

Rule 18. Certification of Delinquency Matters

18.01 Application

Subdivision 1. Generally. This rule is applicable when the prosecutor moves for certification and a child is alleged to have committed, after becoming fourteen (14) years of age, an offense that would be a felony if committed by an adult.

Subd. 2. First Degree Murder Accusation. The district court has original and exclusive jurisdiction in criminal proceedings concerning a child alleged to have committed murder in the first degree after becoming sixteen (16) years of age. Upon the filing of a complaint or indictment charging a sixteen (16) or seventeen (17) year old child in adult court proceedings with the offense of first degree murder, juvenile court jurisdiction terminates for all proceedings arising out of the same behavioral incident.

(Added 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 July 1, 2015.)

18.02 Initiation of Certification Proceedings of Delinquency Matters

Subdivision 1. Generally. Proceedings to certify delinquency matters pursuant to Minnesota Statutes, section 260B.125, may be initiated upon motion of the prosecuting attorney after a delinquency petition has been filed. The motion may be made at the first appearance of the child pursuant to Rule 5 or 7, or within ten (10) days of the first appearance or before jeopardy attaches, whichever of the latter two occurs first. The motion shall be in writing and comply with the provisions of Rule 27, and shall include a statement of the grounds supporting the certification.

Subd. 2. First Degree Murder Accusation. When the delinquency petition that is the basis for the motion for certification alleges that a child under age sixteen (16) committed the offense of murder in the first degree, the prosecuting attorney shall present the case to the grand jury for consideration of an indictment under Minnesota Statutes, chapter 628, within fourteen (14) days after the petition is filed.

(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.)

18.03 Notice of Certification

Notice of the initial appearance under Rule 18.05, subdivision 2 together with a copy of the motion for certification and a copy of the delinquency petition shall be served pursuant to Rule 25.

(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.)

18.04 Certification Study

Subdivision 1. Order. The court on its own motion or on the motion of the child's counsel or the prosecuting attorney, may order social, psychiatric, or psychological studies concerning the child who is the subject of the certification proceeding.

Subd. 2. Content of Reports. If the person preparing the report includes a recommendation on the court's actions: (a) the report shall address each of the public safety considerations of Rule 18.06, subdivision 3; and (b) the report shall address all options of the trial court under Rule 18.07, namely: (i) certification; (ii) retention of jurisdiction for extended jurisdiction juvenile proceedings; and (iii) retention of juvenile court jurisdiction in non-presumptive certification cases.

Subd. 3. Costs. Preparation costs and court appearance expenses for person(s) appointed by the court to conduct studies shall be paid at public expense.

Subd. 4. Filing and Access to Reports. The person(s) making a study shall file a written report with the court and provide copies to the prosecuting attorney and the child's counsel four (4) days, excluding Saturdays, Sundays, and legal holidays, prior to the time scheduled for the hearing. The report shall not be disclosed to the public except by court order.

Subd. 5. Admissibility. Any matters disclosed by the child to the examiner during the course of the study may not be used as evidence or the source of evidence against the child in any subsequent trial.

(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 July 1, 2015.)

18.05 Hearing

Subdivision 1. In General.

(A) *Limited Public Access.* The court shall exclude the general public from certification hearings and shall admit only those persons who, in the discretion of the court, have a direct interest in the case or the work of the court, including victims. The court shall open the hearings to the public in certification proceedings where the child is alleged to have committed an offense or has been proven to have committed an offense that would be a felony if committed by an adult and the child was at least sixteen (16) years of age at the time of the offense, except that the court may exclude the public from portions of a certification hearing to consider psychological material or other evidence that would not be accessible to the public in an adult proceeding.

(B) *Timing.* The certification hearing shall be held within thirty (30) days of the filing of the certification motion. Only if good cause is shown by the prosecuting attorney or the child may the court extend the time for a hearing for another sixty (60) days. Unless the child waives the right to the scheduling of the hearing within specified time limits, if the hearing is not commenced within thirty (30) days, or within the extended period ordered pursuant to this subdivision, the child, except in extraordinary circumstances, shall be released from custody subject to such nonmonetary release conditions as may be required by the court under Rule 5.

