

**Rule 17. Juvenile Petty Offender and Juvenile Traffic Offender****17.01 Scope, Application and General Purpose**

Rule 17 applies to children alleged to be juvenile petty offenders as defined by Minnesota Statutes, section 260B.007, subdivision 16, or juvenile traffic offenders as defined by Minnesota Statutes, section 260B.225. The purpose of Rule 17 is to provide a uniform and streamlined procedure for juvenile petty and juvenile traffic offenders which is sensitive to the fact that neither has the right to counsel at public expense, except as provided in Rule 3.02, subd. 5. Except as otherwise provided in this rule, the general rules of juvenile delinquency procedure apply to juvenile petty and juvenile traffic matters.

**Subdivision 1. Juvenile Petty Offender.** A juvenile petty offender is a child who has committed a juvenile petty offense as defined by Minnesota Statutes, section 260B.007, subdivision 16.

The prosecuting attorney may designate a child a juvenile petty offender despite the child's history of misdemeanor-level offenses.

**Subd. 2. Juvenile Traffic Offender.** A juvenile traffic offender is any child alleged to have committed a traffic offense except those children under the jurisdiction of adult court as provided in Minnesota Statutes, section 260B.225.

A traffic offense is any violation of a state or local traffic law, ordinance, or regulation, or a federal, state or local water traffic law.

(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.)

**17.02 Right to Counsel**

**Subdivision 1. Generally.** In any proceeding in which a child is charged as a juvenile petty offender or a juvenile traffic offender, the child or the child's parent may retain private counsel, but the child does not have a right to counsel at public expense, except:

(A) when the child may be subject to out-of-home placement as provided in Minnesota Statutes, section 260B.235, subdivision 6; or

(B) as otherwise provided pursuant to Rule 3.02, subdivisions 3, 6 and 7.

**Subd. 2. Waiver.** Any waiver of counsel must be knowing, intelligent, and voluntary. A waiver of counsel shall be in writing or made orally on the record.

**Subd. 3. For Appeal.** A child adjudicated a juvenile petty offender or juvenile traffic offender does not have the right to counsel at public expense for the purposes of appeal except at the discretion of the Office of the State Public Defender as set out in Rule 21.02, subdivision 2.

**Subd. 4. Parent, Legal Guardian or Legal Custodian as Counsel.** A parent, legal guardian or legal custodian may not represent the child unless licensed as an attorney.

(Amended December 12, 1997, for all juvenile actions commenced or arrests made on or after 12:00 o'clock midnight January 1, 1998; 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.)

**17.03 Warrants**

The issuance of warrants under this Rule is governed by Rule 4.

(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.)

**17.04 The Charging Document and Notice of Arraignment**

A child shall be charged as a juvenile petty offender or juvenile traffic offender pursuant to Rule 6 with proper notice given pursuant to Rule 25. The time for an arraignment shall be the same as that for a delinquency proceeding, and the child may resolve the case by paying a citation in lieu of appearing at arraignment as provided in Rule 6.

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

**17.05 Arraignment**

**Subdivision 1. Generally.** An arraignment is a hearing in which a child shall enter a plea of guilty or not guilty in the manner provided in Rule 17.06.

**Subd. 2. Timing.** Upon the filing of a charging document, the court administrator shall promptly fix a time for arraignment and send notices pursuant to Rule 25. The time for an arraignment shall be the same as that for a delinquency proceeding, that is:

(A) *Child in Custody.* The child in custody may be arraigned at a detention hearing and shall be arraigned no later than five (5) days after the detention hearing. The child has the right to have a copy of the charging document for three (3) days before being arraigned.

(B) *Child Not in Custody.* The child not in custody shall be arraigned no later than thirty (30) days after the filing of the charging document. The child has the right to have a copy of the charging document for three (3) days before being arraigned.

**Subd. 3. Hearing Procedure.** Children alleged to be juvenile petty offenders or juvenile traffic offenders may be arraigned as a group and shall be arraigned individually and confidentially upon request. At the start of the arraignment, the court shall inform the child(ren) of the following rights and possible dispositions:

(A) the right to remain silent;

(B) the right to counsel at any point throughout the proceedings, including the limited right to appointment of counsel at public expense;

(C) the right to plead not guilty and have a trial in which the child is presumed innocent unless and until the prosecuting attorney proves the allegations beyond a reasonable doubt;

(D) the right of the child to testify on the child's own behalf;

(E) the right to call witnesses using the court's subpoena powers;

(F) *For a Juvenile Petty Offender.*

(1) the dispositions that may be imposed pursuant to Minnesota Statutes, section 260B.235, subdivisions 4, 5, and 6, if the child pleads guilty or, after a trial, the court finds that the allegations of the charging document have been proven beyond a reasonable doubt; and

(2) if the offense is a second misdemeanor-level juvenile petty offense, the possibility that any same or similar offense will be charged as a misdemeanor in a delinquency petition;

(G) *For a Juvenile Traffic Offender.* The dispositions that may be imposed pursuant to Minnesota Statutes, section 260B.225, subdivision 9, if the child pleads guilty or, after a trial, the court finds that the allegations of the charging document have been proven beyond a reasonable doubt.

