

**Rule 13. Trials****13.01 Purpose and Application**

A trial is a hearing held to determine whether the child is guilty or not guilty of the offenses alleged in the charging document. This rule applies to all delinquency, and juvenile petty and juvenile traffic trials. Extended jurisdiction juvenile trials are governed by Rule 19.

(Amended effective for all juveniles taken into custody and all juvenile delinquency actions commenced or children taken into custody after 12 o'clock midnight September 1, 2003.)

**13.02 Commencement of Trial**

**Subdivision 1. For a Child in Detention.** A trial shall be commenced within thirty (30) days from the date of the demand for a speedy trial unless good cause is shown why the trial should not be commenced within that time.

**Subd. 2. For a Child Not in Detention.** A trial shall be commenced within sixty (60) days from the date of a demand for a speedy trial unless good cause is shown why the trial should not be held within that time.

**Subd. 3. Release.** If the child is detained and the trial has not commenced within thirty (30) days of the demand and a continuance has not been granted, the child shall be released subject to such nonmonetary release conditions as may be required by the court and the trial shall commence within sixty (60) days of the original demand for a speedy trial.

**Subd. 4. Dismissal.** Unless there is good cause shown for the delay, the charging document shall be dismissed without prejudice if the trial has not commenced within the time set forth above and the court has not granted a continuance.

**Subd. 5. Effect of Mistrial; Order For New Trial.** Upon a declaration of a mistrial, or an order of the trial court or a reviewing court granting a new trial, a new trial before a new judge shall be commenced within fifteen (15) days unless good cause is shown and the court grants a continuance.

(Amended effective for all juveniles taken into custody and all juvenile delinquency actions commenced or children taken into custody after 12 o'clock midnight September 1, 2003.)

**13.03 Trial**

**Subdivision 1. Initial Procedure.** At the beginning of the trial, if the court has not previously determined the following information at a prior hearing, the court shall:

- (A) verify the name, age and residence of the child who is the subject of the matter;
- (B) determine whether all necessary persons are present and identify those present for the record; and
- (C) determine whether notice requirements have been met and if not whether the affected persons waive notice.

**Subd. 2. Order of Trial.** The order of the trial shall be as follows:

- (A) the prosecuting attorney may make an opening statement, confining the statement to the facts that it expects to prove;
- (B) the child's counsel may make an opening statement, after the prosecutor's opening statement or may reserve the opening statement until immediately before offering the defense

evidence. The statement shall be confined to a statement of the defense and the facts expected to be proved;

(C) the prosecuting attorney shall offer evidence in support of the charging document;

(D) the child's counsel may offer evidence in defense of the child;

(E) the child's counsel and the prosecuting attorney shall have the right to cross-examine witnesses;

(F) the prosecuting attorney may offer evidence in rebuttal of the defense evidence, and the child's counsel may then offer evidence in rebuttal of the prosecuting attorney rebuttal evidence. In the interests of justice the court may permit either the prosecuting attorney or the child's counsel to offer evidence upon the original case;

(G) at the conclusion of the evidence, the prosecuting attorney may make a closing argument; and

(H) the child's counsel may make a closing argument.

**Subd. 3. Trial on Stipulated Facts.** By agreement of the child and the prosecuting attorney, a determination of the child's guilt may be submitted to and tried by the court based on stipulated facts. Before proceeding in this manner, the child shall acknowledge and waive the rights to testify at trial, to have the prosecution witnesses testify in open court in the child's presence, to question those prosecution witnesses, and to require any favorable witnesses to testify for the child in court. The agreement and the waiver shall be in writing or orally on the record. Upon submission of the case on stipulated facts, the court shall proceed as in any other trial pursuant to Rule 13.

(Amended effective for all delinquency actions commenced or children taken into custody after 12 o'clock midnight January 1, 2011.)

### 13.04 Evidence

The court shall admit only such evidence as would be admissible in a criminal trial.

### 13.05 Use of Depositions at Trial

**Subdivision 1. Unavailability of Witness.** At a trial or hearing, a part or all of a deposition, so far as otherwise admissible under the rules of evidence, may be used as substantive evidence if:

(A) the witness is dead or unable to be present or to testify at the trial or hearing because of the witness's existing physical or mental illness, infirmity; or

(B) the person offering the deposition has been unable to procure the attendance of the witness by subpoena, order of the court, or other reasonable means; or

(C) there is a stipulation by counsel; or

(D) for any other reason accepted by the court.

A deposition may not be used if it appears that the absence of the witness was procured or caused by the person offering the deposition, unless part of the deposition has previously been offered by another party.

**Subd. 2. Inconsistent Testimony.** Any deposition may be used by the child's counsel or the prosecuting attorney for the purpose of contradicting or impeaching the testimony of the deponent when they appear as a witness.

**Subd. 3. Substantive Evidence.** A deposition may be used as substantive evidence so far as otherwise admissible under the rules of evidence, if the witness refuses to testify despite an order of the court to do so or if the witness gives testimony at the trial or hearing which is inconsistent with the deposition.

(Amended effective for all juveniles taken into custody and all juvenile delinquency actions commenced or children taken into custody after 12 o'clock midnight September 1, 2003.)

### 13.06 Standard of Proof

The allegations in the charging document must be proved beyond a reasonable doubt.

### 13.07 Joint Trials

**Subdivision 1. Generally.** When two or more children are jointly charged with any offense, they may be tried separately or jointly in the discretion of the court. Where the offense is a felony, the court shall consider the nature of the offense charged, the impact on the victim, the potential prejudice to each child, and the interests of justice before ordering a joint trial. A child in a joint trial shall be found guilty or not guilty in the same manner as a child tried separately.

