

**Rule 6. Charging Document****6.01 Generally**

A charging document is a petition or a citation, and includes charging documents filed in paper form, or charging documents or data filed by electronic means authorized by the State Court Administrator.

(Amended effective December 1, 2012; amended effective July 1, 2015.)

**6.02 Citation**

**Subdivision 1. Generally.** Juvenile petty offenses as defined by Minnesota Statutes, section 260B.007, subdivision 16, delinquency misdemeanors, juvenile traffic offenses and gross misdemeanors under Minnesota Statutes, chapter 169A, may be charged by citation. Before entering a plea of guilty or not guilty to alleged misdemeanor or gross misdemeanor charge(s), the child may demand that a petition be filed with the court. If a petition is demanded, the prosecuting attorney shall have thirty (30) days to file the petition unless the child is in custody. The prosecuting attorney shall have ten (10) days to file a petition if a demand is made by a child in custody or the child shall be released.

**Subd. 2. Filing.** Before a citation may be filed with the court, it shall be screened by the prosecuting attorney for diversion eligibility. A citation must be filed by electronic means authorized by the State Court Administrator when the technology is available, otherwise a citation may be filed in a paper form approved by the State Court Administrator. Filing a citation gives the juvenile court jurisdiction over the matter.

**Subd. 3. Contents of Citation.** Citations shall contain:

- (A) the name, address, and date of birth of the child;
- (B) the name and address of the parent, legal guardian or legal custodian of the child;
- (C) the offense charged and a reference to the statute or local ordinance which is the basis for the charge;
- (D) the time and place and county of the alleged offense;
- (E) a designation of the case as a delinquency, a juvenile petty offense, or a juvenile traffic offense; and
- (F) other administrative information published by the State Court Administrator.

**Subd. 4. Notice of Court Appearance.** When a citation is filed with the court, the court administrator shall promptly schedule the matter for hearing and send notices as provided by Rule 25.

(Amended December 12, 1997, for all juvenile actions commenced or arrests made on or after 12 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; amended effective December 1, 2012; amended effective July 1, 2015.)

**6.03 Petition**

**Subdivision 1. Generally.** A child alleged to be delinquent because of a felony or gross misdemeanor offense (except gross misdemeanors under Minnesota Statutes, chapter 169A, which may be charged by citation) shall be charged by petition. A child alleged to be delinquent because

of a misdemeanor offense may be charged by petition. A child charged with a juvenile petty offense or a juvenile traffic offense may be charged by petition.

**Subd. 2. Filing.** Each petition shall be signed by the prosecuting attorney before it is filed with the court. The signature of the prosecuting attorney shall be an acknowledgment that the form of the petition is approved and that reasonable grounds exist to support the petition. A delinquency petition may be filed without the prosecutor's signature if the prosecutor is unavailable and a judge determines that filing and the issuance of process should not be delayed. A petition must be filed by electronic means authorized by the State Court Administrator when the technology is available, otherwise a petition may be filed in paper form. Electronic signature of petitions is governed by Minnesota Rules of Criminal Procedure, section 1.06, subdivision 3.

**Subd. 3. Contents of the Delinquency Petition.** Every petition alleging a child is delinquent shall contain:

- (A) a concise statement alleging the child is delinquent;
- (B) a description of the alleged offense and reference to the statute or ordinance which was violated;
- (C) the name, date of birth, and address of the child;
- (D) the names and addresses of the child's parent(s), legal guardian, legal custodian, or nearest known relative;
- (E) the name and address of the child's spouse; and
- (F) other administrative information authorized by the Supreme Court Juvenile Delinquency Rules Committee and published by the State Court Administrator.

**Subd. 4. Separate Counts.** A petition may allege separate counts, whether the alleged delinquent acts arise out of the same or separate behavioral incidents.

**Subd. 5. Contents of Petition Alleging Juvenile Petty Offender or Juvenile Traffic Offender.** Every petition alleging a child is a juvenile petty offender or alleging a child is a juvenile traffic offender shall contain:

- (A) a concise statement alleging that the child is a juvenile petty offender or a juvenile traffic offender;
- (B) the name, address, date of birth, and for juvenile traffic offenders, the driver's license number of the child, if known;
- (C) the name and address of the parent(s), legal guardian, or legal custodian of the child;
- (D) a description of the offense charged and reference to the statute or ordinance which is the basis for the charge;
- (E) the date, county, and place of the alleged offense; and
- (F) other administrative information authorized by the Supreme Court Juvenile Delinquency Rules Committee and published by the State Court Administrator.