**Subd. 4. Reading of Allegations of Charging Document.** The court shall read the allegations of the charging document to the child and determine that the child understands them, and, if not, provide an explanation.

**Subd. 5. Motions.** The court shall hear and make findings on any motions regarding the sufficiency of the charging document, including its adequacy in stating probable cause of the charges made and the jurisdiction of the court, without requiring the child to plead guilty or not guilty to the charges in the charging document. A challenge of probable cause shall not delay the setting of trial proceedings in cases where the child has demanded a speedy trial.

**Subd. 6. Response to Charging Document.** After considering the wishes of the parties to proceed later or at once, the court may continue the arraignment without requiring the child to plead guilty or not guilty to the charges stated in the charging document.

(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; amended effective July 1, 2015.)

## 17.06 Pleas

**Subdivision 1. Plea of Guilty.** Before the court accepts a plea of guilty, the court shall determine under the totality of the circumstances whether the child understands all applicable rights. The court shall on the record, or by written plea petition if the child is represented by counsel, determine:

(A) whether the child understands:

(1) the nature of the offense alleged;

(2) the right to the appointment of counsel if the child is subject to out-of-home placement as provided in Minnesota Statutes, section 260B.235, subdivision 6;

(3) the right to trial;

(4) the presumption of innocence until the prosecuting attorney proves the charges beyond a reasonable doubt;

(5) the right to remain silent;

(6) the right to testify on the child's own behalf;

(7) the right to confront witnesses against oneself;

(8) the right to subpoena witnesses;

(9) that the child's conduct constitutes the offense to which the child pled guilty;

(B) whether the child makes any claim of innocence; and

(C) whether the plea is made freely, under no threats or promises other than those the parties have disclosed to the court.

**Subd. 2. Plea of Not Guilty.** Upon a plea of not guilty, the matter shall be set for trial and the court shall advise the child of the discovery procedures as set forth in Rule 17.07.

**Subd. 3. Withdrawal of Plea.** The child may, on the record or by written motion filed with the court, request to withdraw a plea of guilty. The court may allow the child to withdraw a guilty plea:

(A) before disposition, for any just reason;

(B) at any time, if out-of-home placement is proposed based upon a plea or adjudication obtained without the assistance of counsel; or

(C) after disposition, upon showing that withdrawal is necessary to correct a manifest injustice.

**Subd. 4. Plea to a Lesser Offense or a Different Offense.** With the consent of the prosecuting attorney and approval of the court, the child shall be permitted to enter:

(A) a plea of guilty to a lesser included offense or to an offense of a lesser degree; or

(B) a plea of guilty to a different offense than that alleged in the charging document.

A plea of guilty to a lesser included offense or to an offense of a lesser degree may be entered without an amendment of the charging document. If a plea to a different offense is accepted, the charging document must be amended on the record or a new charging document must be filed with the court.

**Subd. 5. Acceptance or Nonacceptance of Plea of Guilty and Future Proceedings.** The court shall make a finding within fifteen (15) days of the plea of guilty:

(A) that the plea has been accepted and the allegations in the charging document have been proved; or

(B) that the plea has not been accepted.

If the court accepts a plea of guilty and makes a finding that the allegations in the charging document have been proved, the court shall schedule further proceedings pursuant to Rule 17.09.

(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.)

### **17.07 Discovery**

At the court's discretion, discovery may be conducted in the manner provided for delinquency proceedings pursuant to Rule 10. Otherwise discovery shall proceed as follows: The prosecuting attorney shall, as soon as possible, provide the child with copies of statements and police reports. At least ten (10) days before trial, the parties shall exchange the names of witnesses they intend to have testify at trial as well as exhibit lists.

(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.)

**17.08 Pretrial and Omnibus Hearing**

Upon request of either party, the court shall hold a pretrial and/or an omnibus hearing in the manner provided for delinquency proceedings pursuant to Rules 11 and 12.

(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.)

