

CHAPTER 18
ADOPTION PROCEEDINGS

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	PROCEDURE	AUTHORITY
	VENUE	
18.01	<p>VENUE</p> <p>A. GENERALLY. Except as provided in subdivision 2, venue for an adoption proceeding shall be the county of the petitioner's residence.</p> <p>B. CHILD UNDER GUARDIANSHIP OF COMMISSIONER. Venue for the adoption of a child committed to the guardianship of the Commissioner of Human Services shall be the county with jurisdiction in the TPR matter according to Minnesota Statutes § 260C.317, subd. 3.</p>	<p>RJPP 49.01, subd. 1</p> <ul style="list-style-type: none"> ● RJPP 49.01, subd. 2 ● Minn. Stat. 260C.317, subd. 3
18.02	<p>REQUEST TO TRANSFER VENUE</p> <p>Upon the petitioner's motion, the Court with jurisdiction over the TPR matter may transfer venue of an adoption proceeding involving a child under the guardianship of the Commissioner of Human Services to the county of the petitioner's residence upon determining that:</p> <ol style="list-style-type: none"> 1. the Commissioner of Human Services has given consent to the petitioner's adoption of the child or that consent is unreasonably withheld; 2. there is no other adoption petition for the child that has been filed or is reasonably anticipated by the Commissioner of Human Services or the Commissioner's delegate to be filed; and 3. transfer of venue is in the best interests of the child. 	RJPP 49.02
18.03	<p>TRANSFER OF VENUE PROCEDURES</p> <p>If the court grants a motion to transfer venue, the court shall do so by ordering a continuance and by forwarding to the court administrator of the appropriate court a certified copy of all papers filed, together with an order of transfer. The transferring court also shall provide copies of the order of transfer to the Commissioner of Human Services and any agency participating in the proceedings. The judge of the receiving court shall accept the order of the transfer and any other documents transmitted and hear the case.</p>	RJPP 49.03
	ACCESS TO ADOPTION CASE RECORDS AND BIRTH RECORD INFORMATION	
18.04	<p>ACCESS TO ADOPTION CASE RECORDS LIMITED</p> <p>Adoption case records and files maintained by the court relating to adoption matters shall not be available for inspection or copying by any person except:</p> <ol style="list-style-type: none"> 1. the court and court personnel; 2. the Commissioner of Human Services or the Commissioner's representatives, including the responsible social services agency, local social services agency, or child placing agency; 3. an agency acting under Minnesota Statutes § 259.47, 	<ul style="list-style-type: none"> ● RJPP 7.01 ● Minn. Stat. § 259.61

	PROCEDURE	AUTHORITY
	<p>subd. 10; or</p> <p>18.05 Access to Adoption Case Records Limited (continued)</p> <p>4. upon an order of the court expressly permitting inspection and copying pursuant to a petition filed as provided in Rule 7.02.</p>	
18.05	<p>PETITION TO ACCESS ADOPTION CASE RECORDS AND BIRTH RECORD INFORMATION</p> <p>A. CONTENT OF PETITION. A person not listed in Rule 7.01 may only access adoption case records or birth record information relating to an adoption matter by filing with the court in the county which issued the final adoption decree a petition which sets forth the reasons why the person is requesting access to the case records or birth record information and shall include the following, if known:</p> <ol style="list-style-type: none"> 1. the procedural history of the adoption proceeding, including the date of adoption or of adoptive placement; 2. the names and addresses of all persons who may be affected by the request; 3. a factual statement about how granting the petitioner access to the adoption case records would be of greater benefit than not granting access; 4. the particular information sought, including whether the request for disclosure includes the name of the biological parent; 5. the date the petitioner contacted the Department of Health requesting identifying information on a birth record, if the petitioner is requesting identifying information in a birth record; and 6. the legal basis, if any, given to the petitioner by the Department of Health, the Department of Human Services, or agency responsible for supervising the adoptive placement for the Department's or agency's refusal to disclose the requested information. 	RJPP 7.02, Subd.1
18.06	<p>SERVICE OF PETITION TO ACCESS RECORDS</p> <p>A. REQUEST FOR ACCESS TO IDENTIFYING INFORMATION IN BIRTH RECORD – COMMISSIONER OF HEALTH. Where access to identifying information in the birth record is sought, the court administrator shall serve the petition on the Commissioner of Health by U.S. mail. Upon service of the petition on the Commissioner of Health, the Commissioner shall supply to the court any affidavit of notification it has from the Department of Human Services pursuant to Minnesota Statutes § 259.89 and any other information the Commissioner of Health has regarding the legal basis for its</p>	RJPP 7.02, subd. 2

	PROCEDURE	AUTHORITY
	<p>18.06 Service of Petition to access Records (continued)</p> <p>refusal to disclose the requested information, including whether:</p> <ol style="list-style-type: none"> 1. the biological parent has consented to disclosure of identifying information in the adoption record or birth record; 2. the biological parent has filed an affidavit objecting to the release of identifying information which remains unrevoked; and 3. the biological parent is living or deceased. <p>B. REQUEST FOR ACCESS TO AGENCY RECORDS – AGENCY SUPERVISING ADOPTIVE PLACEMENT. When access to records of the agency responsible for supervising the adoptive placement is requested, the court administrator shall serve the petition on the director of the agency by U.S. mail.</p> <p>C. OTHER PERSONS. The court may order the petition to be served on such other persons as are necessary to its determination regarding whether nondisclosure of the requested information is of greater benefit than disclosure. If the court orders service upon the biological parent when the biological parent's address is known to the Department or the agency, the court may order the Department or the agency to disclose the biological parent's name and address to the court administrator who shall maintain the information in a confidential manner and cause the petition to be served on the biological parent in a confidential manner by certified U.S. mail designated "deliver to addressee only."</p>	
18.07	<p>RECORD ACCESS IN STEPPARENT ADOPTION</p> <p>In a stepparent adoption, upon written request from a parent whose parental rights would be or have been severed by the adoption under Minnesota Statutes § 259.59, the court may confirm in writing whether or not the adoption decree has been granted, and if so, the date of the adoption decree.</p>	RJPP 7.03
18.08	<p>DISCLOSURE TO EMPLOYER AND MILITARY PROHIBITED</p> <p>Adoption case records and court files relating to adoption matters shall not be inspected, copied, disclosed, or released to the military services or to any present or prospective employer of the adopted person.</p>	RJPP 7.04

	PROCEDURE	AUTHORITY
18.09	<p>PROTECTIVE ORDER Upon motion, and for good cause shown, the court may at any time issue a protective order regarding any adoption case record or portion of such a record.</p>	RJPP 7.05
18.10	<p>SUITABILITY OF PROPOSED ADOPTIVE PARENTS A judge having jurisdiction over the adoption matter shall upon request disclose to a party to the proceedings or the party's counsel any portion of a report or record that relates only to the suitability of the proposed adoptive parents. In this disclosure, the judge may withhold the identity of individuals providing information in the report or record. When the judge is considering whether to disclose the identity of individuals providing information, the agency with custody of the report or record shall be permitted to present reasons for or against disclosure.</p>	<ul style="list-style-type: none"> ● RJPP 7.06 ● Minn. Stat. 259.53, subd. 3(b)
18.11	<p>RELEASE OF IDENTIFYING INFORMATION</p> <p>A. REQUEST FOR IDENTIFYING INFORMATION. After first accessing or attempting to access the requested information pursuant to Minnesota Statutes §§ 259.83 and 259.89, an adopted person who is age nineteen (19) or older may petition the court for release of identifying information about a biological parent.</p> <p>B. NOTICE TO BIOLOGICAL PARENT. Upon petition for release of identifying information under Rule 7.02, including service of the petition on the agency that supervised the adoptive placement, the court may order such agency to locate and identify the biological parent's current address, including contacting the biological parent in a confidential manner as required under Minnesota Statutes § 259.83. Pursuant to Minnesota Statutes § 259.83, the agency may charge the petitioner a reasonable fee for its efforts to locate the biological parent. Not later than ninety (90) days after the order, or sooner if exigent circumstances exist, the agency shall inform the court of the results of the search.</p> <p>C. BIOLOGICAL PARENT'S RESPONSE TO NOTICE.</p> <ol style="list-style-type: none"> 1. Biological Parent's Consent. If the biological parent has been located and consents to release of the identifying information, the petitioner shall advise the court when the requested identifying information is received at which time the court shall dismiss the petition. 2. Biological Parent's Refusal. If the biological parent refuses release of identifying information, including through an affidavit objecting to the release of 	<p>RJPP 7.07, subd. 1</p> <p>RJPP 7.07, subd. 2</p> <p>RJPP 7.07, subd. 3</p>

