

RULE 14. MOTIONS**Rule 14.01. Form**

Subdivision 1. Generally. An application to the court for an order shall be by motion.

Subd. 2. Motions to be in Writing. Except as permitted by subdivision 3, a motion shall be in writing and shall:

- (a) set forth the relief or order sought;
- (b) state with particularity the grounds for the relief or order sought;
- (c) be signed by the person making the motion;
- (d) be filed with the court, unless it is made orally in court on the record; and
- (e) be accompanied by a supporting affidavit or other supporting documentation or a memorandum of law, unless it is made orally in court on the record.

The requirement of writing is fulfilled if the motion is stated in a written notice of motion. The parties may agree to written submission to the court for decision without oral argument unless the court directs otherwise.

Subd. 3. Exception. Unless another party or the county attorney objects, a party or the county attorney may make an oral motion during a hearing. All oral motions and objections to oral motions shall be made on the record. When an objection is made, the court shall determine whether there is good cause to permit the oral motion and, before issuing an order, shall allow the objecting party reasonable time to respond.

Rule 14.02. Service and Notice of Motions

Subdivision 1. Upon Whom. The moving party shall serve the notice of motion and motion, along with any supporting affidavit or other supporting documentation or a memorandum of law, upon all parties, or, if represented, upon the attorneys for such individuals, the county attorney, and any other persons designated by the court. If service of the petition was by publication and the address of the person remains unknown, service of a motion shall be deemed sufficient if it is mailed to the person's last known address. The moving party shall serve only the notice of the motion and not the motion upon all participants. The court administrator shall perform service if the address of the person being served is confidential.

Subd. 2. How made. Service of a motion by a Registered User of the E-Filing System upon another Registered User shall be made in compliance with Rule 14.03 of the General Rules of Practice for the District Courts. All other service of a motion shall be made by personal service, mail, or e-mail or other electronic means agreed upon in writing by the person to be served.

Subd. 3. Time. Any written motion, along with any supporting affidavit or other supporting documentation or memorandum of law, shall be served at least five days before it is to be heard, unless the court for good cause shown permits a motion to be made and served less than five days before it is to be heard. The filing and service of a motion shall not extend the permanency timelines set forth in these rules.

Rule 14.03. Ex Parte Motion and Hearing

Subdivision 1. Motion. A motion may be made ex parte when permitted by statute or these rules. Every ex parte motion shall be accompanied by an explanation of the efforts made to notify all parties and the county attorney of the motion or an explanation of why such notice would place

the child in danger of imminent harm or could result in the child being hidden or removed from the court's jurisdiction.

Subd. 2. Hearing. When the court issues an ex parte order removing a child from the care of a parent or legal custodian, the court shall schedule a hearing to review the order within 72 hours of the child's removal. Upon issuance of an ex parte order in cases of domestic child abuse, the court shall schedule a hearing pursuant to the requirements of Minnesota Statutes, 260C.148. Upon issuance of any other ex parte order, a hearing shall be scheduled on the request of a party or the county attorney at the earliest possible date.

Rule 14.04. Motion to Dismiss Petition

Any party or the county attorney may bring a motion to dismiss the petition upon any of the following grounds:

- (a) lack of jurisdiction over the subject matter;
- (b) lack of jurisdiction over the child;
- (c) at or prior to the admit/deny hearing, failure of the petition to state facts which, if proven, establish a prima facie case to support the statutory grounds set forth in the petition; or
- (d) any other ground supported by law.

Rule 14.05. Motion to Strike Document

If a motion to strike a document or any portion of a document is granted, the document or portion of document shall be marked as stricken, but the document shall remain in the court file.

Rule 14.06. Obtaining Hearing Date; Notice to Parties

Upon request of a party who intends to file a notice of motion and motion, the court administrator shall schedule a hearing which shall take place within 15 days of the request. A party obtaining a date and time for a hearing on a motion shall file and serve the notice of motion and motion pursuant to Rule 14.02.

Rule 14.07. Timing and Service of Orders

Orders regarding motions shall be filed with the court administrator within 15 days of the conclusion of the hearing. Orders shall be served by the court administrator pursuant to Rule 9.03.

2019 Advisory Committee Comment

Rule 14 is amended in 2019 as part of a revision of the Rules of Juvenile Protection Procedure. Rule 14 was formerly codified as Rule 15.

Former Rule 15.02, subd. 1(b) has been transferred to Rule 31.01, subd. 2(a), which requires motions to transfer jurisdiction to a tribal court to be served additionally upon parents who are participants to the proceedings. Rule 31.01, subd. 2(a) does not require service of a transfer motion upon a child. That requirement, formerly codified in Rule 15.02, subd. 1(b), was based upon ICWA guidelines that have since been rescinded.

Rule 14.02, subd. 2, governs methods of service by filers, and is similar to Rule 9.03, which governs methods of service by court administration staff. One important distinction is that Rule 9.03 recognizes court administration staff's discretion under General Rules of Practice 14.02(a) and 14.03(f) to serve by e-mail without written agreement by the recipient. Under General Rule of Practice 14, the act of designating an e-mail address for receipt of service in a case constitutes consent to service by e-mail from court administration staff. This consent only extends to service

by court administration staff. Thus, Juvenile Protection Procedure Rule 14.02, subd. 2, allows filers to serve by e-mail only if service through the E-Filing System is not required and the recipient has agreed in writing to receive service by e-mail.