**17.09 Adjudication and Disposition**

**Subdivision 1. Predisposition Reports.** Before finding that the allegations of the charging document have been proved, the court may order an investigation of the personal and family history and environment of the child and outpatient psychological or chemical dependency evaluations of the child. The information and recommendations contained in the predisposition report(s) shall be made known to the child, child's parent(s), legal guardian or legal custodian before the disposition hearing.

**Subd. 2. Adjudication and Disposition.** Within forty-five (45) days from the finding that the allegations of the charging document are proved, the court shall:

(A) *For a Juvenile Petty Offender.* Adjudicate the child a juvenile petty offender and order a disposition pursuant to Minnesota Statutes, section 260B.235, subdivisions 4, 5, and 6.

(B) *For a Juvenile Traffic Offender.* Adjudicate the child a juvenile traffic offender and order a disposition pursuant to Minnesota Statutes, section 260B.225, subdivision 9.

The order may be in writing or on the record. If the order is on the record, the child may request written findings, and the court shall make and file written findings within seven (7) days of the request. The court administrator shall serve the written findings as provided in Rule 28.

**Subd. 3. Probation Revocation.** Probation revocation proceedings shall be conducted in the same manner as delinquency probation violation proceedings pursuant to Rule 15.07 except for the following:

(A) *Warrant.* The court may only issue a warrant for immediate custody of a juvenile petty or juvenile traffic offender if the court finds that there is probable cause to believe that: the child failed to appear after having been personally served with a summons or subpoena, reasonable efforts to personally serve the child have failed, or there is a substantial likelihood that the child will fail to respond to a summons.

(B) *Advisory.* Prior to the child admitting or denying the allegations in the probation violation report, the court shall advise the child of the following:

(1) that, at all stages of the proceedings, the child has the right to be represented by counsel but does not have the right to counsel at public expense, unless the child is subject to out-of-home placement;

(2) that, unless waived, a revocation hearing will be commenced to determine whether there is clear and convincing evidence that the child violated a dispositional order of the court and whether the court should change the existing dispositional order because of the violation;

(3) that before the revocation hearing, all evidence to be used against the child shall be disclosed to the child and the child shall be provided access to all official records pertinent to the proceedings;

(4) that at the hearing, both the prosecuting attorney and the child shall have the right to offer evidence, present arguments, subpoena witnesses, and call and cross-examine witnesses, provided, however, that the child may be denied confrontation by the court when good cause is shown that a substantial risk of serious harm to others would exist if it were allowed. Additionally, the child shall have the right at the hearing to present mitigating circumstances or other reasons why the violation, if proved, should not result in revocation;

(5) that the child has the right of appeal from the determination of the court following the revocation hearing.

(C) *Violation Proved.* If the court finds by clear and convincing evidence, or the child admits violating the terms of the dispositional order, the court may order a disposition pursuant to Minnesota Statutes, section 260B.235, subdivisions 4, 5, and 6, for a juvenile petty offender or a disposition pursuant to Minnesota Statutes, section 260B.225, subdivision 9 for a juvenile traffic offender.

**Subd. 4. Other Modifications.** Other modification proceedings shall be conducted in the same manner as delinquency modification proceedings pursuant to Rule 15.08 except that the court may not order a delinquency disposition. For a juvenile petty offender, the court may order a disposition pursuant to Minnesota Statutes, section 260B.235, subdivisions 4, 5, and 6 and for a juvenile traffic offender, the court may order a disposition pursuant to Minnesota Statutes, section 260B.225, subdivision 9. The modification order may be in writing or on the record. If the order is on the record, the child may request written findings, and the court shall make and file written findings within seven (7) days of the request.

(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; amended effective for all delinquency actions commenced or children taken into custody after 12 o'clock midnight January 1, 2008.)

#### **17.10 Transfer to Adult Court of Juvenile Traffic Matter**

**Subdivision 1. On Motion of Court or Prosecuting Attorney.** The court, after a hearing and on its own motion or on motion of the prosecuting attorney, may transfer a juvenile traffic offender case to adult court if it makes a written order to transfer which finds that the welfare of the child or public safety would be better served under the laws relating to adult traffic matters.

**Subd. 2. Method of Transfer.** The court shall transfer the case by transferring all documents in the court file to adult court together with the order to transfer.

**Subd. 3. Effect of Transfer.** Upon transfer, jurisdiction of the juvenile court is deemed not to have attached and the adult court shall proceed with the case as if it had never been in juvenile court.

(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; amended effective July 1, 2015.)

#### **17.11 Child Incompetent to Proceed**

If a child is believed to be incompetent to proceed, the court may proceed according to Rule 20, direct that civil commitment proceedings be initiated, direct that Child in Need of Protection or Services (CHIPS) proceedings be initiated or dismiss the case.