**Subd. 2. Severance Because of Improper Joinder.** Where a child was improperly joined in a proceeding, the court shall order severance upon motion of the prosecuting attorney or the child's counsel. Improper joinder is not a ground for dismissal.

**Subd. 3. Severance Because of Another Child's Out-of-Court Statement.** Where one child's out-of-court statement refers to, but is not admissible against another child and those children may otherwise be tried jointly, the child against whom the statement is not admissible may move for severance. If the prosecuting attorney intends to offer the statement as evidence in its case in chief, the court shall require the prosecuting attorney to elect one of the following options:

(A) a joint trial at which the statement is not received in evidence;

(B) a joint trial at which the statement is received in evidence only after all references to the child making the motion have been deleted, if admission of the statement with the deletions will not prejudice that child; or

(C) severance.

**Subd. 4. Severance During Trial.** If the court determines severance is necessary to achieve a fair determination of the guilt or innocence of one or more of the children in a joint trial, the court shall order severance upon a finding of manifest necessity or with the consent of the child to be tried separately.

(Amended effective for all juveniles taken into custody and all juvenile delinquency actions commenced or children taken into custody after 12 o'clock midnight September 1, 2003.)

### 13.08 Joinder and Severance of Offenses

**Subdivision 1. Joinder of Offenses.** When the child's conduct constitutes more than one offense, each such offense may be charged in the same charging document in a separate count. The court, upon the prosecuting attorney's motion, may order joinder of offenses if the offenses could have been but were not joined in a single charging document. In extended jurisdiction juvenile cases, the child has the same right as an adult to sever offenses for separate trial on each offense.

**Subd. 2. Severance of Offenses.** On motion of the prosecuting attorney or the child's counsel, the court shall sever offenses or charges if:

(a) the offenses or charges are not related;

(b) before trial, the court determines severance is appropriate to promote a fair determination of the child's guilt or innocence of each offense or charge; or

(c) during trial, with the child's consent or upon a finding of manifest necessity, the court determines severance is necessary to achieve a fair determination of the child's guilt or innocence of each offense or charge. Misjoinder of offenses is not a ground for dismissal.

(Amended effective for all juveniles taken into custody and all juvenile delinquency actions commenced or children taken into custody after 12 o'clock midnight September 1, 2003.)

### **13.09 Findings**

Within seven (7) days of the conclusion of the trial, the court shall make a general finding that the allegations in the charging document have or have not been proved beyond a reasonable doubt. The court shall dismiss the charging document if the allegations have not been proved. An order finding that the allegations of the charging document have been proved shall state the child's name and date of birth; and the date and county where the offense was committed. Within fifteen (15) days of the conclusion of the trial, the court shall in addition specifically find the essential facts that support a general finding that the allegations in the charging document have been proved beyond a reasonable doubt in writing. If an opinion or memorandum of decision is filed, it is sufficient if the findings of fact appear therein. If the court omits a finding on any issue of fact essential to sustain the general finding, it shall be deemed to have made a finding consistent with the general finding. Findings may be made on the record, but must be reduced to writing within the fifteen (15) days required herein.

(Amended effective for all delinquency actions commenced or children taken into custody after 12 o'clock midnight January 1, 2011.)

### **13.10 Further Proceedings**

If the court makes a finding that the allegations of the charging document have been proved, the court shall hold dispositional proceedings pursuant to Rule 15.

(Amended effective for all juveniles taken into custody and all juvenile delinquency actions commenced or children taken into custody after 12 o'clock midnight September 1, 2003.)

### ***Comment--Rule 13***

*For children held in detention, Minn. R. Juv. Del. P. 13.02 subd 1 requires that a trial be commenced within thirty (30) days from the date of the speedy trial demand unless good cause is shown why the trial should not be held within that time. If the trial has not commenced within the thirty (30) days and a continuance has not been granted upon a showing of good cause, the child shall be released subject to nonmonetary release conditions that the court may require. The trial must then commence within 60 days of the date of the demand for a speedy trial and not 60 days from the child's release.*

*For children not held in detention, Minn. R. Juv. Del. P. 13.02 subd 2 provides that a trial shall be commenced within sixty (60) days from the date of a demand for a speedy trial unless good cause is shown why the trial should not be held within that time. The trial may be postponed for good cause beyond the time limit upon request of the prosecuting attorney or the child's counsel or upon the court's initiative. Good cause for the delay does not include court calendar congestion unless exceptional circumstances exist. See McIntosh v. Davis, 441 N.W.2d 115 (Minn. 1989). A delay caused by witness unavailability is permitted when the delay is "neither lengthy nor unfairly*

*prejudicial." In re Welfare of G.D., 473 N.W.2d 878 (Minn. Ct. App. 1991); see also State v. Terry, 295 N.W.2d 95 (Minn. 1980).*

*If the trial is not commenced within sixty (60) days from the date of the demand for a speedy trial and a continuance has not been granted for good cause, the charging document shall be dismissed. It is within the trial court's discretion whether it is dismissed with prejudice. See Barker v. Wingo, 407 U.S. 514, 92 S.Ct. 2182, 33 L.Ed.2d 101 (1972); State v. Kasper, 411 N.W.2d 182 (Minn. 1987); State v. Friberg, 435 N.W.2d 509 (Minn. 1989).*

*Minn. R. Juv. Del. P. 13.07 is modeled after Minn. R. Crim. P. 17.03 subds 2 and 3. Minn. R. Juv. Del. P. 13.08 is modeled after Minn. R. Crim. P. 17.03 subds 1, 3 and 4. Joint trials should be discouraged where one or more of the children is without counsel.*

*References in this rule to "child's counsel" include the child who is proceeding pro se. Minn. R. Juv. Del. P. 1.01.*