

STATE OF MINNESOTA

IN SUPREME COURT

C1-01-927

**ORDER PROMULGATING AMENDMENTS TO THE
RULES OF JUVENILE PROTECTION PROCEDURE
AND THE RULES OF ADOPTION PROCEDURE**

The Supreme Court Advisory Committee on the Rules of Juvenile Protection Procedure has recommended certain amendments to the Rules of Juvenile Protection Procedure and the Rules of Adoption Procedure.

The court has reviewed the proposals and is advised in the premises.

IT IS ORDERED that:

1. The attached amendments to the Rules of Juvenile Protection Procedure and the Rules of Adoption Procedure be, and the same are, prescribed and promulgated to be effective on July 1, 2007.
2. These amendments shall apply to all actions or proceedings pending on or commenced on or after the effective date.
3. The inclusion of Advisory Committee comments is made for convenience and does not reflect court approval of the comments.

Dated: June 26, 2007

OFFICE OF
APPELLATE COURTS

JUN 26 2007

FILED

BY THE COURT:



Russell A. Anderson
Chief Justice

AMENDMENTS TO THE RULES OF JUVENILE PROTECTION PROCEDURE

EFFECTIVE JULY 1, 2007

*Note to publishers: Deletions are indicated by a line drawn through the words;
additions are underlined.*

Rule 10.03. Method and Timing of Service; Persons to be Served

Service of court orders shall be made by the court administrator upon each party, the county attorney, and such other persons as the court may direct, and may be made by delivery at the hearing, by U.S. Mail, or as otherwise directed by the court. If a party is represented by counsel, delivery or service shall be upon counsel. If service of the summons was by publication and the person has not appeared either personally or through counsel, service of court orders upon the person is not required. Service of the order by the court administrator must be accomplished within five (5) days of the date the judicial officer delivers the order to the court administrator.

Rule 22.01. Participant Status

Unless already a party pursuant to Rule 21, or unless otherwise specified, participants to a juvenile protection matter shall include:

- (a) the child;
- (b) any parent who is not a legal custodian and any alleged, adjudicated, or presumed father;
- (c) the responsible social services agency, when the responsible social services agency is not the petitioner;
- (d) any guardian ad litem for the child's legal custodian;
- (e) grandparents with whom the child has lived within the two (2) years preceding the filing of the petition;
- (f) relatives or other persons providing care for the child and other relatives who request notice;

(g) current foster parents, ~~and~~ persons proposed as long-term foster care parents, and persons proposed as pre-adoptive parents;

(h) the spouse of the child, if any; and

(i) any other person who is deemed by the court to be important to a resolution that is in the best interests of the child.

Rule 22.02. Rights of Participants

Subd. 1. Generally. Unless a participant intervenes as a party pursuant to Rule 23, or is joined as a party pursuant to Rule 24, the rights of a participant shall be limited to:

(a) notice and a copy of the petition pursuant to Rule 32;

(b) attending hearings pursuant to Rule 27; and

(c) offering information at the discretion of the court, except as provided in subdivision 2.

Subd. 2. Foster Parents, Pre-Adoptive Parents, and Relatives Providing Care. Notwithstanding subdivision 1, any foster parent, pre-adoptive parent, relative providing care for the child, or relative to whom the responsible social services agency recommends transfer of permanent legal and physical custody of the child; shall have a right ~~be provided an opportunity~~ to be heard in any hearing regarding the child. Any other relative may request an opportunity to be heard. This subdivision does not require that a foster parent, pre-adoptive parent, or relative providing care for the child be made a party to the matter. Each party and the county attorney shall be provided an opportunity to respond to any presentation by a foster parent, pre-adoptive parent, or relative.

Rule 26.01. Appointment for Child

Subd. 1. Mandatory Appointment Generally Required. Pursuant to the procedures set forth in the Rules of Guardian Ad Litem Procedure in Juvenile and Family Court, the court shall issue an order appointing a guardian ad litem to advocate for the best interests of the child in each child in need of protection or services matter,

termination of parental rights matter, and other permanent placement matter, ~~and adoption matter~~ where such appointment is mandated by Minnesota Statutes § 260C.163, subd. 5. If the court has issued an order appointing a person as a guardian ad litem in a child in need of protection or services matter, the court may, but is not required to, issue an order reappointing the same person in the termination of parental rights or other permanent placement matter. An appointment order is required only if a new person is being appointed as guardian ad litem.

Rule 34.03. Hearing Procedure

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Subd. 3. Termination of Parental Rights Matters.

(a) In each termination of parental rights matter, after completing the initial inquiries set forth in subdivision 1, the court shall determine whether the petition states a prima facie case in support of one or more statutory grounds set forth in the petition to terminate parental rights and a prima facie showing that a juvenile protection matter exists and that the child is the subject of the matter. The court shall dismiss the petition if it finds that the petition fails to establish a prima facie showing that a juvenile protection matter exists and that the child is the subject of that matter.

