

**RULE 12. SUBPOENAS****Rule 12.01. Subpoena for a Hearing or Trial**

At the request of any party or the county attorney, the court administrator shall issue a subpoena for a witness in a matter pending before the court. Alternatively, an attorney as an officer of the court may issue and sign a subpoena on behalf of the court where the matter is pending.

**Rule 12.02. Form; Issuance; Notice**

**Subdivision 1. Form.** Every subpoena shall:

- (a) state the name of the court from which it is issued;
- (b) state the title of the action and its court file number, if one has been assigned; and
- (c) command each person to whom it is directed to attend and give testimony at a specified time and place or to produce books, papers, documents, or other tangible things designated in the subpoena.

**Subd. 2. Issuance.** A subpoena shall be issued only for appearance at a hearing, a deposition pursuant to Rule 17, a trial pursuant to Rule 49 or 58, or to produce books, papers, documents, or other tangible things designated in the subpoena.

**Subd. 3. Notice.** Every subpoena shall contain a notice to the person to whom it is directed advising the person of the right to reimbursement for certain expenses pursuant to Rule 12.07.

**Rule 12.03. Service**

A subpoena may be served by the sheriff, a deputy sheriff, or any other person at least 18 years of age who is not a party to the proceeding. Service of a subpoena upon a person named in the subpoena shall be made by delivering a copy of the subpoena to the named person or by leaving a copy at the person's usual place of abode with some person of suitable age and discretion residing at the abode. Upon written agreement of the witness, a subpoena may be served by U.S. mail, through the E-Filing System, by e-mail, or by other electronic means.

**Rule 12.04. Motion to Quash a Subpoena**

A person served with a subpoena may file and serve a motion to quash or modify the subpoena. Upon hearing a motion to quash a subpoena, the court may:

- (a) direct compliance with the subpoena;
- (b) modify the subpoena if it is unreasonable or oppressive;
- (c) deny the motion to quash the subpoena on the condition that the person requesting the subpoena prepay the reasonable cost of producing the books, papers, documents, or tangible things; or
- (d) quash the subpoena.

**Rule 12.05. Objection**

The person to whom the subpoena is directed may, within five days after service of the subpoena or on or before the time specified in the subpoena for compliance if such time is less than five days after service, serve upon the party serving the subpoena a written objection to the taking of the deposition or the production, inspection, or copying of any or all of the designated materials. If objection is made, the party serving the subpoena shall not be entitled to inspect or copy the materials, except pursuant to an order of the court from which the subpoena was issued. If objection is made,

the party serving the subpoena may, at any time before or during the taking of the deposition, and upon notice and motion to the deponent, request an order requiring compliance with the subpoena.

### **Rule 12.06. Subpoena for Taking Depositions; Place of Examination**

**Subdivision 1. Proof of Service.** Proof of service of notice to take a deposition, as provided in Rule 17, constitutes a sufficient authorization for the issuance of a subpoena for the person named or described in the subpoena.

**Subd. 2. Location.** A resident of the state may be required to attend an examination only in the county in which the resident resides or is employed or transacts business in person, or at such other convenient place as is fixed by order of the court. A nonresident of the state may be required to attend in any county of the state.

### **Rule 12.07. Expenses**

**Subdivision 1. Witnesses.** If the subpoena is issued by an attorney for or at the request of the State of Minnesota, a political subdivision of the State, or an officer or agency of the State, witness fees and mileage shall be paid by public funds. If the subpoena is issued by an attorney for or at the request of a party who is unable to pay witness fees and mileage, these costs shall upon order of the court be paid in whole or in part at public expense, depending upon the ability of the party to pay. Unless otherwise ordered by the court upon motion, all other fees and mileage shall be paid by the party for whom the subpoena was issued.

**Subd. 2. Expenses of Experts.** Subject to the provisions of Rule 17, a witness who is not a party to the action or an employee of a party and who is required to give testimony or produce documents relating to a profession, business, or trade, or relating to knowledge, information, or facts obtained as a result of activities in such profession, business, or trade, is entitled to reasonable compensation for the time and expense involved in preparing for and giving such testimony or producing such documents. The party serving the subpoena shall make arrangements for such reasonable compensation prior to the time of the taking of the testimony. If such arrangements are not made, the person subpoenaed may proceed pursuant to Rule 12.04 or Rule 12.05. If the deponent has moved to quash or otherwise objected to the subpoena, the party serving the subpoena may, upon notice and motion to the deponent and all parties and the county attorney, move for an order directing the amount of such compensation at any time before the taking of the deposition.

### **Rule 12.08. Failure to Appear**

If any person personally served with a subpoena fails, without reasonable cause, to appear or bring the child if ordered to do so, or if the court has reason to believe the person is avoiding personal service, the court may sua sponte or upon the motion of a party or the county attorney proceed against the person for civil contempt of court pursuant to Rule 13 or the court may issue a warrant for the person's arrest, or both. When it appears to the court that service will be ineffectual, or that the welfare of the child requires that the child be immediately brought into the custody of the court, the court may issue a warrant for immediate custody of the child.

### ***2019 Advisory Committee Comment***

*Rule 12 is amended in 2019 as part of a revision of the Rules of Juvenile Protection Procedure. Rule 12 was formerly codified as Rule 13.*

*Rule 12.01 is amended to allow attorneys to issue subpoenas as officers of the court. This is consistent with modern practices in civil and criminal cases in Minnesota's state courts. Minn. R. Civ. P. 45.01(c); Minn. R. Crim. P. 22.02, subd. 2. The committee believes allowing attorneys to issue subpoenas as officers of the court will eliminate an unnecessary administrative burden for*

*attorneys and court administration staff. Rule 12.01 retains the language that the court administrator shall issue subpoenas upon request by a party or the county attorney. Participants do not have the right to the issuance of subpoenas in juvenile protection cases unless they obtain party status. Minn. R. Juv. Prot. P. 32.02(g) (right of parties to subpoena witnesses); Minn. R. Juv. Prot. P. 33.02, subd. 1 (list of rights of participants does not include subpoenaing witnesses).*