(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; amended effective for all delinquency actions commenced or children taken into custody after 12 o'clock midnight January 1, 2008; amended effective July 1, 2015.)

#### **6.04 Amendment**

**Subdivision 1. Permissive.** A charging document may be amended by order of the court at any time:

(A) before the introduction of evidence at the trial by motion of the prosecuting attorney;  
or

(B) after the commencement of the trial with consent of the child and prosecuting attorney;  
or

(C) after trial but before a finding that the allegations of the charging document have been proved, upon motion of the prosecuting attorney, if no additional or different offense is alleged and if substantial rights of the child are not prejudiced.

Amendments shall be granted liberally in the interest of justice and the welfare of the child. If the court orders a charging document amended, additional time may be granted to the child or prosecuting attorney to adequately prepare for and ensure a full and fair hearing.

#### **Subd. 2. Prohibited.**

(A) A charging document alleging a child is delinquent shall not be amended to allege a child is in need of protection or services.

(B) A charging document alleging a juvenile petty or traffic offense shall not be amended to allege the child is delinquent.

(C) A petition alleging that a child is in need of protection or services shall not be amended to allege a delinquency, juvenile petty offense or juvenile traffic offense.

(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.)

#### **6.05 Probable Cause**

**Subdivision 1. Establishing Probable Cause.** The facts establishing probable cause may be set forth in writing in the charging document. No police reports or other supporting documents may be attached to the charging document at the time of filing to establish probable cause. Probable cause may also be established by subsequently filed police reports, sworn affidavits, or written statements signed under penalty of perjury pursuant to Minnesota Statutes, section 358.116, or by sworn testimony presented to the court. If police reports are subsequently filed in support of the charging document to establish probable cause, the child shall have the right to demand a statement establishing probable cause with specificity. Once demanded, the prosecuting attorney shall have ten (10) days to file with the court and serve on opposing counsel, the specific statement of probable cause. If testimony is presented, a verbatim record of the proceedings shall be made and a transcript of the proceedings prepared and filed with the court.

**Subd. 2. When Required.** There must be a finding of probable cause:

(A) before the court may issue a warrant pursuant to Rule 4;

(B) before a detention hearing is held for a child taken into custody without a warrant;

(C) within ten (10) days of a court order directing the prosecuting attorney to establish probable cause on the charge(s) alleged in a charging document. The court for any reason may order the prosecutor to show probable cause and the court shall order the prosecutor to show probable cause on demand of the child; or

(D) when competency of the child has been challenged.

**Subd. 3. Motion to Dismiss for Lack of Probable Cause.** The child may bring a motion to dismiss the charging document for lack of probable cause. The probable cause determination is governed by the procedure set out in Minn. R. Crim. P. 11.04.

**Subd. 4. Dismissal.** The court shall dismiss a charging document when a showing of probable cause has not been made. A dismissal for failure to show probable cause shall not prohibit the filing of a new charging document and further proceedings on the new charging document.

(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; amended effective for all juvenile delinquency actions commenced or children taken into custody after 12 o'clock midnight September 1, 2005; amended effective for all juvenile delinquency actions commenced or children taken into custody after 12 o'clock midnight January 1, 2007; amended effective for all delinquency actions commenced or children taken into custody after 12 o'clock midnight January 1, 2011; amended effective July 1, 2015.)

#### **6.06 Procedure on Filing a Charging Document With the Court**

**Subdivision 1. Dismissal.** The court shall dismiss a charging document if it does not allege an act of delinquency as defined by Minnesota Statutes, section 260B.007, subdivision 6, a juvenile petty offense as defined by Minnesota Statutes, section 260B.007, subdivision 16, or a juvenile traffic offense as defined by Minnesota Statutes, section 260B.225.

**Subd. 2. Arraignment.** When a charging document is filed, the court administrator shall promptly schedule an arraignment on the charging document and send notices pursuant to Rule 25.

**Subd. 3. Payment of Citation in Lieu of Court Appearance.** When a child is charged by citation with an offense or offenses listed on the Statewide Payables List, the child may enter a plea of guilty before the scheduled arraignment date by paying the fine amount established by the Judicial Council, and any applicable fees and surcharges, and by submitting a Plea and Waiver Form signed or acknowledged by the child and the child's parent.

