

Rule 2. Attendance at Hearings and Privacy**2.01 Right to Attend Hearing**

Juvenile court proceedings are closed to the public except as provided by law. Only the following may attend hearings:

(A) the child, guardian ad litem appointed in the delinquency proceeding and counsel for the child;

(B) the parent(s), legal guardian, or legal custodian of the child and their counsel;

(C) the spouse of the child;

(D) the prosecuting attorney;

(E) other persons requested by the parties listed in (A) through (D) and approved by the court;

(F) persons authorized by the court, including a guardian ad litem appointed for the child in another matter, under such conditions as the court may approve;

(G) persons authorized by statute, under such conditions as the court may approve; and

(H) any person who is entitled to receive a summons or notice under these rules.

(Amended effective for guardians ad litem appointed in Minnesota's juvenile and family courts after 12 o'clock midnight January 1, 2005.)

2.02 Exclusion of Persons Who Have a Right to Attend Hearings

The court may temporarily exclude any person, except counsel and the guardian ad litem appointed in the delinquency proceeding, when it is in the best interests of the child to do so. The court shall note on the record the reasons a person is excluded. Counsel for the person excluded has the right to remain and participate if the person excluded had the right to participate in the proceeding. An unrepresented child cannot be excluded on the grounds that it is in the best interests of the child to do so.

(Amended effective for all juvenile delinquency actions commenced or children taken into custody after 12 o'clock midnight January 1, 2007.)

2.03 Presence Required

Subdivision 1. Child. The child shall have the right to be present at all hearings. The child is deemed to waive the right to be present if the child voluntarily and without justification is absent after the hearing has commenced or if the child disrupts the proceedings. Disruption of the proceedings occurs if the child, after warning by the court, engages in conduct which interrupts the orderly procedure and decorum of the court. If the child is removed from the courtroom, the court shall state the reasons for the removal on the record. Except at trials and dispositional hearings, the child's appearance may be waived if the child is hospitalized in a psychiatric ward and the treating physician states in writing the reasons why not appearing would serve the child's best interests.

Subd. 2. Counsel.

(A) Counsel for the child shall be present at all hearings.

(B) The prosecuting attorney shall be present or available for all hearings unless excused by the court in its discretion.

Subd. 3. Parent, Legal Guardian or Legal Custodian. The parent, legal guardian or legal custodian of a child who is the subject of a delinquency or extended jurisdiction juvenile proceeding shall accompany the child to all hearings unless excused by the court for good cause shown. If such person fails to attend a hearing with the child without excuse, the court may issue an arrest warrant and/or hold the person in contempt. The court may proceed if it is in the best interests of the child to do so even if the parent, legal guardian, or legal custodian fails to appear.

(Amended effective for all juvenile delinquency actions commenced or children taken into custody after 12 o'clock midnight January 1, 2007.)

2.04 Right to Participate

Subdivision 1. Child and Prosecuting Attorney. The child and prosecuting attorney have the right to participate in all hearings.

Subd. 2. Guardian Ad Litem. The guardian ad litem appointed in the delinquency proceeding has a right to participate and advocate for the best interests of the child at all hearings.

Subd. 3. Parent(s), Legal Guardian, or Legal Custodian. Except in their role as guardian ad litem for the child, the parent(s), legal guardian, or legal custodian may not participate separately at hearings until the dispositional stage of the proceedings and the court shall advise them of this right. A parent, legal guardian, or legal custodian for the child is not subject to the Rules of Guardian Ad Litem Procedure in Juvenile and Family Court. A parent, legal guardian, or legal custodian shall not participate as counsel for the child unless licensed to practice law.

Subd. 4. Generally. Persons represented by counsel, who have a right to participate, shall participate through their counsel. Unrepresented persons may participate on their own behalf.

(Amended effective for guardians ad litem appointed in Minnesota's juvenile and family courts after 12 o'clock midnight January 1, 2005.)