	PROCEDURE	AUTHORITY
	<p>identifying information under Minnesota</p> <p>18.11 Release of Identifying Information (continued)</p> <p>Statutes § 259.83, the agency shall inform the court of the parent's refusal. If the parent's address is known, it shall be provided to the court administrator who shall maintain it in a confidential manner. Upon receipt of the parent's address, the court shall serve a copy of the petition requesting release of information and any supporting documentation on the biological parent by certified U.S. Mail designated "deliver to addressee only".</p> <p>3. Biological Parent Cannot be Located. If the agency is unable to locate the biological parent's address, the agency shall inform the court about the efforts made to locate the parent's address. The court may then either direct the agency to conduct further search or grant the request for release of identifying information.</p> <p>D. Objection to Release of Identifying Information. A biological parent objecting to the release of identifying information shall have the opportunity to present evidence to the court that nondisclosure of identifying information is of greater benefit to the biological parent than disclosure to the adopted person. Such an objection shall be filed with the court within thirty (30) days of the contact and such objection shall be maintained by the court in a confidential manner.</p>	<p>RJPP 7.03, subd. 4</p>
18.12	<p>ACCESS TO ORIGINAL BIRTH RECORD INFORMATION</p> <p>A. ADOPTIONS PRIOR TO AUGUST 1, 1977. A person adopted prior to August 1, 1977, may petition the court for disclosure of the original birth record. The petition shall include information necessary for the court to make the decision required in subdivision 2. For adoptions occurring prior to August 1, 1977, and after consideration of the interests of all known persons involved, if the biological parent is deceased and the court determines that disclosure of the birth record information would be of greater benefit than nondisclosure, the court shall grant the petition and order the Commissioner of Health to disclose identifying information including the name of the biological parent on the original birth record.</p> <p>B. ADOPTIVE PLACEMENTS AFTER AUGUST 1, 1982. For adoptive placements made on or after August 1, 1982, and after consideration of the interests of all known persons involved, if a living biological parent has filed an unrevoked affidavit objecting to the release of identifying information and the court determines that disclosure of the birth record</p>	<p>RJPP 7.08, subd. 1 Minn. Stat. 259.89</p> <p>RJPP 7.08, subd. 2 Minn. Stat. § 259.83</p>

	PROCEDURE	AUTHORITY
	<p>information would be of greater benefit than nondisclosure,</p> <p>18.12 Access to Original Birth Record Information (continued)</p> <p>the court shall grant the petition and order the agency responsible for supervising the adoptive placement to disclose identifying information retained by the agency including the name of the biological parent, the biological parent's last known address, the birth date, and birth place of the biological parent named on the adopted person's original birth record.</p>	
	DEFAULT	
18.13	<p>DEFAULT</p> <p>If a party fails to appear, as that term is defined in Rule 5.01 of the Minnesota Rules of Civil Procedure, after being properly served with a notice pursuant to Rule 31, the court may take testimony in support of the petition. If the court determines that the petition is proven in accordance with the applicable standard of proof and the adoption is in the best interests of the child, the court shall enter an order granting the relief sought. The court shall not grant a default if a party was not served with notice within the time period set forth in Rule 31. The court shall not grant a default regarding the issue of consent to adopt.</p>	RJPP 18.01
	PARTIES	
18.14	<p>PARTIES</p> <p>Parties to an adoption matter shall include:</p> <ol style="list-style-type: none"> the child's guardian ad litem; the adoptee, if age ten (10) or older; the child's legal custodian; the child's legal guardian; the petitioner; the child's biological parent, if the consent of the biological parent is required and has not been executed; the child's Indian tribe, if the child is an Indian child and the tribe is or was a party in an underlying CHIPS or TPR matter; the responsible social services agency, if the child is under the guardianship of the Commissioner of Human Services; the child placing agency, if the child has been placed; any person who intervenes as a party; and any person who is joined as a party. 	RJPP 20.01
18.15	<p>INTERVENTION OF RIGHT</p> <p>A. CHILD. A child younger than age ten (10) who is the subject of the adoption matter has the right to intervene as a party at any point in the proceeding.</p>	RJPP 21.01, subd. 1

	PROCEDURE	AUTHORITY
	<p>18.15 Intervention of Right (Continued)</p> <p>B. INDIAN TRIBE. In any adoption matter relating to an Indian child, if the child's Indian tribe is not already a party pursuant to Rule 20.01(g), the child's tribe has the right to intervene as a party at any point in the proceeding.</p> <p>C. LOCAL SOCIAL SERVICES AGENCY. The local social services agency has the right to intervene as a party at any point in the proceeding.</p> <p>D. PROCEDURE. A child younger than age ten (10), the child's Indian tribe, or the local social services agency may intervene as a party by filing with the court and serving upon the parties a notice of intervention as a matter of right. The notice of intervention form shall be available from the court administrator. The intervention shall be deemed accomplished upon service of the notice of intervention, unless a party files and serves a written objection within ten (10) days of the date of service.</p>	<p>RJPP 21.01, subd. 2</p> <p>RJPP 21.01, subd. 3</p> <p>RJPP 21.01, subd. 4</p>
18.16	<p>PERMISSIVE INTERVENTION</p> <p>A. GENERALLY. Any person or agency may be permitted to intervene as a party if the court finds that such intervention is in the best interests of the child.</p> <p>B. PROCEDURE. A person or agency seeking permissive intervention shall file with the court and serve upon all parties a notice of motion and motion to intervene pursuant to Rule 15. The motion form shall be available from the court administrator and shall state the nature and extent of the person's interest in the child and the reason(s) that the person's intervention would be in the best interests of the child. A hearing on a motion to intervene shall be held within ten (10) days of the filing of the motion to intervene.</p>	<p>RJPP 21.03, subd. 1</p> <p>RJPP 21.03, subd. 2</p>
18.17	<p>EFFECT OF INTERVENTION</p> <p>The court may conduct hearings, make findings, and issue orders at any time before intervention is accomplished or denied. The intervention shall be effective as of the date accomplished or granted and shall not affect prior proceedings and decisions of the court, unless otherwise ordered by the court or required by the Indian Child Welfare Act, 25 U.S.C. § 1901 et seq.</p>	RJPP 21.04
18.18	<p>PARENT INTERVENTION PROHIBITED</p> <p>No parent who has executed a valid consent to the adoption or whose parental rights to the child who is the subject of the adoption petition have been terminated may intervene in an</p>	RJPP 21.02

	PROCEDURE	AUTHORITY
	adoption matter.	
	LEGAL REPRESENTATION AND GUARDIAN AD LITEM	
18.19	<p>APPOINTMENT OF COUNSEL</p> <p>A. ADOPTEE. In any adoption matter the court may appoint an attorney for the person being adopted. The court may inquire into the ability of the adopting parent to pay for the attorney's services and, after giving the adopting parent a reasonable opportunity to be heard, may order the adopting parent to pay the attorney's fees.</p> <p>B. PUTATIVE FATHER. Upon proof of indigency, a putative father who has registered with the Minnesota Fathers' Adoption Registry, has received a notice to registered putative father, and has timely filed an intent to claim paternal rights form with the court administrator, shall be appointed counsel at public expense.</p> <p>C. REPRESENTATION OF RESPONSIBLE SOCIAL SERVICES AGENCY. In any adoption matter in which the Commissioner of Human Services is the legal guardian for the child, the responsible social services agency shall be represented by its county attorney.</p>	<ul style="list-style-type: none"> ● RJPP 23.02, subd. 1 ● Minn. Stat. § 259.65 ● RJPP 23.02, subd. 2 ● Minn. Stat. § 259.52 RJPP 23.03
18.20	<p>BIOLOGICAL PARENT COUNSEL IN DIRECT PLACEMENT ADOPTION</p> <p>A. RIGHT TO COUNSEL. Pursuant to Minnesota Statutes § 259.47, subd. 5, in a direct placement adoption, upon the request of a biological parent, separate legal counsel shall be made available to the biological parent at the expense of the prospective adoptive parents for legal services provided in a direct placement adoption. The prospective adoptive parent shall be required to provide legal counsel for only one parent unless the biological parents elect joint legal representation.</p> <p>B. WAIVER OF RIGHT TO COUNSEL. A biological parent may waive the right to counsel only by written waiver signed and filed with the court at the time the biological parent's consent to the adoption is executed pursuant to Minnesota Statutes § 259.47, subd. 7.</p> <p>C. EXPIRATION OF RIGHT TO COUNSEL. The right to legal counsel shall continue until consents become irrevocable, but not longer than seventy (70) days after placement. If the parent's consent to adoption has not been executed within sixty (60) days of placement, the right to counsel under Rule 23 and Minnesota Statutes § 259.47, subd. 5, shall end</p>	<p>RJPP 23.04, subd. 1</p> <p>RJPP 23.04, subd. 2</p> <p>RJPP 23.04, subd. 3</p>

