

Rule 14. Continuance for Dismissal**14.01 Agreements Permitted**

Subdivision 1. Generally. After consideration of the victim's views and subject to the court's approval, the prosecuting attorney and the child's counsel may agree that the juvenile proceeding will be suspended for a specified period without a finding that the allegations of the charging document have been proved after which it will be dismissed as provided in Rule 14.07 on condition that the child not commit a delinquency or juvenile petty or juvenile traffic offense during the period of the continuance. The agreement shall be on the record or in writing and signed by the prosecuting attorney, the child, and the child's counsel, if any. The agreement shall contain a waiver by the child of the right to a speedy trial under Rule 13.02, subdivisions 1 and 2. The agreement may include stipulations concerning the existence of specified facts or the admissibility into evidence of specified testimony, evidence, or depositions if the suspension of prosecution is terminated and there is a trial on the allegations.

Subd. 2. Additional Conditions. Subject to the court's approval after consideration of the victim's views and upon a showing of substantial likelihood that the allegations could be proved and that the benefits to society from rehabilitation outweigh any harm to society from suspending the juvenile proceeding, the agreement may specify one or more of the following additional conditions to be observed by the child during the period of suspension:

(A) that the child not engage in specified activities, conduct, and associations bearing a relationship to the conduct upon which the allegations are based;

(B) that the child participate in a supervised rehabilitation program, which may include treatment, counseling, training, and education;

(C) that the child make restitution in a specified manner for harm or loss caused by the offense alleged;

(D) that the child perform specified community service; and

(E) that the child pay court costs.

Subd. 3. Limitations on Agreements. The agreement may not specify a period of suspension longer than the juvenile court has jurisdiction over the child nor any condition other than that which could be imposed upon probation after a finding that the offenses alleged have been proved.

(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.)

14.02 Court Approval; Filing of Agreement; Release

All agreements made under Rule 14.01 of this rule must be approved by the court on the record or in writing. Promptly after any written agreement is made and approved by the court, the prosecuting attorney shall file the agreement together with a statement that pursuant to the agreement the juvenile proceeding is suspended for a period specified in the statement. Upon court approval of the agreement, the child shall be released from any custody under Rule 5.

(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.)

14.03 Modification of Agreement

Subject to Rules 14.01 and 14.02 and with the court's approval on the record or in writing, the parties, by mutual consent, may modify the terms of the agreement at any time before its termination.

(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.)

14.04 Termination of Agreement; Resumption of Proceedings

Subdivision 1. Upon Notice of Child or Child's Counsel. The agreement is terminated and the juvenile proceeding may resume as if there had been no agreement if the child's counsel serves upon the prosecuting attorney and files a notice with the court that the agreement is terminated.

Subd. 2. Upon Order of Court. The court may order the agreement terminated and the juvenile proceeding resumed if, upon motion of the prosecuting attorney stating facts supporting the motion and upon hearing, the court finds that:

(A) the child or child's counsel misrepresented material facts affecting the agreement, if the motion is made within six months after the date of the agreement; or

(B) the child has committed a material violation of the agreement, if the motion is made not later than one month after the expiration of the period of suspension specified in the agreement.

(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.)

14.05 Emergency Order

The court by warrant may direct any officer authorized by law to bring the child forthwith before the court for the hearing of the motion if the court finds from affidavit, written statements signed under penalty of perjury pursuant to Minnesota Statutes, section 358.116, or testimony that:

(A) there is probable cause to believe the child committed a material violation of the agreement; and

(B) there is a substantial likelihood that the child otherwise will not attend the hearing.

In any case, the court may issue a summons instead of a warrant to secure the appearance of the child at the hearing.

(Amended effective July 1, 2015.)

14.06 Release Status Upon Resumption of Delinquency, Juvenile Petty or Juvenile Traffic Proceedings

If the juvenile proceeding resumes under Rule 14.04, the child shall return to the release status in effect before the juvenile proceeding was suspended unless the court imposes additional or different conditions of release under Rule 5.

(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.)

