

**Rule 370. Establishment of Support Proceedings****Rule 370.01 Commencement**

An initial proceeding to establish support shall be commenced in the expedited process by service of a summons and complaint pursuant to Rule 370.03. If the summons does not contain a hearing date, a request for hearing form and a supporting affidavit shall be attached to the summons and complaint. In addition to service of the summons and complaint, an order to show cause may be issued pursuant to Minn. Gen. R. Prac. 303.05. Service shall be made at least twenty (20) days prior to any scheduled hearing.

**Rule 370.02 Content of Summons, Complaint, Supporting Affidavit, and Request for Hearing Form**

**Subdivision 1. Content of Summons.** A summons shall:

- (a) state the name of the court;
- (b) state the names of the parties;
- (c) state an address where the initiating party may be served;
- (d) state that the purpose of the action is to establish support;
- (e) either set a hearing date or attach a request for hearing form;
- (f) provide information about serving and filing a written response pursuant to Rule 370.04 and Rule 370.05;
- (g) state that all parties shall appear at the hearing if one is scheduled, and state that if any party fails to appear at the hearing the child support magistrate shall proceed pursuant to Rule 365.01;
- (h) state that the child support magistrate may sign a default order pursuant to Rule 363.03;
- (i) state that a party has the right to representation pursuant to Rule 357;
- (j) state that the case may be settled informally by contacting the initiating party, and include the name, address, and telephone number of the person to contact to discuss settlement; and
- (k) be signed by the initiating party or that party's attorney.

If there is reason to believe that domestic violence exists or if an order for protection has been issued, the party may provide an alternative address and telephone number. Pursuant to Minnesota Statutes 2000, section 518.005, subdivision 5, in all actions in which public assistance is assigned or the county agency is providing services to a party or parties to the action, information regarding the location of one party may not be released by the county agency to any other party if the county agency has knowledge that a protective order with respect to the other party has been entered or has reason to believe that the release of the information may result in physical or emotional harm to the other party.

**Subd. 2. Content of Complaint.** A complaint shall:

- (a) state the relief the initiating party wants the child support magistrate to order;
- (b) state the facts and grounds supporting the request for relief;
- (c) set forth the acknowledgment required under Rule 379.04; and

(d) be signed by the initiating party or that party's attorney.

**Subd. 3. Content of Supporting Affidavit.** A supporting affidavit is required when the summons does not contain a hearing date. The supporting affidavit shall:

(a) state detailed facts supporting the request for relief;

(b) provide all information required by Minnesota Statutes 2006, section 518A.46, subdivision 3, paragraph (a), if known; and

(c) be either:

(1) signed and sworn to under oath; or

(2) signed under penalty of perjury pursuant to Minnesota Statutes, section 358.116, provided that the signature is affixed immediately below a declaration using substantially the following language: "I declare under penalty of perjury that everything I have stated in this document is true and correct." In addition to the signature, the date of signing and the county and state where the document was signed shall be noted on the document.

**Subd. 4. Content of Request for Hearing Form.** A request for hearing form shall contain the name and address of the initiating party and a short, concise statement that a noninitiating party requests a hearing.

(Amended effective June 1, 2009; amended effective July 1, 2015.)

#### *Advisory Committee Comment - 2008 Amendment*

*Rule 370.02, subdivision 3, is amended to update the statutory reference to reflect the recodification, effective on January 1, 2007, of portions of the relevant statutes, that became part of Minnesota Statutes, chapter 518A. Pursuant to Minnesota Statutes, section 518A.46, subdivision 3, paragraph (b), for all cases involving establishment or modification of support, the pleadings are to contain specific information. At times, it may be necessary to attach additional supporting documents. Each county should establish its own local policy regarding the attachment of supporting documents.*

### **Rule 370.03 Service of Summons and Complaint**

**Subdivision 1. Who is Served.** All parties, and the county agency even if not a party, shall be served pursuant to subdivision 2.

**Subd. 2. How Served.** The summons and complaint, and if required the supporting affidavit and request for hearing form, shall be served upon the parties by personal service, or alternative personal service, pursuant to Rule 355.02, unless personal service has been waived in writing. Where the county agency is the initiating party, a nonparent who is receiving assistance from the county or who has applied for child support services from the county may be served by any means permitted under Rule 355.02.

