

**Rule 23. Referee****23.01 Authorization to Hear Cases**

A referee may hear matters as authorized by statute.

**23.02 Objection to Assignment of Referee**

The child's counsel or the prosecuting attorney may object to a referee presiding at a hearing. This objection shall be in writing and filed with the court within three (3) days after being informed that the matter is to be heard by a referee or the right to object is waived. The court may permit the filing of a written objection at any time. After the filing of an objection, a judge shall hear any motion and preside at any hearing.

(Amended effective for all juvenile delinquency actions commenced or children taken into custody after 12 o'clock midnight July 1, 2004.)

**23.03 Notice to Remove a Particular Referee**

The child's counsel or the prosecuting attorney may serve on the other party and file with the court administrator a notice to remove a particular referee assigned to a trial or hearing in the same manner as a judge may be removed under Rule 22. After a party has once disqualified a referee as a matter of right, that party may disqualify the substitute judge or referee only upon an affirmative showing of cause.

(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.)

**23.04 Transmittal of Findings**

Upon the conclusion of a hearing, the referee shall transmit to the judge findings and recommendations in writing. Notice of the findings of the referee together with a statement relative to the right to a review before a judge shall be given either orally on the record, or in writing to the child, the child's counsel, the child's parent(s), legal guardian or legal custodian and their counsel, the prosecuting attorney and to any other person that the court may direct.

**23.05 Review**

**Subdivision 1. Generally.** A matter which has been decided by a referee may be reviewed in whole or in part by a judge.

**Subd. 2. Filing.** A motion for a review by a judge must be filed with the court within ten (10) days after the referee's findings and recommendations have been provided to the child, child's counsel, prosecuting attorney, child's parents, legal guardian or legal custodian and their counsel pursuant to Rule 28.

**Subd. 3. Right of Review Upon Filing of Timely Motion.**

(A) *Right of Child.* The child is entitled to a review by a judge in any matter upon which a referee has made findings or recommendations.

(B) *Right of Prosecuting Attorney.* The prosecuting attorney is entitled to a review by a judge from any pre-trial findings or recommendations of a referee. The prosecuting attorney is not entitled to a review on any pretrial findings by a judge after jeopardy has attached.

(C) *Right of Parent(s), Legal Guardian or Legal Custodian.* The child's parent(s), legal guardian or legal custodian are entitled to a review by a judge of a referee's findings or recommendations made after the allegations of a charging document have been proved.

**Subd. 4. The Court.** The judge may grant a review at any time before confirming the findings and recommendations of the referee.

**Subd. 5. Procedure.** A review by a judge may be of the verbatim record or de novo in whole or in part.

(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.)

### **23.06 Order of the Court**

The findings and recommendations of the referee become the order of the court when confirmed by the judge subject to review pursuant to Rule 23.05.

(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 23***

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