14.07 Termination of Agreement; Dismissal

If no motion by the prosecuting attorney to terminate the agreement is pending, the agreement is terminated and the charging document shall be dismissed one month after expiration of the period of suspension specified by the agreement. If such a motion is then pending, the agreement is

terminated and the charging document shall be dismissed by order of the court upon entry of a final order denying the motion. Following a dismissal under this subdivision no further juvenile proceedings may be brought against the child for the offense involved.

(Amended effective for all juvenile delinquency actions commenced or children taken into custody after 12 o'clock midnight September 1, 2005; amended effective July 1, 2015.)

14.08 Termination and Dismissal Upon Showing of Rehabilitation

The court may order the agreement terminated, dismiss the juvenile proceedings, and bar further juvenile proceedings on the offense involved if, upon motion of a party stating facts supporting the motion and opportunity to be heard, the court finds that the child has committed no later offenses as specified in the agreement and appears to be rehabilitated.

14.09 Modification or Termination and Dismissal Upon Child's Motion

If, upon motion of the child's counsel and hearing, the court finds that the prosecuting attorney obtained the child's consent to the agreement as a result of a material misrepresentation by a person covered by the prosecuting attorney's obligation under Rule 10.04, the court may:

(A) order appropriate modification of the terms resulting from the misrepresentation; or

(B) if the court determines that the interests of justice require, order the agreement terminated, dismiss the juvenile proceeding, and bar further juvenile proceedings on the offense involved.

(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.)

14.10 Court Authority to Dismiss

Nothing in this rule shall limit the inherent power of the court to continue a case for dismissal even in the absence of an agreement by the prosecutor and child's counsel. In the event the court exercises this power:

(A) The action of the court must be on the record or in writing;

(B) Unless waived by the child, the court must guarantee the child's right to a speedy trial under Rule 13.02, subdivisions 1 and 2;

(C) The continuance shall be on conditions provided in Rule 14.01, subdivisions 1 and 2, and shall be subject to limitations stated in Rule 14.01, subdivision 3;

(D) The terms of the continuance may be modified on the record or in writing, by the court, with notice to all parties; and

(E) Proceedings following the continuance shall be governed by Rules 14.04-14.08.

(Amended December 12, 1997, for all juvenile actions commenced or arrests made on or after 12:00 o'clock midnight January 1, 1998; 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.)

Comment--Rule 14

Pursuant to Minn. R. Juv. Del. P. 1.01, references to "child's counsel" include the child who is proceeding pro se.

The Minnesota Supreme Court's Juvenile Rules Advisory Committee discovered that many juvenile court practitioners did not appreciate the limited benefits of withholding adjudication (now designated "continuance without adjudication") and were inadvertently misrepresenting its benefits to juveniles. See Comment to Minn. R. Juv. Del. P. 15. Many practitioners were, in effect, treating withholding of adjudication as a continuance for dismissal or pretrial diversion, similar to Minn. R. Crim. P. 27.05. In order to avoid future misuse of the continuance without adjudication and allow juvenile court practitioners the benefits of continuance for dismissal, Minn. R. Crim. P. 27.05 was incorporated into the juvenile rules. Because there is no finding that the allegations of the charging document have been proved in a continuance for dismissal, the offense should not count towards a juvenile's future criminal history score under the sentencing guidelines.

All agreements under this rule, including written agreements, must be approved by the court in writing or on the record.

A continuance for dismissal or continuance without adjudication under Minn. R. Juv. Del. P. 15.05 subd 4 are not the only options available for dealing with an alleged juvenile offender without formal process. Every county attorney is required to have a pretrial diversion program established for certain juveniles subject to juvenile court jurisdiction, as an alternative to formal adjudication. See Minnesota Statutes 2002, section 388.24. With statutory pretrial diversion readily available for less serious juvenile offenders, presumably the use of continuance without adjudication and continuance for dismissal under these rules will become less common.

Minn. R. Juv. Del. P. 14 specifies the procedure to be followed when the child, child's counsel and prosecuting attorney agree to a continuance for dismissal. Rule 14.10 further provides that the court has the inherent authority to order a continuance for dismissal of its own volition without the agreement of the parties. In re Welfare of J.B.A., 581 N.W.2d 37 (Minn. Ct. App. 1998).