	PROCEDURE	AUTHORITY
	<p>at that time.</p> <p>18.20 Biological Parent Counsel in Direct Placement Adoption (continued)</p> <p>D. DUAL REPRESENTATION PROHIBITED. Representation of a biological parent and a prospective adoptive parent by the same attorney is prohibited.</p>	RJPP 23.04, subd. 4
18.21	<p>APPOINTMENT OF COUNSEL IN ADOPTION INVOLVING AN INDIAN CHILD</p> <p>A. PARENT OR INDIAN CUSTODIAN. In any case in which the court determines indigency, the parent or Indian custodian shall have the right to court appointed counsel in any removal, placement, or termination proceeding.</p> <p>B. INDIAN CHILD. The court may, in its discretion, appoint counsel for an Indian child upon a finding that such appointment is in the best interests of the child.</p>	<p>RJPP 23.07, subd. 1</p> <p>RJPP 23.07, subd. 2</p>
18.22	<p>GUARDIAN AD LITEM APPOINTMENT</p> <p>A guardian ad litem appointed to serve in a CHIPS or TPR or other permanency matter shall continue to serve in the adoption matter following a TPR or transfer of guardianship to the Commissioner of Human Services. In any other adoption matter, the court may appoint a guardian ad litem. The guardian ad litem shall advocate for the best interests of the child and shall continue to serve until the adoption decree is entered.</p>	<ul style="list-style-type: none"> ● RJPP 24.01 ● Minn. Stat. § 259.65
COMMENCEMENT OF ADOPTION MATTER		
18.23	<p>COMMENCEMENT</p> <p>A. GENERALLY. An adoption matter is commenced by filing:</p> <ol style="list-style-type: none"> 1. a motion for a direct placement preadoptive custody order pursuant to Rule 29; 2. an adoption petition; or 3. a motion for waiver of agency placement pursuant to Minnesota Statutes § 259.22, subd 2(d). <p>B. POST-PERMANENCY REVIEW HEARINGS CONTINUE. The filing of an adoption petition does not terminate the in-court review hearings required at least every ninety (90) days under Rule 41.06 of the Minnesota Rules of Juvenile Protection Procedure.</p>	<p>RJPP 26.01</p> <p>RJPP 26.02</p>
18.24	<p>DIRECT PLACEMENT ADOPTION</p> <p>A. NOTICE OF MOTION AND MOTION FOR A PREADOPTIVE CUSTODY ORDER. In a direct placement adoption, whether involving an emergency or non-emergency situation, the petitioner shall file with the court and serve a notice of motion and motion for a preadoptive custody order upon:</p> <ol style="list-style-type: none"> 1. the biological mother; 	RJPP 29.01

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	<p>2. the biological father if his consent is required;</p> <p>18.24 Direct Placement Adoption (continued)</p> <p>3. any parent whose consent is required; and</p> <p>4. the Indian tribe, if the child is an Indian child.</p> <p>B. TIMING OF MOTION. A notice of motion and motion for a preadoptive custody order may be filed up to sixty (60) days before the adoptive placement is to be made and may be filed prior to the birth of the baby.</p> <p>C. CONTENT OF MOTION</p> <p>1. Non-Emergency Direct Placement. In a non-emergency situation, a notice of motion and motion for a preadoptive custody order in a direct placement adoption shall be in writing and shall contain or have attached:</p> <p>(a) a statement that the biological parents have:</p> <p>(1) provided the social and medical history to the prospective adoptive parent using the form prescribed by the Commissioner of Human Services;</p> <p>(2) received a written statement of their legal rights and responsibilities prepared by the Department of Human Services; and</p> <p>(3) been notified of their right to receive counseling;</p> <p>(b) the name of the agency chosen by the adoptive parent to supervise the adoptive placement and complete the post-placement assessment;</p> <p>(c) affidavits from the biological parents stating their support of the motion or, if there is no affidavit from the biological father, an affidavit from the biological mother that describes her good faith efforts, or efforts made on her behalf, to identify and locate the biological father for purposes of securing his consent. In the following circumstances the biological mother may instead submit an affidavit stating on which of the following grounds she is exempt from making efforts to identify and locate the father:</p> <p>(1) the child was conceived as the result of incest or rape;</p> <p>(2) efforts to locate the biological father by the affiant or anyone acting on the affiant's behalf could reasonably result in physical harm to the biological mother or the child; or</p>	<p>RJPP 29.02</p> <p>RJPP 29.03, subd. 1</p>

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	<p>18.24 Direct Placement Adoption (continued)</p> <ul style="list-style-type: none"> (3) efforts to locate the biological father by the affiant or anyone acting on the affiant's behalf could reasonably result in severe emotional distress of the biological mother or child; (d) a statement that the prospective adoptive parent meets the residence requirements; (e) an affidavit of intent to remain a resident of the state for at least three (3) months after the child is placed in the prospective adoptive home; (f) a notice of intent to file an adoption petition; (g) the adoption study report required pursuant to Rule 37; (h) an itemized statement of expenses that have been paid and an estimate of expenses that will be paid by the prospective adoptive parents to the biological parents, any agency, attorney, or other party in connection with the prospective adoption; and (i) the name of counsel for each party, if any. <p>2. Emergency Direct Placement. In an emergency situation, a notice of motion and motion for a preadoptive custody order in a direct placement adoption shall be in writing and shall contain or have attached:</p> <ul style="list-style-type: none"> (a) affidavits from the prospective adoptive parents and biological parents stating that an emergency order is needed because of the unexpected premature birth of the child or other extraordinary circumstances which prevented the completion of the requirements under subdivision 1; (b) affidavits from the biological parents stating their support of the motion or, if there is no affidavit from the biological father, an affidavit from the biological mother that describes her good faith efforts, or efforts made on her behalf, to identify and locate the biological father for purposes of securing his consent. In the following circumstances the biological mother may instead submit an affidavit stating on which of the following grounds she is exempt from making efforts to identify and locate the father: 	<p>RJPP 29.03, subd. 2</p>

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	<p>18.24 Direct Placement Adoption (continued)</p> <ul style="list-style-type: none"> (1) the child was conceived as the result of incest or rape; (2) efforts to locate the father by the affiant or anyone acting on the affiant's behalf could reasonably result in physical harm to the biological mother or child; or (3) efforts to locate the father by the affiant or anyone acting on the affiant's behalf could reasonably result in severe emotional distress of the biological mother or child; <p>(c) a statement that the biological parents:</p> <ul style="list-style-type: none"> (1) have received the written statement of their legal rights and responsibilities prepared by the Department of Human Services; and (2) have been notified of their right to receive counseling; and (3) either: <ul style="list-style-type: none"> (4) the adoption study report pursuant to Rule 37; or (5) sworn affidavits stating whether the prospective adoptive parents or any person residing in the household has been convicted of a crime. <p>D. DECISION AND ORDER</p> <ol style="list-style-type: none"> 1. Non-Emergency Direct Placement. In a non-emergency situation, the court shall decide a motion for a preadoptive custody order within thirty (30) days of the filing of the motion or by the anticipated placement date stated in the motion, whichever is earlier. 2. Emergency Direct Placement. <ol style="list-style-type: none"> (a) Expedited Emergency Order. An order granting or denying a motion for an emergency preadoptive custody order shall be issued within twenty-four (24) hours of the time it is filed. Any district court judge may decide a motion for emergency preadoptive custody. An order granting the motion shall direct that an adoption study be commenced immediately, if that has not already occurred, and that the agency conducting the study shall supervise the emergency placement. 	<p>RJPP 29.04, subd. 1</p> <p>RJPP 29.04, subd. 2</p>