(C) *Waiver.* The child may waive the right to a certification hearing provided that the child does so knowingly, voluntarily, and intelligently on the record after being fully and effectively informed of the right to a certification hearing by counsel. In determining whether the child has knowingly, voluntarily, and intelligently waived this right the court shall look at the totality of the circumstances. These circumstances include but are not limited to: the presence of the child's parent(s), legal guardian, legal custodian or guardian ad litem appointed in the delinquency proceeding; and the child's age, maturity, intelligence, education, experience, and ability to comprehend the proceedings and consequences.

(D) *Discovery.* The child and prosecuting attorney are entitled to discovery pursuant to Rule 10.

Subd. 2. Initial Appearance in Certification Proceeding. At the initial appearance following the motion for certification the court shall:

(A) verify the name, age and residence of the child who is the subject of the matter;

(B) determine whether all necessary persons are present and identify those present for the record;

(C) appoint counsel, if not previously appointed;

(D) determine whether notice requirements have been met and if not whether the affected persons waive notice;

(E) schedule further hearings including: a probable cause hearing, unless waived; the certification hearing under Rule 18.05, subdivision 4; and a pre-hearing conference if requested; and

(F) order studies pursuant to Rule 18.04, if appropriate.

Subd. 3. Probable Cause Determination.

(A) *Timing.* Unless waived by the child or based upon an indictment, a hearing and court determination on the issue of probable cause shall be completed within fourteen (14) days of filing the certification motion. The court may, on the record, extend this time for good cause.

(B) *Standard.* A showing of probable cause to believe the child committed the offense alleged by the delinquency petition shall be made pursuant to Minnesota Rules of Criminal Procedure 11.

(C) *Presumption.* Upon a finding of probable cause, the court shall determine whether the presumption for certification under Rule 18.06, subdivision 1 applies.

(D) *Waiver.* The child may waive a probable cause hearing and permit a finding of probable cause without a hearing, provided that the child does so knowingly, voluntarily, and intelligently on the record after being fully and effectively informed of the right to a probable cause hearing by counsel.

Subd. 4. Conduct and Procedure for Certification Hearing.

(A) *Hearing Rights.* The child's counsel and the prosecuting attorney shall have the right to:

- (1) present evidence;
- (2) present witnesses;
- (3) cross-examine witnesses; and
- (4) present arguments for or against certification.

(B) *Evidence.* All evidence considered by the court on the certification question shall be made a part of the court record. The court may receive any information, except privileged communication, that is relevant to the certification issue, including reliable hearsay and opinions.

(C) *Order of Hearing; Presumptive Certification.*

(1) The child's counsel may make an opening statement, confining the statement to the facts that the child expects to prove.

(2) The prosecuting attorney may make an opening statement, or may make it immediately before offering evidence. The statement shall be confined to the facts expected to be proved.

(3) The child's counsel shall offer evidence against certification.

(4) The prosecuting attorney may offer evidence in support of the motion for certification.

(5) The child's counsel may offer evidence in rebuttal of the evidence for certification, and the prosecuting attorney may then offer evidence in rebuttal of the child's rebuttal evidence. In the interests of justice, the court may permit either party to offer additional evidence.

(6) At the conclusion of the evidence, the prosecuting attorney may make a closing argument.

(7) The child's counsel may make a closing argument.

(D) Order of Hearing; Non-presumptive Certification.

(1) The prosecuting attorney may make an opening statement, confining the statement to the facts that the prosecutor expects to prove.

(2) The child's counsel may make an opening statement, or may make it immediately before offering evidence. The statement shall be confined to a statement of the defense and the facts expected to be proved.

(3) The prosecuting attorney shall offer evidence in support of certification, or alternatively, designation as an extended jurisdiction juvenile proceeding.

(4) The child's counsel may offer evidence in defense of the child.

(5) The prosecuting attorney may offer evidence in rebuttal of the defense evidence, and the child's counsel may then offer evidence in rebuttal of the prosecuting attorney's rebuttal evidence. In the interests of justice the court may permit either party to offer additional evidence.

(6) At the conclusion of the evidence, the prosecuting attorney may make a closing argument.

(7) The child's counsel may make a closing argument.

