

**RULE 40. EX PARTE EMERGENCY PROTECTIVE CARE ORDER AND NOTICE****Rule 40.01. Ex Parte Order for Emergency Protective Care**

**Subd. 1. Generally.** The court may issue an ex parte order for emergency protective care:

- (a) as provided by Minnesota Statutes, section 260C.151, subdivision 6; or
- (b) where a warrant for immediate custody of the child is authorized by Minnesota Statutes, section 260C.154.

**Rule 40.02. Contents of Order**

An ex parte order for emergency protective care shall be signed by a judicial officer, shall include the findings required by statute as listed in Rule 40.01, and shall:

- (a) order the child to be taken to an appropriate relative, a designated caregiver pursuant to Minnesota Statutes, section 260C.181, or a shelter care facility designated by the court pending an emergency protective care hearing;
- (b) state the name and address of the child, unless such information would endanger the child, or, if unknown, designate the child by any name or description by which the child can be identified with reasonable certainty;
- (c) state the age and gender of the child, or, if the age of the child is unknown, that the child is believed to be of an age subject to the jurisdiction of the court;
- (d) state the reasons why the child is being taken into emergency protective care;
- (e) state the reasons for any limitation on the time or location of the execution of the emergency protective care order;
- (f) state the date when issued and the county and court where issued; and
- (g) state the date, time, and location of the emergency protective care hearing.

**Rule 40.03. Execution of Order**

An ex parte order for emergency protective care:

- (a) may only be executed by a peace officer authorized by law to execute a warrant;
- (b) shall be executed by taking the child into custody;
- (c) may be executed at any place in the state except where prohibited by law or unless otherwise ordered by the court;
- (d) may be executed at any time unless otherwise ordered by the court; and
- (e) need not be in the peace officer's possession at the time the child is taken into emergency protective care.

**Rule 40.04. Notice**

When an ex parte order for emergency protective care is executed, the peace officer shall notify the child and the child's parent or legal custodian:

- (a) of the existence of the order for emergency protective care;
- (b) of the reasons why the child is being taken into emergency protective care;

(c) of the time and place of the emergency protective care hearing;

(d) of the name, address, and telephone number of the responsible social services agency;  
and

(e) that the parent or legal custodian or child may request that the court place the child with a relative or a designated caregiver rather than in a shelter care facility.

The notice shall be given in compliance with Minnesota Statutes, section 260C.175, subdivision 2.

**Rule 40.05. Enforcement of Order**

An ex parte emergency protective care order shall be enforceable by any peace officer in any jurisdiction.

***2019 Advisory Committee Comment***

*Rule 40 is amended in 2019 as part of a revision of the Rules of Juvenile Protection Procedure. The rule was formerly codified as Rule 28. The amendments are intended to eliminate redundant language and statutory conflicts.*