(Amended effective June 1, 2009.)

### **Rule 370.04 Filing Requirements**

**Subdivision 1. Initiating Party.** No later than 5 days before any scheduled hearing or, if no hearing is scheduled, within 14 days from the date the last party was served, the initiating party shall file the following with the court:

(a) the original summons;

- (b) the original complaint;
- (c) the original supporting affidavit, if served;
- (d) the request for hearing form, if returned to the initiating party; and
- (e) proof of service upon each party pursuant to Rule 355.04.

**Subd. 2. Responding Party.** If a noninitiating party responds with a written answer pursuant to Rule 370.05, the following shall be filed with the court no later than 5 days before any scheduled hearing or, if no hearing is scheduled, within 20 days from the date the last party was served:

- (a) the original written answer;
- (b) a financial affidavit pursuant to Minnesota Statutes 2006, section 518A.28; and
- (c) proof of service upon each party pursuant to Rule 355.04.

**Subd. 3. Electronic Filing.** Where authorized or required by Rule 14 of these rules, documents may, and where required shall, be filed by electronic means by following the procedures of Rule 14.

**Subd. 4. Treatment of Confidential Information.** To retain privacy, restricted identifiers as defined in Rule 11 (such as Social Security numbers, employer identification numbers, financial account numbers) must be removed from any documents provided under this rule and may only be submitted on a separate Confidential Information Form as required in Rule 11. In addition, financial source documents as defined in Rule 11 (such as tax returns, wage stubs, credit card statements) must be submitted under a cover sheet entitled "Confidential Financial Source Documents" as required in Rule 11.

(Amended effective January 1, 2006; amended effective June 1, 2009; amended effective July 1, 2015; amended effective May 23, 2016.)

### **Rule 370.05 Response**

**Subdivision 1. Hearing Date in Summons.** Inclusion of a hearing date does not preclude a noninitiating party from serving and filing a written answer. Within twenty (20) days from service of the summons and complaint, a noninitiating party may serve upon all parties a written answer to the complaint. The service and filing of a written answer or the failure of a noninitiating party to appear at a hearing does not preclude the hearing from going forward, and the child support magistrate may issue an order based upon the information in the file or evidence presented at the hearing.

**Subd. 2. Hearing Date Not in Summons.** If the summons does not contain a hearing date, within twenty (20) days from service of the summons and complaint, a noninitiating party shall either:

- (a) request a hearing by returning the request for hearing form to the initiating party; or
- (b) serve upon all other parties and file with the court a written answer to the complaint.

The initiating party shall schedule a hearing upon receipt of the request for hearing form or the service of a written answer.

**Rule 370.06 Amended Pleadings**

**Subdivision 1. Service.** At any time up to ten (10) days before a scheduled hearing, the initiating party may serve and file amended pleadings. If no hearing date has been scheduled, the initiating party may serve and file amended pleadings within the time remaining for response.

**Subd. 2. Response.** If the noninitiating party chooses to respond to amended pleadings, the response must be made within the time remaining for response to the original pleading or within ten (10) days after service of the amended pleadings, whichever period is longer, unless the court otherwise orders.

**Rule 370.07 Fees**

A filing fee shall be paid pursuant to Rule 356 upon the filing of:

- (a) the summons and complaint; and
- (b) the written answer, if any.

**Rule 370.08 Settlement Procedure**

The parties may settle the case at any time pursuant to Rule 362.

**Rule 370.09 Default Procedure**

An action to establish support may proceed by default pursuant to Rule 363.

**Rule 370.10 Hearing Procedure**

Any hearing shall proceed pursuant to Rule 364. If the summons contains a hearing date, all parties shall appear at the hearing. If a party fails to appear at a hearing for which notice was properly served, the child support magistrate shall proceed pursuant to Rule 365.01.

**Rule 370.11 Decision and Order**

The decision and order of the court shall be issued pursuant to Rule 365.

**Rule 370.12 Review and Appeal**

Motions to correct clerical mistakes, if any, shall proceed pursuant to Rule 375. Review, if any, shall proceed pursuant to Rule 376. Appeal, if any, shall proceed pursuant to Rule 378.