(E) Burdens of Proof. In a presumptive certification hearing under Rule 18.06, subdivision 1, the child shall have the burden to prove by clear and convincing evidence that retaining the proceeding in juvenile court serves public safety. In non-presumptive certification hearings under Rule 18.06, subdivision 2, the prosecuting attorney shall have the burden to prove by clear and convincing evidence that retaining the proceeding in juvenile court does not serve public safety.

(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 January 1, 2007.)

18.06 Certification Determination

Subdivision 1. Presumption of Certification. Pursuant to Minnesota Statutes, section 260B.125, subdivision 3, it is presumed that a child will be certified for action under the laws and court procedures controlling adult criminal violations if:

(A) the child was sixteen (16) or seventeen (17) years old at the time of the offense;

(B) the delinquency petition alleges that the child committed an offense that would result in a presumptive commitment to prison under the sentencing guidelines and applicable statutes, or a felony offense in which the child allegedly used a firearm; and

(C) probable cause has been determined pursuant to Rule 18.05, subdivision 3.

The presumption of certification is overcome if the child demonstrates by clear and convincing evidence that retaining the proceedings in juvenile court serves public safety.

Subd. 2. Non-presumptive Certification. If there is no presumption of certification as defined by subdivision 1, the court may order certification only if the prosecuting attorney has demonstrated by clear and convincing evidence that retaining the proceeding in juvenile court does not serve public safety.

Subd. 3. Public Safety. In determining whether the public safety is served by certifying the matter, or in designating the proceeding an extended jurisdiction juvenile proceeding, the court shall consider the following factors:

(A) the seriousness of the alleged offense in terms of community protection, including the existence of any aggravating factors recognized by the Minnesota Sentencing Guidelines, the use of a firearm, and the impact on any victim;

(B) the culpability of the child in committing the alleged offense, including the level of the child's participation in planning and carrying out the offense and the existence of any mitigating factors recognized by the Minnesota Sentencing Guidelines;

(C) the child's prior record of delinquency;

(D) the child's programming history, including the child's past willingness to participate meaningfully in available programming;

(E) the adequacy of the punishment or programming available in the juvenile justice system; and

(F) the dispositional options available for the child.

In considering these factors, the court shall give greater weight to the seriousness of the alleged offense and the child's prior record of delinquency than to the other factors listed in this subdivision.

Subd. 4. Prior Certification. The court shall order certification in any felony case if the prosecutor shows that the child was previously prosecuted and convicted in adult proceedings that were certified pursuant to Minnesota Statutes, section 260B.125, subdivision 5.

Subd. 5. Extended Juvenile Court Jurisdiction.

(A) *Presumptive Certification.* If the juvenile court does not order certification in a presumptive certification case, the court shall designate the proceeding an extended jurisdiction juvenile prosecution.

(B) *Non-presumptive Certification.* If the court does not order certification in a non-presumptive certification case, the court may consider designating the proceeding an extended jurisdiction juvenile prosecution. Designation as an extended jurisdiction juvenile prosecution may only occur if the prosecuting attorney has shown by clear and convincing evidence that the designation would serve public safety, taking into account the factors specified in Rule 18.06, subdivision 3. Absent this showing the case shall proceed as a delinquency proceeding in juvenile court.

(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.)

18.07 Order

Subdivision 1. Decision, Timing, and Content of Order Following Waiver of Certification Hearing and Stipulation to Certification Order. When a child waives the right to a certification hearing and stipulates to certification, the court shall, within five (5) days of that hearing, file an order with written findings of fact and conclusions of law that states:

(A) that adult court prosecution is to occur on the alleged offense(s) specified in the certification order;

(B) a finding of probable cause in accordance with Rule 18.05, subdivision 3, unless the accused was presented by means of an indictment;

(C) findings of fact as to:

(1) the child's date of birth; and

(2) the date of the alleged offense; and

(D) if the child is currently being detained, that:

(1) the child be detained in an adult detention facility; and

(2) the child be brought before the appropriate court (as determined pursuant to Rule 18.08) without unnecessary delay, and in any event, not more than thirty-six (36) hours after filing of the certification order, exclusive of the day of filing, Sundays, or legal holidays, or as soon thereafter as a judge is available.