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	<p>18.24 Direct Placement Adoption (continued)</p> <p>(b) Expiration of Emergency Order. A court may issue an emergency order granting preadoptive custody of a child to a prospective adoptive parent for up to fourteen (14) days. An emergency order expires fourteen (14) days after it is issued. If the requirements for direct placement under this Rule are completed and a preadoptive custody motion is filed on or before the expiration of the emergency order, placement may continue until the court decides on the motion. The court shall decide the preadoptive custody motion within seven (7) days of filing.</p>	RJPP 29.04, subd. 2
18.25	<p>INTERCOUNTRY ADOPTIONS</p> <p>A. ADOPTION OF A CHILD BY A RESIDENT OF MINNESOTA UNDER THE LAWS OF A FOREIGN COUNTRY. The adoption of a child by a resident of Minnesota under the laws of a foreign country is valid and binding under the laws of Minnesota if the validity of the foreign adoption has been verified by the granting of an IR-3 visa for the child by the United States Citizenship and Immigration Services.</p> <p>B. New Birth Record.</p> <p>1. Petition. The adoption of a child under the laws of a foreign country is valid in Minnesota pursuant to Rule 30.01 and the petitioner may petition the court in petitioner's county of residence for a decree:</p> <ul style="list-style-type: none"> (a) confirming and recognizing the adoption; (b) changing the child's legal name, if requested; and (c) authorizing the Commissioner of Health to create a new birth record for the child pursuant to Minnesota Statutes § 144.218, subd. 2. <p>2. Documents to be Submitted. The court shall issue the decree upon receipt of the following documents:</p> <ul style="list-style-type: none"> (a) a signed, sworn, and notarized petition by the adoptive parent: <ul style="list-style-type: none"> (1) stating that the adoptive parent completed the adoption of the child under the laws of a foreign county; (2) stating that the adoption is valid in this state under Rule 30.01; and (3) requesting that the court issue a decree confirming and recognizing the adoption and authorizing the Commissioner of Health to issue 	<p>RJPP 30.01</p> <p>RJPP 30.01, subd. 1</p> <p>RJPP 30.01, subd. 2(a)</p> <p>RJPP 30.01, subd. 2(b)</p>

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	<p>a new birth record for the child;</p> <p>18.25 Intercountry Adoptions (continued)</p> <p>(b) a copy of the child's original birth record, if available;</p> <p>(c) a copy of the final adoption certificate or equivalent as issued by the foreign jurisdiction;</p> <p>(d) a copy of the child's passport, including the United States visa indicating IR-3 immigration status; and</p> <p>(e) a certified English translation of any of the documents listed in (b) through (d) above.</p> <p>3. Action Upon Issuance of Adoption Decree. Upon issuing an adoption decree, the court shall forward a copy of the adoption decree to the Commissioner of Human Services. The court shall also complete and forward to the Commissioner of Health the certificate of adoption, unless another form has been specified by the Commissioner of Health.</p>	RJPP 30.01, subd. 3
18.26	<p>ADOPTION UNDER THE LAWS OF MINNESOTA OF A CHILD BORN IN ANOTHER COUNTRY</p> <p>A. AGENCY ADOPTION. An adoption of a child placed by an agency shall be commenced by the filing of a petition or other document pursuant to Rule 35 and thereafter shall proceed pursuant to Rule 28 dealing with agency adoptions.</p> <p>B. DIRECT PLACEMENT ADOPTION. A direct placement adoption of a child born in another country shall be commenced by the filing of a petition or other document pursuant to Rule 35 and thereafter shall proceed pursuant to Rule 29 dealing with direct placement adoptions.</p> <p>C. POST-ADOPTION REPORT. If a child is adopted by a resident of Minnesota under the laws of a foreign country or if a resident of Minnesota brings a child into the state under an IR-3 or IR-4 visa issued for the child by the United States Citizenship and Immigration Services, the post-adoption reporting requirements of the country in which the child was adopted, applicable at the time of the child's adoption, shall be given full faith and credit by the courts of Minnesota and apply to the adoptive placement of the child.</p>	<p>RJPP 30.02, subd. 1</p> <p>RJPP 30.02, subd. 2</p> <p>RMPP 30.03</p>

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	NOTICE OF FINAL HEARING OR TRIAL	
18.27	<p>NOTICE</p> <p>A. Definition. A notice of hearing is a document providing notice of the specific date, time and place of a hearing or trial upon an adoption petition.</p> <p>B. Upon Whom. A notice of hearing shall be served by the petitioner upon:</p> <ol style="list-style-type: none"> 1. all parties under Rule 20; 2. the parent of a child if: <ol style="list-style-type: none"> (a) the person's name appears on the child's birth record as a parent; (b) the person has substantially supported the child; (c) the person either was married to the person designated on the birth record as the biological mother within the 325 days before the child's birth or married that person within the ten (10) days after the child's birth; (d) the person is openly living with the child or the person designated on the birth record as the biological mother of the child, or both; (e) the person has been adjudicated the child's parent; (f) the person has filed a paternity action within thirty (30) days after the child's birth and the action is still pending; or (g) the person and the mother of the child signed a declaration of parentage before August 1, 1995, which has not been revoked or a recognition of parentage which has not been revoked or vacated; 3. a person who has timely registered pursuant to Minnesota Statutes § 259.52; 4. the responsible social services agency; 5. any parent who has abandoned the child or who has lost custody of the child through a divorce decree or dissolution of marriage; and 6. the child's Indian tribe, if the child is an Indian child. 	<p>RJPP 31.01, subd. 1</p> <p>RJPP 31.01, subd. 2</p>
18.28	<p>NOTICE NOT REQUIRED</p> <p>Without express order of the court, a notice of the hearing shall not be served upon:</p> <ol style="list-style-type: none"> 1. persons whose parental rights have been terminated; 2. persons who have not timely registered pursuant to Minnesota Statutes § 259.52; 3. persons who have waived notice of hearing pursuant to Minnesota Statutes § 259.49, subd. 1; 	RJPP 31.02

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	<p>18.28 Notice Not Required (continued)</p> <p>4. a putative father who has timely registered with the Minnesota Fathers' Adoption Registry pursuant to Minnesota Statutes § 259.52, but who fails to timely file an intent to claim parental rights form with the court; and</p> <p>5. a putative father who has registered with the Minnesota Fathers' Adoption Registry pursuant to Minnesota Statutes § 259.52 and who has filed a completed denial of paternity form and a consent to adoption form.</p>	
18.29	<p>CONTENT OF NOTICE OF HEARING</p> <p>A notice of hearing shall contain or have attached:</p> <ol style="list-style-type: none"> 1. an adoption petition; 2. a statement setting forth the time and place of the hearing; 3. a statement describing the purpose of the hearing as either: <ol style="list-style-type: none"> a. a final hearing if it is an uncontested adoption matter; or b. a pretrial conference if it is a contested adoption matter; 4. an explanation of the right to representation; 5. an explanation of intervention; 6. an explanation that if the person fails to appear at the hearing, the court may still conduct the hearing and grant the adoption; and 7. a statement explaining that it is the responsibility of the individual to notify the court administrator of any change of address. 	RJPP 31.03
18.30	<p>TIMING OF SERVICE OF NOTICE OF HEARING</p> <p>A notice of hearing shall be served, within or without the state, at least ten (10) days before the date of a final hearing in an uncontested matter and at least thirty (30) days before the date of the commencement of the trial in a contested matter.</p>	RJPP 31.04, subd. 1
MINNESOTA FATHERS' ADOPTION REGISTRY		
18.31	<p>REQUIREMENT TO SEARCH MINNESOTA FATHERS' ADOPTION REGISTRY BEFORE ADOPTION PETITION GRANTED</p> <p>A. REQUIREMENT TO SEARCH REGISTRY. Except for intercountry adoptions, an adoption petition for a child born on or after January 1, 1998, shall not be granted unless the Minnesota Fathers' Adoption Registry has been searched to determine whether a putative father is registered in relation to the child who is the subject of the adoption petition. The search shall be conducted no sooner than thirty-one (31) days following the birth of the child.</p>	RJPP 32.01, subd. 1