The Plea and Waiver Form shall advise the child that payment constitutes a plea of guilty and an admission (a) that the child understands the nature of the offense alleged; (b) that the child makes no claim of innocence; (c) that the child's conduct constitutes the offense(s) to which the child is pleading guilty; (d) that the plea is made freely, under no threats or promises, and (e) that the child has the following rights which the child voluntarily waives:

(1) the right to the appointment of counsel if the child is subject to out-of-home placement as provided in Minnesota Statutes, section 260B.235, subdivision 6;

(2) the right to trial;

(3) the presumption of innocence until the prosecuting attorney proves the charges beyond a reasonable doubt;

(4) the right to remain silent;

(5) the right to testify on the child's own behalf;

(6) the right to confront witnesses against oneself;

(7) the right to subpoena witnesses;

The Plea and Waiver Form shall also advise the child that mandatory disposition requirements for a third or subsequent offense may require an appearance in court and may result in the imposition of certain dispositions including, but not limited to, those provided in Minnesota Statutes, section 260B.235, subdivision 6.

The Plea and Waiver Form shall be developed and maintained by the State Court Administrator.

(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, 2005; amended effective for all delinquency actions commenced or children taken into custody after 12 o'clock midnight July 1, 2011.)

#### **6.07 Dismissal by Prosecuting Attorney**

The prosecuting attorney may in writing or on the record, stating the reasons therefor, dismiss a petition or citation without leave of court and an indictment with leave of court.

(Amended effective for all delinquency actions commenced or children taken into custody after 12 o'clock midnight January 1, 2011.)

#### **6.08 Dismissal by Court**

If there is unnecessary delay by the prosecution in bringing a respondent to trial, the court may dismiss the petition, citation or indictment.

(Amended effective for all delinquency actions commenced or children taken into custody after 12 o'clock midnight January 1, 2011.)

#### ***Comment--Rule 6***

*Previously, this rule only related to petitions in juvenile court. Due in large part to the high volume of gross misdemeanor alcohol related driving offenses, the law was amended to permit tab charges and citations for these offenses to get cases to court more promptly. In 2015, all references to tab charges were removed from the rules to eliminate tab charges as a valid method of charging in juvenile cases.*

*Minn. R. Juv. Del. P. 6.06 subd 2 provides that the court administrator shall promptly schedule the matter for hearing when a charging document is filed with the court.*

*Minn. R. Juv. Del. P. 6.03 subd 2 provides that a petition shall be signed by the prosecuting attorney before it is filed with the court. Minnesota Statutes 2002, section 260B.141, subdivision 1, provides that any reputable person having knowledge of a child who is a resident of this state, who appears to be delinquent, may petition the juvenile court.*

*Minn. R. Juv. Del. P. 6.03 subds 3 and 5 set forth the necessary contents of the petition. A sample petition form as well as a listing of the administrative content approved by the Juvenile Delinquency Rules Committee have been published by the State Court Administrator on the Minnesota Judicial Branch Web site. The reference to the Minnesota Offense Code was removed from this rule in 2015 in recognition of the possible transition away from the use of MOC codes and to another coding system that will serve the same purpose. Although the reference to the MOC codes was removed from the rules, the MOC code is still required as part of the "other administrative*

*information" that was approved by the committee and published by the State Court Administrator. Any changes regarding what is required for coding purposes will be addressed in that document.*

*The references to citations filed by electronic means are intended to recognize that in some counties law enforcement has already begun to electronically file citations in juvenile cases. It is understood that electronic filing of tab charges and citations and petitions is not available statewide at this time. The rule authorizes and requires electronic filing in the locations where the technology is available, and anticipates the expansion of the practice in other locations as facilitated by State Court Administration. Juvenile citations filed in paper form currently vary statewide. It is anticipated that a statewide standard will be created for use in juvenile cases, in consultation with justice agency partners, which will either be similar to or a modification to the current adult standard commonly referred to as the Statewide Standard Citation. When a statewide standard for juvenile citations is created, it will be published on the Minnesota Judicial Branch Statewide Standard Citation website and communicated statewide. Once the juvenile standard citation is available, its use will be mandatory in juvenile cases.*