Subd. 2. Decision, Timing, and Content of Order Following Contested Hearing. Within fifteen (15) days of the certification hearing the court shall file an order with written findings of fact and conclusions of law as set forth in this subdivision.

(A) *Certification of the Alleged Offense for Prosecution under the Criminal Laws.* If the court orders a certification for adult prosecution, the order shall state:

(1) that adult court prosecution is to occur on the alleged offense(s) specified in the certification order;

(2) a finding of probable cause in accordance with Rule 18.05, subdivision 3 unless the accusation was presented by means of an indictment;

(3) findings of fact as to:

(a) the child's date of birth;

(b) the date of the alleged offense;

(c) why the court upheld the presumption of certification under Rule 18.06, subdivision 1 or, if the presumption of certification does not apply but the court orders certification, why public safety, as defined in Rule 18.06, subdivision 3, is not served by retaining the proceeding in juvenile court; and

(4) if the child is currently being detained, that (a) the child be detained in an adult detention facility, and (b) the child be brought before the appropriate court (as determined pursuant to Rule 18.08) without unnecessary delay, and in any event, not more than thirty-six (36) hours

after filing of the certification order, exclusive of the day of filing, Sundays or legal holidays or as soon thereafter as a judge is available.

(B) Retention of Jurisdiction by Juvenile Court as an Extended Jurisdiction Juvenile.

(1) If the court does not order certification in a presumptive certification case, the court shall designate the proceeding an extended jurisdiction juvenile prosecution. The order shall state why certification is not ordered with specific reference as to why designation as an extended jurisdiction juvenile prosecution serves public safety under the factors listed in Rule 18.06, subdivision 3.

(2) If the court does not order certification in a non-presumptive certification case, the court may designate the proceeding an extended jurisdiction juvenile prosecution pursuant to Rule 18.06, subdivision 5(B). The order shall state why certification was not ordered and why the proceeding was designated as an extended jurisdiction juvenile prosecution.

If the court designates the case as an extended jurisdiction juvenile prosecution, the case shall proceed pursuant to Rule 19.09.

(C) Retention of Jurisdiction by Juvenile Court. If the court does not order certification or extended jurisdiction juvenile prosecution in a non-presumptive certification case, the order shall state why certification or extended jurisdiction juvenile prosecution was not ordered with specific reference to why retention of the matter in juvenile court serves public safety, considering the factors listed in Rule 18.06, subdivision 3. Further proceedings shall be held pursuant to Rule 7.

Subd. 3. Delay. For good cause, the court may extend the time period to file its order for an additional fifteen (15) days. If the order is not filed within fifteen (15) days, or within the extended period ordered by the court pursuant to this subdivision, the child, except in extraordinary circumstances, shall be released from custody subject to such nonmonetary release conditions as may be required by the court under Rule 5.

Subd. 4. Final Order. Any order issued pursuant to this rule is a final order.

Subd. 5. Appeal. An appeal of the final order pursuant to this rule shall follow the procedure set forth in Rule 21.

(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.)

18.08 Termination of Jurisdiction Upon Certification

Subdivision 1. Child Not in Detention. Once the court enters an order certifying a proceeding, the jurisdiction of the juvenile court terminates immediately over a child who is not then detained in custody. All subsequent steps in the case are governed by the Minnesota Rules of Criminal Procedure.

Subd. 2. Child in Detention. If the child is detained at the time certification is ordered:

(A) If the alleged offense was committed in the same county where certification is ordered, juvenile court jurisdiction terminates immediately and the prosecuting attorney shall file an appropriate adult criminal complaint at or before the time of the next appearance of the child that is stated in the certification order pursuant to Rule 18.07, subdivision 2(A)(4).

(B) If the alleged offense was committed in a county other than where certification is ordered, juvenile court jurisdiction terminates in five (5) days or before if the prosecuting attorney files a complaint as provided under Minn. R. Crim. P. 2. If juvenile court jurisdiction has terminated under this subsection before an appearance of a detained child following issuance of an order certifying the case, the appearance shall constitute a first appearance in criminal proceedings as provided in the Minnesota Rules of Criminal Procedure. If juvenile court jurisdiction has not terminated by the time a detained juvenile first appears following issuance of an order certifying, the juvenile court shall determine conditions of release in accordance with the provisions of Minn. R. Crim. P. 5.01(d) and 6.02; for these purposes, the juvenile court petition shall serve in lieu of a criminal complaint as the charging instrument.