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	<p>18.31 Requirement to Search Fathers' Adoption Registry (continued)</p> <p>B. PROOF OF SEARCH. A search of the registry may be proven by the production of a certified copy of the registration form or by a certified statement of the Commissioner of Health that after a search no registration of a putative father in relation to a child who is or may be the subject of an adoption petition could be located. Certification that the Minnesota Fathers' Adoption Registry has been searched shall be filed with the court prior to entry of any final adoption decree. The filing of a certified copy of the order from a juvenile protection matter containing a finding that certification of the requisite search of the Minnesota Fathers' Adoption Registry was filed with the court in that matter shall constitute proof of search.</p> <p><i>Best Practice: For children born before January 1, 1998, the best practice is for the petitioner to include with the petition a confirmation from the Department of Health that no one has filed a notice of intent to retain parental rights.</i></p>	RJPP 32.01, subd. 2
18.32	<p>FEES FOR MINNESOTA FATHERS' ADOPTION REGISTRY</p> <p>In addition to any other filing fees, the court administrator shall assess an adoption filing fee surcharge on each adoption petition filed in the district court for the purpose of implementing and maintaining the Minnesota Fathers' Adoption Registry. The court administrator shall forward fees collected under this rule to the Commissioner of Finance for deposit into the state government special revenue fund to be appropriated to the Commissioner of Health to administer the Minnesota Fathers' Adoption Registry. The fee shall not be assessed in adoptions or re-adoptions of children adopted in intercountry adoptions.</p>	<ul style="list-style-type: none"> ● RJPP 32.02 <p>Minn. Stat. § 259.52, subd. 14</p>
CONSENT TO ADOPTION		
18.33	<p>PERSONS AND AGENCIES REQUIRED TO CONSENT</p> <p>Written consent to an adoption is required by the following:</p> <ol style="list-style-type: none"> 1. the child to be adopted, if the child is fourteen (14) years of age or older; 2. the adult to be adopted, whose consent shall be the only consent required; 3. a registered putative father, if pursuant to Rule 32 he has: <ol style="list-style-type: none"> (a) been notified under the Minnesota Fathers' Adoption Registry; (b) timely filed an intent to claim parental rights form; and (c) timely filed a paternity action; 	RJPP 33.01

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	<p>18.33 Persons and Agencies Required to Consent (continued)</p> <ol style="list-style-type: none"> 4. the child's parents or legal guardian, except: <ol style="list-style-type: none"> (a) a parent not entitled to notice of the proceedings; (b) a parent who has abandoned the child or a parent who has lost custody of the child through a divorce decree or a decree of dissolution and upon whom notice has been served as required under Rule 31; and (c) a parent whose parental rights to the child have been terminated by a juvenile court order or through a decree in a prior adoption matter; 5. if there is no parent or legal guardian qualified to consent to the adoption, the consent shall be given by the Commissioner of Human Services; 6. the agency having authority to place the child for adoption, which shall have the exclusive right to consent to the adoption of such child; and 7. the Commissioner of Human Services when the Commissioner is the legal guardian or legal custodian of the child, who shall have the exclusive right to consent to the adoption of such child. <p><i>Best Practice: With respect to a parent who has abandoned the child or a parent who has lost custody of the child through a divorce decree or a decree of dissolution, it is best practice to either obtain a parent's consent as provided under Rule 31 or to commence a termination of parental rights proceeding pursuant to the Minnesota Rules of Juvenile Protection Procedure.</i></p>	
18.34	<p>NOTICE OF INTENT TO CONSENT TO ADOPTION</p> <p>A. Consent of Biological Parents. Unless all biological parents from whom consent is required under Rule 33.01 are involved in making the adoptive placement and intend to consent to the adoption, a biological parent who intends to execute a consent to an adoption shall give notice to the child's other biological parent of the intent to consent to the adoption prior to or within seventy-two (72) hours following the placement of the child if the other biological parent's consent to the adoption is required under Rule 33.01. Notice of intent to consent to adoption shall be provided to the other biological parent according to the Minnesota Rules of Civil Procedure for service of a summons and complaint. The biological parent who receives notice shall have sixty (60) days after the placement of the child to serve upon the other biological parent either a consent pursuant to</p>	RJPP 33.02, subd. 1

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	<p>Rule 33.01 or a written objection to the adoption. If the</p> <p>18.34 Notice of Intent to Consent to Adoption (continued)</p> <p>biological parent who receives notice fails to consent or to respond with a written objection to the adoption within sixty (60) days after the adoptive placement, that parent shall be deemed to have irrevocably consented to the child's adoption.</p> <p>B. Consent of Minors. If an unmarried parent who consents to the adoption of a child is under eighteen (18) years of age, the consent of the minor parent's parents or legal custodian or legal guardian, if any, also shall be required. If either or both parents are not required to consent pursuant to Rule 33.01(d), the consent of such parent shall be waived and the consent of the legal custodian or legal guardian only shall be sufficient. If there be neither parent nor legal custodian or legal guardian qualified to give such consent, the consent may be given by the Commissioner of Human Services. The responsible social services agency overseeing the adoption matter shall ensure that the minor parent is offered the opportunity to consult with an attorney, a member of the clergy, or a physician before consenting to adoption of the child. The advice or opinion of the attorney, clergy member, or physician shall not be binding on the minor parent. If the minor parent cannot afford the cost of consulting with an attorney, a member of the clergy, or a physician, the county shall bear that cost. A parent or legal custodian or legal guardian of a minor or incapacitated person may not delegate the power to consent to adoption of a minor ward under Minnesota Statutes §§ 524.5-101 to 524.5-502.</p>	<p>RJPP 33.02, subd. 2</p>
18.35	<p>EXECUTION OF CONSENT TO ADOPTION</p> <p>A. REQUIREMENTS OF CONSENT. Except as provided in subdivision 3, all consents to an adoption shall:</p> <ol style="list-style-type: none"> 1. be in writing; 2. be executed before two competent witnesses; 3. be acknowledged by the consenting party; 4. be executed before a representative of the Commissioner of Human Services, the Commissioner's agent, or a licensed child-placing agency; 5. include a notice to the parent of the substance of Minnesota Statutes § 259.24, subd. 6a, providing for the right to withdraw consent; and 	<p>RJPP 33.03, subd. 1</p>

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	<p>18.35 Execution of Consent to Adoption (continued)</p> <p>6. include the following written notice in all capital letters at least one-eighth inch high: "This agency will submit your consent to adoption to the court. The consent itself does not terminate your parental rights. Parental rights to a child may be terminated only by an adoption decree or by a court order terminating parental rights. Unless the child is adopted or your parental rights are terminated, you may be asked to support the child."</p> <p>B. CONSENTS TAKEN OUTSIDE OF MINNESOTA. A consent executed and acknowledged outside of Minnesota, either in accordance with the law of this state or in accordance with the law of the place where executed, is valid.</p> <p>C. EXCEPTIONS TO CONSENT REQUIREMENTS. The requirements of subdivision 1 do not apply to:</p> <ol style="list-style-type: none"> 1. consents to adoption by: <ol style="list-style-type: none"> (a) the Commissioner of Human Services or the Commissioner's agent; (b) a licensed child-placing agency; (c) an adult adoptee; (d) the child's parent in a petition for adoption by a stepparent; or (e) a parent or legal guardian when executed, together with a waiver of notice of hearing, before a judicial officer; 2. a Minnesota Fathers' Adoption Registry consent to adoption; or 3. consent to the adoption of an Indian child. 	<p>RJPP 33.03, subd. 2</p> <p>RJPP 33.03, subd. 3</p>
18.36	<p>TIMING OF CONSENT</p> <p>A consent to adoption form shall not be signed sooner than seventy-two (72) hours after the birth of a child. The seventy-two (72) hours is computed excluding the date of the birth and including Saturdays, Sundays, and legal holidays. A consent to adoption shall be executed by any person whose consent is required under Rule 33 within sixty (60) days after the child's placement in a prospective adoptive home.</p>	RJPP33.04
18.37	<p>FAILURE TO EXECUTE CONSENT</p> <p>With the exception of cases where a person receives notice under Minnesota Statutes § 259.24, subd. 2a, if a biological parent whose consent is required does not execute a consent by the end of the period specified in Rule 33.04, the child placing agency</p>	RJPP 33.05

