

Advisory Committee Comment - 2023 Amendments

Rule 363.02 is modified in 2023 to require a separate affidavit for each defaulting party, which results in a clear record with separate case events in the court's case management system.

Rule 363.03 Order Accepted

The child support magistrate may sign an order filed pursuant to Rule 363.02 if the child support magistrate finds that it is supported by law, is reasonable and fair, and that each noninitiating party:

- (a) was properly served with the summons and complaint or notice of motion and motion;
- (b) was notified of the requirement to either serve and file a written answer or return the request for hearing form within 21 days of service of the summons and complaint or notice of motion and motion; and
- (c) failed to serve and file a written answer or return the request for hearing form within 21 days from the date of service.

(Amended effective July 1, 2019.)

Advisory Committee Comment - 2019 Amendment

Rules 372.05 and 363.02 and .03 are amended in 2019 to harmonize the rules and create a uniform 21-day period for responding to motions for child support.

Rule 363.04 Order Not Accepted

The child support magistrate may reject an order filed pursuant to Rule 363.02 if the child support magistrate finds the order contrary to law, or unreasonable and unfair. If the child support magistrate rejects the order, the child support magistrate shall prepare a notice of deficiency, stating the reason(s) why the order cannot be signed. The notice of deficiency shall inform the initiating party of the following options:

- (a) to file and serve any missing documents;
- (b) to file a revised order;
- (c) to file a revised order and attach any missing or additional documents;
- (d) to appear at a hearing, notice of which shall be issued by the court administrator to all parties;
- (e) to appear at any previously scheduled hearing; or
- (f) to withdraw the matter without prejudice.

The court administrator shall transmit the notice of deficiency to the initiating party. The initiating party shall either correct the deficiency or set the case on for a hearing and serve notice of the date, time, and location of the hearing upon all parties pursuant to Rule 364. If the initiating party submits a revised order that raises new issues beyond the scope of the complaint or motion, amended pleadings shall be served on all parties and filed within 14 days from the date the notice of deficiency was transmitted. If the noninitiating party chooses to respond to the amended pleadings, the response must be served and filed within 14 days from service of the amended pleadings. If the initiating party fails to schedule a hearing or comply with the notice of deficiency within 30 days of the date the notice was transmitted, the child support magistrate shall dismiss the matter without prejudice.

(Amended effective June 1, 2009; amended effective July 1, 2015; amended effective January 1, 2020.)

Advisory Committee Comment - 2008 Amendment

Rule 363.04 is amended to create specific time limits for setting a case on for hearing following receipt of a notice of deficiency in an order proposed by an initiating agency or to serve amended pleadings. The amendment also establishes a specific time limit for responding to an amended pleading that may be served.