(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.)

**17.12 to 17.19 [Repealed and Renumbered effective September 1, 2003]*****Comment--Rule 17***

*In 1995, the legislature expanded the definition of "juvenile petty offense." Pursuant to Minnesota Statutes 1995 Supplement, section 260.015, subdivision 21, a juvenile petty offense included the following:*

*(a) a juvenile alcohol offense;*

*(b) a juvenile controlled substance offense;*

*(c) a violation of Minnesota Statutes, section 609.685;*

*(d) a violation of a local ordinance, which by its terms prohibits conduct by a child under the age of 18 years which would be lawful conduct if committed by an adult;*

*(e) an offense, other than a violation of Minnesota Statutes, section 609.224, 609.324, 609.563, 609.576, or 617.23, that would be a misdemeanor if committed by an adult if:*

*(1) the child has not been found to be a juvenile petty offender on more than two prior occasions for a misdemeanor-level offense;*

*(2) the child has not previously been found to be delinquent for a misdemeanor, gross misdemeanor, or felony offense; or*

*(3) the county attorney designates the child on the petition as a juvenile petty offender, notwithstanding the child's prior record of misdemeanor-level juvenile petty offenses. Minnesota Statutes 1995 Supplement, section 260.015, subdivision 21.*

*This definition of juvenile petty offense applied to crimes committed on or after July 1, 1995. Minnesota Laws 1995, chapter 226, article 3, section 65.*

*In 1996, the legislature again revised the definition of "juvenile petty offense." Pursuant to Minnesota Laws 1996, chapter 408, article 6, section 1, a juvenile petty offense included:*

*(a) a juvenile alcohol offense;*

*(b) a juvenile controlled substance offense;*

*(c) a violation of Minnesota Statutes, section 609.685;*

*(d) a violation of local ordinance, which by its terms prohibits conduct by a child under the age of 18 years which would be lawful conduct if committed by an adult; and*

*(e) an offense that would be a misdemeanor if committed by an adult, except:*

*(1) a misdemeanor-level violation of Minnesota Statutes, section 588.20, 609.224, 609.2242, 609.324, 609.563, 609.576, 609.66, or 617.23;*

*(2) a major traffic offense or an adult court traffic offense, as described in Minnesota Statutes, section 260.193;*

*(3) a misdemeanor-level offense committed by a child whom the juvenile court previously has found to have committed a misdemeanor, gross misdemeanor, or felony offense; or*

*(4) a misdemeanor-level offense committed by a child whom the juvenile court has found to have committed a misdemeanor-level juvenile petty offense on two or more prior occasions, unless the county attorney designates the child on the petition as a juvenile petty offender*

*notwithstanding this prior record. As used in this clause, "misdemeanor-level juvenile petty offense" included a misdemeanor-level offense that would have been a juvenile petty offense if it had been committed on or after July 1, 1995. Minnesota Laws 1996, chapter 408, article 6, section 1.*

*This definition of juvenile petty offense applied to crimes committed on or after August 1, 1996. Minnesota Laws 1996, chapter 408, article 6, section 13. Minn. R. Juv. Del. P. 17.01 subd 1 reflected the definition of "juvenile petty offense" set forth pursuant to Minnesota Laws 1996, chapter 408, article 6, section 1. However, because this definition often changed, Rule 17.01, subd. 1 now refers to the applicable statute. See Minnesota Statutes 2002, section 260B.007, subdivision 16.*

*The legislature reorganized the law relating to juvenile delinquency and child protection in 1999. Minnesota Laws 1999, chapter 139. This recodification is found in Minnesota Statutes, sections 260B.001 to 260B.446, for juvenile delinquency.*

*Minnesota Statutes 2002, section 260B.225, subdivision 2, provides that the prosecutor may allege the child is delinquent based upon a traffic offense but the court must find as a further fact that the child is delinquent within the meaning and purpose of the laws relating to juvenile court. Such matter shall be initiated and shall proceed in the same manner as any other delinquency.*

*At the arraignment, the court may inform each child of his or her rights and the possible consequences by reading and having each child sign a sheet outlining those rights. A suggested form for this rights sheet is included in the appendix of forms, following these rules.*

*Minn. R. Juv. Del. P. 17.10 is based on Minnesota Statutes 2002, section 260B.225, subdivision 7, which provides that the juvenile court may transfer a juvenile traffic offender case to adult court after a hearing if the juvenile court finds that the welfare of the child or public safety would be better served under the laws relating to adult traffic matters.*

*The right to appeal is set forth in Minnesota Statutes 2002, section 260B.415, subdivision 1.*