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	<p>shall notify the court and the court shall issue an order regarding</p> <p>18.37 Failure to Execute Consent (continued)</p> <p>continued placement of the child. The court shall order the local social services agency to determine whether to commence proceedings for termination of parental rights on grounds of abandonment as defined in Minnesota Statutes § 260C.301, subd. 2. The court may disregard the six-month and twelve-month requirements of Minnesota Statutes § 260C.201, subd. 11, in finding abandonment if the biological parent has failed to execute a consent within the time required under Rule 33.04 and has made no effort to obtain custody of the child.</p>	
18.38	<p>AGREEMENT CONFERRING AUTHORITY TO PLACE FOR ADOPTION</p> <p>A. PARTIES TO AGREEMENT. The parents and legal custodian or legal guardian, if there be one, of a child may enter into a written agreement with the Commissioner of Human Services or an agency giving the Commissioner or such agency authority to place the child for adoption. If an unmarried parent is under eighteen (18) years of age, the written consent of the parents and legal custodian or legal guardian, if any, of the minor parent also shall be required. If either or both of the parents are disqualified from giving such consent for any of the reasons enumerated in Minnesota Statutes § 259.24, subd. 1, the written consent of the legal custodian or legal guardian shall be required.</p> <p>B. FORMAT OF AGREEMENT. The agreement and consent shall be in the form prescribed by the Commissioner of Human Services and shall contain notice to the parent of the substance of Minnesota Statutes § 259.59, subd. 2a, providing for the right to revoke the agreement.</p> <p>C. CONTENT OF AGREEMENT. The agreement and consent shall contain the following written notice in all capital letters at least one-eighth inch high: "This agency will submit your consent to adoption to the court. The consent itself does not terminate your parental rights. Parental rights to a child may be terminated only by an adoption decree or by a court order terminating parental rights. Unless the child is adopted or your parental rights are terminated, you may be asked to support the child."</p> <p>D. EXECUTION OF AGREEMENT. The agreement shall be executed by the Commissioner of Human Services or agency, or one of their authorized agents, and all other necessary parties, and shall be filed, together with the consent, in the</p>	<p>RJPP 33.06, subd. 1</p> <p>RJPP 33.06, subd. 2</p> <p>RJPP 33.06, subd. 3</p> <p>RJPP 33.06, subd. 4</p>

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	<p>proceedings for the adoption of the child. If, after the</p> <p>18.38 Agreement Conferring Authority to Place for Adoption (continued)</p> <p>execution of an agreement and consent under this rule, the child is diagnosed with a medical or psychological condition that may present a substantial barrier to adoption, the child-placing agency shall make reasonable efforts to give notice of this fact to a party to the agreement and consent. If a child is not adopted within two (2) years after an agreement and consent are executed under this rule, the agency that executed the agreement shall so notify a parent who was a party to the agreement and request the parent to take custody of the child or to file a petition for termination of parental rights. This notice shall be provided to the parent in a personal and confidential manner. A parent who has executed an agreement under this rule shall, upon request to the agency, be informed of whether the child has been adopted.</p>	
18.39	<p>CONSENT TO A DIRECT PLACEMENT ADOPTION UNDER MINNESOTA STATUTES § 259.47</p> <p>A. PRESENCE OF LEGAL COUNSEL FOR BIOLOGICAL PARENT. If a biological parent has chosen to have legal counsel pursuant to Rule 23.04, the attorney shall be present at the execution of any consent. If a biological parent waives counsel, the parent's written waiver shall be filed with the consent to the adoption.</p> <p>B. EXECUTION OF CONSENT BEFORE JUDICIAL OFFICER – WHEN REQUIRED. A biological parent whose consent to a direct placement adoption is required under Minnesota Statutes § 259.24 and who has chosen not to receive counseling through a licensed agency or a licensed social services professional trained in adoption issues, shall appear before a judicial officer at a consent hearing as described in subdivision 4 to execute consent to the adoption.</p> <p>C. EXECUTION OF CONSENT BEFORE JUDICIAL OFFICER – WHEN OPTIONAL. A biological parent whose consent to a direct placement adoption is required under Minnesota Statutes § 259.24 and who has received counseling through a licensed agency or a licensed social services professional trained in adoption issues, or any other parent or legal guardian whose consent to a direct placement adoption is required under Minnesota Statutes § 259.24, subd. 2, may choose to execute consent to the adoption under the procedures set forth in Minnesota Statutes § 259.24,</p>	<p>RJPP 33.07, subd. 1</p> <p>RJPP 33.07, subd. 2</p> <p>RJPP 33.07, subd. 3</p>

	PROCEDURE	AUTHORITY
	<p>subd. 5, and Rule 33.03, subd. 1, or at a consent hearing.</p> <p>18.39 Consent to a Direct Placement Adoption Under Minnesota Statutes § 259.47 (continued)</p> <p>D. CONSENT HEARING. Notwithstanding where the prospective adoptive parent resides, a consent hearing may be held in any county in this state where the biological parent is found. If the consent hearing is held in a county other than where the prospective adoptive parent resides, the court shall forward the executed consent to the district court in the county where the prospective adoptive parent resides.</p> <p>E. CONSENT FORMAT. The written consent form to be used in a direct placement adoption under this rule shall be on a form prepared by the Commissioner of Human Services and made available to agencies and court administrators for public distribution. The form shall state:</p> <ol style="list-style-type: none"> 1. the biological parent has had the opportunity to consult with independent legal counsel at the expense of the prospective adoptive parent, unless the biological parent knowingly waived the opportunity; 2. the biological parent has been notified of the right to receive counseling at the expense of the prospective adoptive parent and has chosen to exercise or waive that right; and 3. the biological parent has been informed that if the biological parent withdraws consent, the prospective adoptive parent cannot require the biological parent to reimburse any costs the prospective adoptive parent has incurred in connection with the adoption, including payments made to or on behalf of the biological parent. 	<p>RJPP 33.07, subd. 4</p> <p>RJPP 33.07, subd. 5</p>
18.40	<p>REVOCATION OF CONSENT TO ADOPTION OF A NON-INDIAN CHILD UNDER MINNESOTA STATUTES § 259.24</p> <p>A parent's consent to adoption may be withdrawn for any reason within ten (10) working days after the consent is executed and acknowledged or pursuant to the law of the state where the consent is executed. Written notification of withdrawal of consent shall be received by the agency to which the child was surrendered no later than the tenth working day after the consent is executed and acknowledged. On the day following the tenth working day after execution and acknowledgment, the consent shall become irrevocable, except upon order of a court of competent jurisdiction after written findings that the consent was obtained by fraud. In proceedings to determine the existence of fraud, the adoptive parents and the child shall be made parties. The proceedings shall be conducted to preserve the</p>	RJPP 33.08

	PROCEDURE	AUTHORITY
	<p>confidentiality of the adoption process. There shall be no</p> <p>18.40 Revocation of Consent to Adoption of a Non-Indian Child Under Minnesota Statutes § 259.24 (continued)</p> <p>presumption in the proceedings favoring the biological parents over the adoptive parents. Failure to comply with the terms of a communication or contact agreement order entered by the court under Rule 34 is not grounds for revocation of a written consent to an adoption after that consent has become irrevocable.</p>	
18.41	<p>CONSENT TO ADOPTION OF AN INDIAN CHILD</p> <p>A. REQUIREMENTS OF CONSENT. If the child to be adopted is an Indian child, the consent of the parent or Indian custodian shall not be valid unless:</p> <ol style="list-style-type: none"> 1. executed in writing; 2. recorded before the judge; and 3. accompanied by the presiding judge's certificate that the terms and consequences of the consent were explained in detail and were fully understood by the parent or Indian custodian. The court shall also certify that the parent or Indian custodian fully understood the explanation in English or that it was translated into a language that the parent or Indian custodian understood. Any consent given prior to, or within ten (10) days after, the birth of the Indian child shall not be valid. <p>B. REVOCATION OF CONSENT TO ADOPTION OF AN INDIAN CHILD. In any voluntary proceeding for adoptive placement of an Indian child, the consent of the parent may be withdrawn for any reason at any time prior to the entry of an adoption decree and the child shall be returned to the parent.</p> <p>C. VACATION OF AN ADOPTION DECREE OF AN INDIAN CHILD. After the entry of an adoption decree of an Indian child in any State court, the parent may withdraw consent thereto upon the grounds that consent was obtained through fraud or duress and may petition the court to vacate such decree. Upon a finding that such consent was obtained through fraud or duress, the court shall vacate such decree and return the child to the parent. No adoption of an Indian child which has been effective for at least two (2) years may be invalidated under the Indian Child Welfare Act, 25 U.S.C. § 1913, unless otherwise permitted under state law.</p>	<ul style="list-style-type: none"> ● RJPP 33.09, subd. 1 ● 25 U.S.C. § 1913 <ul style="list-style-type: none"> ● RJPP 33.09, subd. 2 ● 25 U.S.C. § 1913 <ul style="list-style-type: none"> ● RJPP 33.09, subd. 3 ● 25 U.S.C. § 1913