Subd. 3. Stay. Notwithstanding the preceding provisions of subdivisions 1 and 2, certification and the termination of juvenile court jurisdiction may be stayed as provided in Rule 21.03, subdivision 3. A motion for stay of the certification order pending appeal shall first be heard by the juvenile court.

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

18.09 Withdrawal of Waiver of Certification Hearing

Subdivision 1. General Procedure. A child may bring a motion to withdraw the waiver of certification hearing and stipulation to certification order:

(A) within fifteen (15) days of the filing of the order for certification, upon showing that it is fair and just to do so; or

(B) at any time prior to trial, upon showing that withdrawal is necessary to correct a manifest injustice.

The motion shall be made in the juvenile court that entered the certification order. A motion shall also be filed for a stay of proceedings in the adult court to which the case was certified.

Subd. 2. Basis for Motion. The motion shall state with particularity one of the following bases for granting withdrawal of waiver:

(A) the waiver was not knowingly, voluntarily, and intelligently made;

(B) the child alleges ineffective assistance of counsel; or

(C) withdrawal of waiver is appropriate in the interests of justice.

Subd. 3. Timing and Effect of Hearing. A hearing shall be held within fifteen (15) days of the filing of the motion. Following the hearing, if the court grants the motion to withdraw the waiver of certification hearing: 1) the court shall vacate the order for certification, and proceedings will resume in juvenile court pursuant to Rule 18; and 2) the court shall review the order for custody or conditions of release. If the court denies the motion to withdraw the waiver for certification hearing, the certification order shall remain in effect, and proceedings will resume in adult court.

(Added 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 18

Pursuant to Minnesota Statutes 2002, section 260B.125, subdivision 6, on a proper motion, the court may hold a certification hearing for an adult charged with a juvenile offense if:

(1) the adult was alleged to have committed an offense before his or her 18th birthday; and

(2) a petition was timely filed under Minnesota Statutes 2002, sections 260B.141 and 628.26. The court may not certify the matter if the adult demonstrates that the delay was purposefully caused by the state in order to gain an unfair advantage. Minnesota Statutes 2002, section 260B.125, subdivision 6; see also *In re Welfare of A.N.J.*, 521 N.W.2d 889, 891 (Minn. Ct. App. 1994). Juvenile court retains jurisdiction to hear a certification motion filed after the child's 19th birthday provided a delinquency petition has been timely filed and the delay was not the result of an improper state purpose.

Much of the text of Minn. R. Juv. Del. P. 18.05 subd 1(A) is taken from Minnesota Statutes 2002, section 260B.163.

The sanction for delay in Minn. R. Juv. Del. P. 18.05 subd 1(B) and 18.07 subd 3 is modeled after Minn. R. Crim. P. 11.10, which as of January 1, 2010 is now Minn. R. Crim. P. 11.09. See *In re Welfare of J.J.H.*, 446 N.W.2d 680, 681-82 (Minn. Ct. App. 1989) (order issued 66 days after hearing, 38 days after submission of written argument; because rule contains no sanction, reversal denied). See also *McIntosh v. Davis*, 441 N.W.2d 115 (Minn. 1989) (where alternative remedies available, mandamus not appropriate to enforce time limit of Minn. R. Crim. P. 11.10 speedy trial rule).

On continuation questions under Minn. R. Juv. Del. P. 18.05 subd 1(B), the victim should have input but does not have the right of a party to appear and object.

Most of the waiver language in Minn. R. Juv. Del. P. 18.05 subd 1(C) is taken from the 1983 version of Minn. R. Juv. Del. P. 15.03.

Minn. R. Juv. Del. P. 18.05 subd 2(B) requires a determination on appearances of necessary persons. Under Minnesota Statutes 2002, section 260B.163, subdivision 7, the custodial parent or guardian of the child who is the subject of the certification proceedings must accompany the child at each hearing, unless the court excuses the parent or guardian from attendance for good cause shown. The failure of a parent or guardian to comply with this duty may be punished as provided in Minnesota Statutes 2002, section 260B.154.