Rule 39.05. Decision

Subd. 1. Generally. Within fifteen (15) days of the conclusion of the trial, the court shall make a finding and issue an order regarding whether the statutory grounds set forth in the petition have or have not been proved. The court may extend this period for an additional fifteen (15) days if the court finds that an extension of time is required in the interests of justice and the best interests of the child. ~~For good cause, the court may extend this period for an additional fifteen (15) days.~~ The trial is not considered completed until written arguments, if any, are submitted or the time for submission of written arguments has expired. The court shall dismiss the petition if the statutory grounds have not been proved.

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Subd. 3. Termination of Parental Rights Matters.

(a) **Generally.** Within fifteen (15) days of the conclusion of the trial, the court shall make a finding that the statutory grounds set forth in the petition have or have not been proved. The court may extend this period for an additional fifteen (15) days if the court finds that an extension of time is required in the interests of justice and the best interests of the child. If the court finds that the statutory grounds set forth in the petition are not proved, the court shall dismiss the petition or determine that the child is in need of protection or services and schedule further proceedings pursuant to Rule 40. If the court finds that the statutory grounds set forth in the petition are proved, the court may terminate parental rights. The findings and order shall be filed with the court administrator who shall proceed pursuant to Rule 10.

Rule 47.03. Application for Stay of Trial Court Order

The service and filing of a notice of appeal does not stay the order of the juvenile trial court. The order of the juvenile court shall stand pending the determination of the appeal, but the juvenile reviewing court may in its discretion and upon application stay the order. If the juvenile court denies an application for stay pending appeal, upon motion, a stay may be granted by the court of appeals.

AMENDMENTS TO THE RULES OF ADOPTION PROCEDURE

EFFECTIVE JULY 1, 2007

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Rule 35.05. Content

Subd. 1. Case Caption. In all adoption proceedings, except as otherwise stated in this subdivision, the case caption shall be “In Re the Petition of _____ and _____ (petitioners) to adopt _____ (child’s birth name).” In proceedings commenced before the birth of the child being adopted, the case caption shall be “In Re the Petition of _____ and _____ (petitioners) to adopt _____ (unborn child of _____).”

Subd. 2-4. Allegations. An adoption petition may be filed regarding one or more children, shall be verified by the petitioner upon information and belief, and shall allege:

(a) the full name, age, and place of residence of the petitioner, except as provided in Rule 7;

(b) if married, the date and place of marriage, and the name of any parent who will retain legal rights;

(c) the date the petitioner acquired physical custody of the child and from what person or agency or, in the case of a stepparent adoption or adoption by an individual related to the child as defined in Rule 2.01(o), the date the petitioner began residing with the child;

(d) the date of birth of the child, if known, and the county, state, and country where born;

(e) the name of the child’s parents, if known, and the legal custodian or legal guardian if there be one;

(f) the actual name of the child, if known, and any known aliases;

(g) the name to be given the child, if a change of name is desired;

(h) the description and value of any real or personal property owned by the child;

(i) the relationship of the petitioner to the child, if any;

(j) whether the Indian Child Welfare Act does or does not apply;

(k) the name and address of the parties identified in Rule 20;

(l) whether the child has been placed with petitioner for adoption by an agency and, if so, the date of the adoptive placement; and

(m) that the petitioner desires that the relationship of parent and child be established between petitioner and the child, and that it is in the best interests of the child to be adopted by the petitioner.

Subd. ~~3~~-2. Exception to Content. In agency placements, the information required in subdivision ~~2~~-1(e) and (f) shall not be required to be alleged in the petition but shall be provided to the court by the Commissioner of Human Services. In the case of an adoption by a stepparent, the parent who is the stepparent's spouse shall not be required to join the petition.

Subd. ~~4~~-3. Attachments. The following shall be filed with the petition:

(a) the adoption study report required under Rule 37;

(b) any biological parent history required under Minnesota Statutes § 259.43, except if the petitioner is the child's stepparent;

(c) the request, if any, under Rule 38.04 to waive the post-placement assessment report and background check; and

(d) proof of service.

Subd. ~~5~~-4. Other Documents to be Filed. The following shall be filed with the court prior to finalization of the adoption:

(a) a certified copy of the child's birth record;

(b) a certified copy of the findings and order for termination of parental rights, if any;

(c) a copy of the communication or contact agreement, if any;

(d) certification that the Minnesota Fathers' Adoption Registry has been searched as required under Rule 32;

(e) the original of each consent to adoption required under Rule 33; and

(f) the post-placement assessment report required under Rule 38.

Subd. 6-5. Missing Information. If any information required by subdivision 2-4 or 3-2 is unknown at the time of the filing of the petition, as soon as such information becomes known to the petitioner it shall be provided to the court and parties either orally on the record, by sworn affidavit, or by amended petition. If presented orally on the record, the court shall annotate the petition to reflect the updated information.

Subd. 7-6. Acceptance Despite Missing Information. The court administrator shall accept a petition for filing even if, on its face, the petition appears to be incomplete or does not include all information specified in subdivision 2-4 and 3-2. The presiding judge shall determine whether the petition complies with the requirements of these rules.