

Rule 25. Notice**25.01 Summons, Notice in Lieu of Summons, Oral Notice on the Record, Service by Electronic Transmission and Notice by Telephone**

Subdivision 1. Summons. A summons is a document personally served on a person directing that person to appear before the court at a specified time and place. If the person summoned fails to appear, the court may issue an arrest warrant or, for the child, a warrant for immediate custody.

Subd. 2. Notice in Lieu of Summons. A notice in lieu of summons is a document mailed, or electronically transmitted as authorized by the State Court Administrator, by the court administrator to a person who is directed to appear in court at a specified time and place. If a person appears pursuant to the mailed or electronically transmitted notice, the person waives the right to personal service of the summons. If the person fails to appear, the court shall not issue a warrant until personal service is made or attempted unless grounds exist under Rule 4.03.

Subd. 3. Oral Notice on the Record. The court may schedule further proceedings by oral notice to all persons present. Oral notice on the record shall be sufficient notice to all persons present. Any person not present who is entitled to notice, shall receive written notice.

Subd. 4. Detention Hearings: Service by Electronic Transmission or Notice by Telephone Permitted.

(A) *Service By Electronic Transmission.* If a child is detained pending a detention hearing in a place of detention other than home detention or at home on electronic home monitoring, the court administrator shall ensure that the child, child's attorney, prosecuting attorney, child's parent(s), legal guardian(s) or legal custodian(s), or spouse of the child receives notice that the child is in custody, and notice of the detention hearing. The court administrator shall also provide to the Office of the Public Defender or the child's attorney copies of the reports filed with the court by the detaining officer and the supervisor of the place of detention. Defense counsel shall have immediate and continuing access to the child. The notice in lieu of summons and copies of the reports may be provided by electronic transmission, mailed notice, or hand delivery.

(B) *Notice By Telephone.* If the child, child's attorney, prosecuting attorney, child's parent(s), legal guardian(s) or legal custodian(s) or spouse of the child has not received notice of the time and place of the detention hearing and effective service by electronic transmission, mail, or hand delivery of the notice in lieu of summons is not possible, the court administrator may provide notice of the time and place of the detention hearing by telephone call.

(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 December 1, 2012; amended effective July 1, 2015.)

25.02 Content

Any summons or notice in lieu of summons shall include:

(A) a copy of the charging document, court order, motion, affidavit or other legal documents, filed with the court which require a court appearance;

(B) a statement of the time and place of the hearing;

(C) a brief statement describing the purpose of the hearing;

(D) a brief statement of rights of the child and parents;

(E) notice to the child and parent that a failure to appear in court could result in a warrant; and

(F) such other matters as the court may direct.

(Amended effective for all juvenile delinquency actions commenced or children taken into custody after 12 o'clock midnight September 1, 2005.)

25.03 Procedure for Notification

Subdivision 1. First Notice. After a charging document has been filed, the court administrator shall schedule a hearing as required by these rules. A notice in lieu of summons shall be served by first class mail, or electronically transmitted as authorized by the State Court Administrator, on the following:

- (A) child and parent(s) or person(s) with custody of the child; and
- (B) child's counsel, prosecuting attorney, spouse of child and their counsel.

The court may waive notice to the parent(s), legal guardian, legal custodian, or spouse of the child if it would be in the child's best interest to proceed without their presence.

Subd. 2. Personal Service. If the child and/or parent(s) fail to appear in response to one or more notices in lieu of summons served by mail or electronic transmission, a summons may be served personally in the manner provided by Minnesota law. The summons shall advise the person served that a failure to appear may result in the court issuing a warrant for arrest.

Subd. 3. Warrant for Arrest or Immediate Custody. A warrant for arrest or immediate custody may be issued by the court for a child or parent(s) who fail to appear in response to a summons which has been personally served or where reasonable efforts at personal service have been made.

Subd. 4. Timing. A summons shall be personally served at least five (5) days before the hearing. A notice in lieu of summons shall be mailed or electronically transmitted at least eight (8) days before the hearing. These times may be waived by a person or by the court for good cause shown.

Subd. 5. Proof of Service.

(A) *Personal Service.* On or before the date set for appearance, the person who served a summons by personal service shall file a written statement with the court showing:

- (1) that the summons was served;
- (2) the person on whom the summons was served; and
- (3) the date, time, and place of service.

(B) *Service by Mail or Electronic Transmission.* On or before the date set for appearance, the person who served notice in lieu of summons by mail or electronic transmission shall enter in the court record:

- (1) the name of the person to whom the summons or notice was sent;
- (2) the date the summons or notice was sent; and
- (3) whether the summons or notice was sent by first class mail, certified mail, or electronic transmission.

(C) *Notice of Detention Hearing: Telephone Call.* The person providing notice of a detention hearing by telephone call shall file a document with the court or make an entry in the court record stating:

(1) the name, address and telephone number of the person who was contacted with notice of the detention hearing;

(2) the date and time of the telephone call or the efforts to do so; and

(3) the reason why notice in lieu of summons was not sent by First Class Mail or other authorized means.

(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 December 1, 2012; amended effective July 1, 2015).

25.04 Waiver

Service is waived by voluntary appearance in court or by a written waiver of service filed with the court.

Comment--Rule 25

Pursuant to Minnesota Statutes 1994, section 260.141, subdivision 1, notices of juvenile court proceedings were to be made by personal service or if made pursuant to Minn. R. Civ. P. 4.02, by mail with an acknowledgement returned to the court. That was not the practice throughout the state. This rule is written to reflect the common practice of simply mailing the notice (called a notice in lieu of summons) and charging document by first class mail. If those served do not appear in response to the notice, the court can proceed with personal service of a summons and follow up with a warrant if there is still a failure to appear. Appearance rates are generally high with just a mailed notice and the costs of process are significantly increased by mailed service with acknowledgment or by personal service. The legislature has since amended Minnesota Statutes, section 260.141, subdivision 1, to comport with this rule. Minnesota Laws 1996, chapter 408, article 6, sections 3 and 12; see Minnesota Statutes 2002, section 260B.152, subdivision 1. The rule also recognizes that notice may be sent by electronic transmission where authorized.

This rule allows for notice of a detention hearing to be provided by telephone call when, given the time remaining before the detention hearing, mailed or electronically transmitted notice in lieu of summons would not be effective. Notice by telephone is not permitted for any other type of hearing.

Historically, there have been some informal service methods for service of the prosecuting attorney and the public defender by each other and by the court, which were instituted for efficiency and cost-effectiveness. However, where the rules require a specific method of service, these informal methods of service may not be used. See City of Albert Lea v. Harrer, 381 N.W.2d 499 (Minn. Ct. App. 1986) (stating "[t]he clerk and the city attorney cannot agree to ignore the rules").

In the appendix of these rules are samples of a notice in lieu of summons and a summons.