Much of the content of Minn. R. Juv. Del. P. 18.05 subd 3 is modeled after Minn. R. Crim. P. 11.04 and 18.05 subd 1. The court may employ police statements for probable cause determinations in the same manner as permitted in adult proceedings under Minn. R. Crim. P. 11.04. Also note *In re Welfare of E.Y.W.*, 496 N.W.2d 847, 850 (Minn. Ct. App. 1993) (juvenile not entitled to exclusionary hearing before decision on probable cause).

Minn. R. Juv. Del. P. 18.05 subd 3 and 18.07 subd 2(A)(2) eliminate the need for a probable cause finding when a delinquency accusation is presented by an indictment. Accusation by indictment is uncommon, but might occur more often as the result of grand jury proceedings conducted after 1994 statutory amendments on the question of whether a juvenile is to be accused of first degree murder in adult proceedings. See Minnesota Statutes 2002, section 260B.007, subdivision 6. Minn. R. Juv. Del. P. 18.05 subd 4(B) is consistent with case law. Because the certification question is dispositional in nature, strict application of the rules of evidence is thought to be inappropriate. Minn. R. Juv. Del. P. 18.05 does not address the consequences of the child's testimony at a hearing.

See Simmons v. United States, 390 U.S. 377 (1968) and State v. Christenson, 371 N.W.2d 228 (Minn. Ct. App. 1985). Cf. Harris v. New York, 401 U.S. 222 (1971).

When a child waives probable cause solely for the purpose of certification, that waiver does not preclude the child from litigating probable cause in a subsequent prosecution on the underlying offense.

Following presentation of evidence by the party with the burden of proof under Minn. R. Juv. Del. P. 18.05 subd 4(C) or (D), the adverse party may move the court for directed relief on the grounds that the burden of proof has not been met by the evidence presented.

*The determination under Minn. R. Juv. Del. P. 18.06 subd 1 whether an offense would result in a presumptive commitment to prison under the Minnesota Sentencing Guidelines should be analyzed pursuant to those guidelines. The public safety factors listed in Rule 18.06 subd 3 mirror those set forth in Minnesota Statutes, section 260B.125, subdivision 4, and eliminate the need for non-offense related evidence of dangerousness. See *In re Welfare of D.M.D.*, 607 N.W.2d 432 (Minn. 2000).*

Under Minnesota Statutes 2002, sections 260B.101, subdivision 2, 260B.007, subdivision 6, paragraph (b), and 260B.125, subdivision 10, the accusation of first degree murder by a 16 or 17 year old child takes the case out of the delinquency jurisdiction of the juvenile court. If this accusation is first made by complaint, and is followed by an indictment that does not accuse the child of first degree murder but of some other crime, the proceedings come within the exclusive jurisdiction of the juvenile court, but subject to action of the juvenile court on any motion for certification of the proceedings to adult court. In these circumstances, the juvenile court would deal with an accusation by indictment in the same fashion as proceedings might otherwise occur on a juvenile court petition. Once adult court proceedings begin on an indictment for first degree murder, regardless of the ultimate conviction, the proceedings remain within adult court jurisdiction. Indictments may be received by any district court judge including one sitting in juvenile court.

*Under Minn. R. Crim. P. 17.01, first degree murder cases are prosecuted by an indictment, but the proceedings can begin by complaint. *State v. Behl*, 564 N.W.2d 560 (Minn. 1997). As a result, the prosecuting attorney can initiate a first degree murder accusation in adult court proceedings.*

Minn. R. Juv. Del. P. 18.02 subd 2 repeats the procedural requirement stated in Minnesota Statutes 2002, section 260B.125, subdivision 9.

Rule 18 previously contained a provision that allowed jail credit for time spent in custody in connection with the offense or behavioral incident on which further proceedings are to occur. See Minn. R. Juv. Del. P. 18.06 subd 1(D) (repealed 2003). That provision was deleted because jail credit is awarded at the time of sentencing in adult court, and is thus governed by the Minnesota Rules of Criminal Procedure, not the Minnesota Rules of Juvenile Procedure. See Minn. R. Crim. P. 27.03 subd 4(B).

References in this rule to "child's counsel" include the child who is proceeding pro se. Minn. R. Juv. Del. P. 1.01.