	PROCEDURE	AUTHORITY
18.46	<p>REQUIREMENTS FOR ENTRY OF ORDER A communication or contact agreement order need not disclose the identity of the parties. The court shall not enter an order unless the court finds that the communication or contact between the child, the adoptive parent, and a birth relative as agreed upon and contained in the proposed order is in the child's best interests.</p>	RJPP 34.05
18.47	<p>SERVICE OF ORDER The court administrator shall mail a certified copy of the communication or contact agreement order to the parties to the agreement or their legal representatives at the addresses provided by the petitioners.</p>	RJPP 34.06
18.48	<p>ENFORCEMENT – FAMILY COURT</p> <p>A. FILING REQUIREMENT. A communication or contact agreement order entered under this rule may be enforced by filing with the family court:</p> <ul style="list-style-type: none"> (a) a petition or motion; (b) a certified copy of the communication or contact agreement order; and (c) an affidavit that the parties have mediated or attempted to mediate any dispute under the agreement or that the parties agree to a proposed modification. <p>B. ATTORNEYS FEES. The prevailing party upon a motion to enforce a communication or contact agreement order may be awarded reasonable attorney's fees and costs.</p>	<p>RJPP 34.07, subd. 1</p> <p>RJPP 34.07, subd. 2</p>
18.49	<p>FAILURE TO COMPLY WITH ORDER Failure to comply with the terms of a communication or contact agreement order is not grounds for:</p> <ul style="list-style-type: none"> 1. setting aside an adoption decree; or 2. revocation of a written consent to an adoption after that consent has become irrevocable. 	RJPP 34.08
18.50	<p>MODIFICATION The court shall not modify a communication or contact agreement order unless it finds that the modification is necessary to serve the best interests of the child, and:</p> <ul style="list-style-type: none"> 1. the modification is agreed to by the parties to the agreement; or 2. exceptional circumstances have arisen since the agreed order was entered that justify modification of the order. 	RJPP 34.09

	PROCEDURE	AUTHORITY
	PETITION	
18.51	<p>RESIDENCY</p> <p>A. PETITIONER</p> <ol style="list-style-type: none"> RESIDENCY REQUIREMENT. Any person who has resided in the state for one (1) year or more may petition to adopt. EXCEPTION TO RESIDENCY REQUIREMENT. The one (1) year residency requirement may be reduced to thirty (30) days by the court in the best interests of the child. The court may waive any residency requirement of this rule if the petitioner is an individual related to the child, as defined in Rule 2.01(o), or as a member of a child's extended family or important friend with whom the child has resided or had significant contact or, upon a showing of good cause, the court is satisfied that the proposed adoptive home and the child are suited to each other. <p>B. RESIDENCY OF CHILD TO BE ADOPTED. Unless waived by the court, no petition shall be granted until the child has lived three (3) months in the proposed home, subject to a right of visitation by the Commissioner of Human Services or an agency or their authorized representatives. If the three-month residency requirement is waived by the court, at least ten (10) days notice of the hearing shall be provided by certified mail to the local social services agency.</p>	<p>RJPP 35.01, subd. 1</p> <p>RJPP 35.01, subd. 2</p> <p>RJPP 35.02</p>
18.52	<p>TIMING</p> <p>A. GENERALLY. An adoption petition shall be filed not later than twelve (12) months after a child is placed in a prospective adoptive home. If a petition is not filed by that time, the agency that placed the child or, in a direct placement adoption, the agency that is supervising the placement, shall file with the court in the county where the prospective adoptive parent resides, or in the county where the court is reviewing progress towards adoption of a child under the guardianship or legal custody of the Commissioner of Human Services, a motion for an order and a report recommending one of the following:</p> <ol style="list-style-type: none"> that the time for filing a petition be extended because of the child's special needs as specified under Minnesota Statutes § 259.22, subd. 4; that, based on a written plan for completing filing of the petition, including a specific timeline, to which the prospective adoptive parents have agreed, the time for filing a petition be extended long enough to complete the plan because such an extension is in the best 	<p>RJPP 35.03, subd. 1</p>

	PROCEDURE	AUTHORITY
	<p>18.52 Petition – Timing (continued)</p> <p>interests of the child and additional time is needed for the child to adjust to the adoptive home; or</p> <p>3. that the child be removed from the prospective adoptive home.</p> <p>B. EXCEPTIONS – STEPPARENT AND RELATIVE ADOPTIONS. The timing specified above does not apply to stepparent adoptions or adoptions by an individual related to the child not involving a placement as defined in Rule 2.01(o).</p>	RJPP 35.03, subd. 2
18.53	<p>CONDITIONS FOR FILING PETITION</p> <p>A. GENERALLY. No petition for adoption of a child may be filed unless the adoptive placement of the child was made by:</p> <ol style="list-style-type: none"> 1. the Commissioner of Human Services; 2. an agent of the Commissioner of Human Services; or 3. a child-placing agency as defined in Rule 2.01(g). <p>B. EXCEPTIONS. The requirements of subdivision 1 shall not apply if:</p> <ol style="list-style-type: none"> 1. the child is over fourteen (14) years of age; 2. the petitioner is an individual who is related to the child as defined in Rule 2.01(o); 3. the child has been lawfully placed under the laws of another state while the child and the petitioner resided in that state; 4. the court waives the requirement of subdivision 1 in the best interests of the child and the placement is not made by transfer of physical custody of the child from a biological parent or legal guardian to the prospective adoptive home; or 5. the child has been lawfully placed pursuant to an order for direct placement pursuant to Rule 29. 	<p>RJPP 35.04, subd. 1</p> <p>RJPP 35.04, subd. 2</p>
18.54	<p>CONTENT</p> <p>A. 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 shall be "In Re the Petition of _____ and _____ (petitioners) to adopt _____ (unborn child of _____)."</p>	RJPP 35.05, subd. 1

	PROCEDURE	AUTHORITY
18.55	<p>ATTACHMENTS</p> <p>The following shall be filed with the petition:</p> <ol style="list-style-type: none"> 1. the adoption study report required under Rule 37; 2. any biological parent history required under Minnesota Statutes § 259.43, except if the petitioner is the child's stepparent; 3. the request, if any, under Rule 38.04 to waive the post-placement assessment report and background check; and 4. proof of service. 	RJPP 35.03, subd. 4
18.56	<p>OTHER DOCUMENTS TO BE FILED</p> <p>The following shall be filed with the court prior to finalization of the adoption:</p> <ol style="list-style-type: none"> 1. a certified copy of the child's birth record; 2. a certified copy of the findings and order for termination of parental rights, if any; 3. a copy of the communication or contact agreement, if any; 4. certification that the Minnesota Fathers' Adoption Registry has been searched as required under Rule 32; 5. the original of each consent to adoption required under Rule 33; and 6. the post-placement assessment report required under Rule 38. 	RJPP 35.03, subd. 5
18.57	<p>ACTIONS UPON FILING OF PETITION</p> <p>Upon the filing of an adoption petition, the court administrator shall immediately provide a copy of the petition to:</p> <ol style="list-style-type: none"> 1. the Commissioner of Human Services; and 2. if the petition relates to a child, the agency identified below: <ol style="list-style-type: none"> (a) in an agency or a direct placement adoption, the court shall provide the petition to the agency supervising the placement; and (b) in all other instances not described in clause (1), the court shall provide the petition to the local social services agency of the county in which the prospective adoptive parent lives if the child is to be adopted by an individual who is related to the child as defined in Rule 2.01(o). 	RJPP 36