2.05 Ex Parte Communications

The court shall not receive or consider any ex parte communication from anyone concerning a proceeding, including conditions of release, detention, evidence, adjudication, disposition, or any other matter. The court shall fully disclose to all counsel on the record any attempted ex parte communication.

2.06 Use of Restraints

Subdivision 1. Definition. As used in this rule, "restraints" means a mechanical or other device that constrains the movement of a person's body or limbs.

Subd. 2. When Restraints May be Used. Restraints may not be used on a child appearing in court in a proceeding under Minnesota Statutes, chapter 260B, unless the court finds that:

(A) the use of restraints is necessary:

- (1) to prevent physical harm to the child or another; or
- (2) to prevent the child from fleeing in situations in which the child presents a substantial risk of flight from the courtroom; and

(B) there are no less restrictive alternatives to restraints that will prevent flight or physical harm to the child or another, including but not limited to the presence of court personnel, law enforcement officers, or bailiffs.

The finding in clause (A), paragraph (2), may be based, among other things, on the child having a history of disruptive courtroom behavior or behavior while in custody for any current or prior offense that has placed others in potentially harmful situations, or presenting a substantial risk of inflicting physical harm on the child or others as evidenced by past behavior. The court may take into account the physical structure of the courthouse in assessing the applicability of the above factors to the individual child.

Subd. 3. Hearing Procedure and Order. The court shall be provided the child's behavior history and shall provide the child an opportunity to be heard in person or through counsel before ordering the use of restraints. If restraints are ordered, the court shall make findings of fact in support of the order.

(Added effective July 1, 2024.)

Comment--Rule 2

Minn. R. Juv. Del. P. 2.01 allows persons authorized by statute to attend juvenile court proceedings. They include the public, in cases where a juvenile over age 16 is alleged to have committed a felony, and victims. The public is also entitled to be present during a juvenile certification hearing where a juvenile over age 16 is alleged to have committed a felony, except that the court may exclude the public from portions of a certification hearing to discuss psychological material or other evidence that would not be accessible to the public in an adult proceeding. Minnesota Statutes 2002, section 260B.163, subdivision 1, paragraph (c). The statute does not currently permit exclusion when similar material is being presented in an extended jurisdiction juvenile proceeding. This may simply be an oversight. See also Minnesota Statutes 1994, section 609.115, subdivision 6.

Minn. R. Juv. Del. P. 2.02 permits exclusion of persons from hearings, even when they have a right to participate, to serve the child's best interests. For example, sometimes expert opinions are offered to the court regarding a child's psychological profile or amenability to probation supervision. Counsel are usually aware of such opinions and if it serves no useful purpose or may even be detrimental to a child's best interests to hear these opinions, it may be appropriate to temporarily exclude the child from the hearing. Obviously, this should be brought to the court's attention either before the hearing or at a bench conference. Because a child charged with a juvenile petty or juvenile traffic offense does not have a right to appointment of counsel at public expense, that child cannot be excluded unless the child is represented by counsel.

Minn. R. Juv. Del. P. 2.03 subd 2 provides that the prosecuting attorney shall be present or available for all hearings unless excused by the court in its discretion. On occasion, because of time constraints and distance, it may be impossible for the prosecuting attorney to be present in person at a particular hearing. So long as the prosecuting attorney is available by telephone conference, the hearing could proceed without the prosecutor actually being present.

Minn. R. Juv. Del. P. 2.05 requires full disclosure by the court to all counsel on the record of any attempted ex parte communication. Juvenile court has historically been less formal and more casual than other court proceedings. As a result, lawyers, probation and court services personnel, law enforcement, victims, and relatives of the child have sometimes attempted and succeeded in having ex parte contact with the juvenile court judge. As the sanctions for delinquency become more severe, due process safeguards become more imperative.

Minn. R. Juv. Del. P. 2.06 is derived from Minnesota Statutes, section 260B.008 (2022).