

RULE 45. PETITION**Rule 45.01. Drafting and Filing**

Subdivision 1. Generally. A petition may be drafted and filed by the county attorney or any responsible person. A petition shall be served pursuant to Rule 44.02. If the petition contains any confidential information or confidential documents that are inaccessible to the public under Rule 8.04, the petitioner shall file the confidential information or confidential documents in the manner required by Rule 8.04, subd. 5.

Subd. 2. Habitual Truant and Runaway Matters. A matter based solely on grounds that a child is a habitual truant or a runaway may be initiated by citation issued by a peace officer or school attendance officer as authorized by Minnesota Statutes, section 260C.143. A citation shall contain:

- (a) the name, address, date of birth, and race of the child;
- (b) the name and address of the parent or legal custodian of the child;
- (c) the offense alleged and a reference to the statute which is the basis for the charge; and
- (d) the time and place the alleged offense was committed. If the child is alleged to be a runaway, the place where the offense was committed may be stated as either the child's parent's residence or lawful placement or where the child was found by the officer. If the child is alleged to be a habitual truant, the place where the offense was committed may be stated as the school or the place where the child was found by the officer.

Rule 45.02. Content

Subdivision 1. Generally. Every petition filed with the court in a juvenile protection matter, or an affidavit accompanying the petition, shall be verified by a person having knowledge of the facts, and may be verified on information and belief. The petition or accompanying affidavit shall contain:

- (a) a statement of facts that, if proven, would support the relief requested in the petition;
- (b) the child's name, date of birth, race, gender, current address unless stating the address would endanger the child or seriously risk disruption of the current placement, and, if the child is believed to be an Indian child, the name of the child's tribe;
- (c) the names, races, dates of birth, residences, and mailing addresses of the child's parents when known;
- (d) the name, residence, and mailing address of the child's legal custodian, the person having custody or control of the child, the nearest known relative if no parent or legal custodian can be found, and, if the child is believed to be an Indian child, the name and mailing address of the child's Indian custodian, if any, and the Indian custodian's tribal affiliation;
- (e) the name, residence, and mailing address of the child's spouse, if any;
- (f) the statutory grounds upon which the petition is based, together with a recitation of the relevant portions of the subdivision(s);
- (g) a statement regarding the applicability of the Indian Child Welfare Act;
- (h) the names and addresses of the parties identified in Rule 32, as well as a statement designating them as parties;

(i) the names and address of the participants identified in Rule 33, as well as a statement designating them as participants;

(j) if the child is believed to be an Indian child, a statement regarding:

(1) the specific actions that have been taken to prevent the child's removal from, and to safely return the child to, the custody of the parents or Indian custodian;

(2) whether the residence of the child is believed to be on an Indian reservation and, if so, the name of the reservation;

(3) whether the child is a ward of a tribal court and, if so, the name of the tribe; and

(4) whether the child's tribe has exclusive jurisdiction pursuant to 25 U.S.C section 1911(a); and

(k) when appropriate under the circumstances of the case, notice that:

(1) a proceeding to establish a parent and child relationship or to declare the nonexistence of a parent and child relationship may be brought at the same time as the juvenile protection matter; and

(2) parents may apply for parentage establishment and child support services through the county child support agency.

If any information required by this subdivision is unknown at the time of the filing of the petition, as soon as the information becomes known to the petitioner it shall be provided to the court and parties either orally on the record, by affidavit, or by amended petition. If presented orally on the record, the court shall note the information on the record or shall direct the petitioner to file an amended petition to reflect the updated information.

Subd. 2. Out of State Party. If a party resides out of state, or if there is a likelihood of interstate litigation, the petition or an attached affidavit shall include a statement regarding the whereabouts of the party and any other information required by the Uniform Child Custody Jurisdiction and Enforcement Act, Minnesota Statutes, sections 518D.101 to 518D.317.

Subd. 3. Disclosure of Name and Address - Endangerment. If there is reason to believe that an individual may be endangered by disclosure of a name or address required to be provided pursuant to this rule, that information shall be filed pursuant to Rule 8.04, subd. 2(p).

Rule 45.03. Who May File; Court Review

Any reputable person may file a child in need of protection or services petition. If the petition is filed by an individual who is not a county attorney or an agent of the Commissioner of Human Services, then the petition must meet the requirements in Minnesota Statutes, section 260C.141, subdivision 1, paragraph (b), and the court administrator and court must review the petition pursuant to Minnesota Statutes, section 260C.141, subdivision 1, paragraph (b), within three days of filing.

Rule 45.04. Amendment

Subdivision 1. Prior to Trial. The petition may be amended at any time prior to the commencement of the trial, including, in a child in need of protection or services matter, adding a child as the subject matter of the petition. The petitioner shall provide written or on-the-record notice of the amendment to all parties and participants. When the petition is amended, the court shall grant all other parties sufficient time to respond to the amendment.

Subd. 2. After Trial Begins. The petition may be amended after the trial has commenced if the court finds that the amendment does not prejudice a party and all parties are given sufficient time to respond to the proposed amendment.

(Amended effective January 1, 2024.)

2019 Advisory Committee Comment

Rule 45 is amended in 2019 as part of a revision of the Rules of Juvenile Protection Procedure. The rule was formerly codified as Rule 33.

Former Rule 33 had provisions allowing a petitioner to restrict public access to a name or address if disclosure would endanger a person. This issue is now addressed in Rule 8.04.