	PROCEDURE	AUTHORITY
	ADOPTION STUDY	
18.58	<p>ADOPTION STUDY REQUIRED</p> <p>A written adoption study report shall be completed by an agency and filed with the court in all adoptions as provided in Minnesota Statutes § 259.41.</p>	RJP 37.01
18.59	<p>ADOPTION STUDY REPORT</p> <p>An adoption study report shall include the following information about each prospective adoptive parent:</p> <ol style="list-style-type: none"> 1. a copy of the background check pursuant to Minnesota Statutes § 259.41, subd. 3; 2. an evaluation of the effect of any criminal conviction on the ability to care for a child; 3. an evaluation of the effect of any finding of substantiated maltreatment on the ability to care for a child; 4. an evaluation of medical and social history; 5. an assessment of current health; 6. an assessment of potential parenting skills and an assessment of ability to provide adequate financial support for a child; and 7. an assessment of the level of knowledge and awareness of adoption issues, including, where appropriate, matters relating to interracial, cross-cultural, and special needs adoptions. 	RJPP 37.02
18.60	<p>DIRECT PLACEMENT ADOPTION</p> <p>Unless otherwise ordered by the court, in a direct placement adoption the child may be placed in the preadoptive home prior to completion of the background check if each prospective adopting parent has completed and filed with the court a sworn affidavit stating whether the affiant or any person residing in the household has been convicted of a crime. The affidavit shall also:</p> <ol style="list-style-type: none"> 1. state whether the adoptive parent or any other person residing in the household is the subject of an open investigation of, or has been the subject of a substantiated allegation of, child or vulnerable adult maltreatment within the past ten (10) years; 2. include a complete description of the crime, open investigation, or substantiated allegation of child abuse or vulnerable adult maltreatment, and a complete description of any sentence, treatment, or disposition; and 	RJPP 37.03

	PROCEDURE	AUTHORITY
	<p>18.60 Direct Placement Adoption (continued)</p> <p>3. include the following statement: "Petitioner acknowledges that if, at any time before the adoption is final, a court receives evidence leading to a conclusion that a prospective adoptive parent knowingly gave false information in the affidavit, it shall be determined that the adoption of the child by the prospective adoptive parent is not in the best interests of the child."</p>	RJPP 37.03
18.61	<p>BACKGROUND CHECK</p> <p>A. TIMING OF BACKGROUND CHECK. The background check required in Rule 37.03 shall be completed before an adoption petition is filed.</p> <p>B. DIRECT PLACEMENT ADOPTION. In a direct placement adoption, if an adoption study report has been submitted to the court before the background check is complete, an updated adoption study report which includes the results of the background check shall be filed with the adoption petition.</p> <p>C. AGENCY UNABLE TO COMPLETE BACKGROUND CHECK. In the event that an agency is unable to complete any of the background records checks, the agency shall submit with the adoption petition an affidavit documenting the agency's efforts to complete the background checks.</p>	<p>RJPP 37.04, subd. 1</p> <p>RJPP 37.04, subd. 2</p> <p>RJPP 37.04, subd. 3</p>
18.62	<p>UPDATES TO ADOPTION STUDY REPORT</p> <p>An adoption study report is valid if the report has been completed or updated within twelve (12) months of the adoptive placement.</p>	RJPP 37.05
18.63	<p>FILING OF ADOPTION STUDY REPORT</p> <p>A. AGENCY PLACEMENT. The adoption study report shall be filed with the court at the time the adoption petition is filed.</p> <p>B. DIRECT PLACEMENT ADOPTION. The adoption study report shall be filed with the court pursuant to Rule 29 in support of a motion for a non-emergency preadoptive custody order or, if the study and report are complete, in support of an emergency preadoptive custody order.</p>	<p>RJPP 37.06, subd. 1</p> <p>RJPP 37.06, subd. 2</p>
18.64	<p>FOSTER PARENT ASSESSMENT MAY BE USED FOR ADOPTION STUDY</p> <p>A licensed foster parent seeking to adopt a child in the foster parent's care may submit any portion of the foster care licensing assessment that duplicates requirements of the adoption study report in satisfaction of the adoption study report requirements.</p>	RJPP 37.07

	PROCEDURE	AUTHORITY
	POST-PLACEMENT ASSESSMENT REPORT	
18.65	<p>TIMING</p> <p>A. GENERALLY. Unless waived by the court pursuant to Rule 38.04 and Minnesota Statutes § 259.53, the supervising agency, or if there is no such agency the local social services agency, shall conduct a post-placement assessment and file a report with the court within ninety (90) days of receipt of a copy of the adoption petition. A post-placement assessment report is valid for twelve (12) months following its date of completion.</p> <p>B. FAILURE TO COMPLY. If, through no fault of the petitioner, the agency fails to complete the assessment and file the report within ninety (90) days of the date it received a copy of the adoption petition, the court may hear the petition upon giving the agency five (5) days notice by mail of the time and place of the hearing.</p>	<p>RJPP 38.01, subd. 1</p> <p>RJPP 38.01, subd. 2</p>
18.66	<p>CONTENT</p> <p>The post-placement assessment report shall provide an individualized determination of the needs of the child and how the adoptive placement will serve the needs of the child. The report shall include a recommendation to the court as to whether the adoption petition should or should not be granted. In making evaluations and recommendations, the post-placement assessment report shall, at a minimum, address the following:</p> <ol style="list-style-type: none"> 1. the level of adaptation by the prospective adoptive parents to parenting the child; 2. the health and well-being of the child in the prospective adoptive parent's home; 3. the level of incorporation by the child into the prospective adoptive parent's home, extended family, and community; and 4. the level of inclusion of the child's previous history into the prospective adoptive home, such as cultural or ethnic practices, or contact with former foster parents or biological relatives. 	RJPP 38.02
18.67	<p>BACKGROUND CHECK</p> <p>If an adoption study is not required because the petitioner is an individual who is related to the child as defined in Rule 2.01(o), unless waived by the court the agency, as part of its post-placement assessment report, shall conduct a background check meeting the requirements of Minnesota Statutes § 259.41, subd. 3(b).</p>	RJPP 38.03

	PROCEDURE	AUTHORITY
18.68	<p>WAIVER BY COURT</p> <p>The post-placement assessment report and the background check may be waived by the court pursuant to Minnesota Statutes § 259.53. A request to waive a post-placement assessment report shall be in writing and shall be filed and served with the petition pursuant to Rule 35.05. A request to waive a post-placement assessment report shall be decided by the court within ten (10) days of filing, unless a written objection to the waiver is filed, in which case a hearing must be conducted as soon as practicable.</p>	RJPP 38.04
	ANSWER	
18.69	<p>ANSWER WHEN CONTESTED</p> <p>Within twenty (20) days after service of the adoption petition, or as soon thereafter as the party or agency becomes aware that the matter is contested, a notice of contested adoption and, if appropriate, a competing adoption petition, shall be filed by:</p> <ol style="list-style-type: none"> 1. any party or agency opposing the adoption; 2. any party or agency with knowledge of two or more adoption petitions regarding the same child; or 3. the Commissioner of Human Services or responsible social services agency if consent to adopt is being withheld from the petitioner. 	RJPP 39.01
18.70	<p>NOTICE OF CONTESTED ADOPTION</p> <p>A. CONTENT. A notice of contested adoption shall:</p> <ol style="list-style-type: none"> (a) set forth the allegations upon which the adoption is being contested, and (b) be signed by the party or by an agent of the agency opposing the adoption. <p>B. SERVICE. The notice of contested adoption shall be served upon all parties in the same fashion as other motions are served under these Rules.</p>	RJPP 39.02, subd. 1 RJPP 39.02, subd. 2
18.71	<p>PRETRIAL CONFERENCE</p> <p>The court shall schedule a pretrial conference within fifteen (15) days of the filing of a notice of contested adoption and provide notice of hearing to the parties.</p>	RUPP 39.03

	PROCEDURE	AUTHORITY
	VOLUNTARY WITHDRAWAL; INVOLUNTARY DISMISSAL; SUMMARY JUDGMENT	
18.72	<p>VOLUNTARY WITHDRAWAL OF PETITION</p> <p>A petition may be withdrawn or dismissed by a petitioner without order of the court by filing:</p> <ol style="list-style-type: none"> 1. at any time a notice of withdrawal along with proof of service upon all parties; or 2. a stipulation of dismissal signed by all parties who have appeared in the matter. 	RJPP 40.01
18.73	<p>INVOLUNTARY DISMISSAL OF PETITION</p> <p>Pursuant to the timing, notice, and format requirements of Rule 7 of the Minnesota Rules of Civil Procedure, the court, upon its own initiative or upon motion of a party, may dismiss a petition or grant judgment on the pleadings. Grounds for such dismissal or judgment on the pleadings shall include, but not be limited to:</p> <ol style="list-style-type: none"> (a) failure to comply with these rules; (b) failure to move forward on the petition; (c) failure to state a claim upon which relief may be granted; (d) lack of jurisdiction over the subject matter; (e) lack of jurisdiction over the person; (f) insufficiency of service of process; and (g) failure to join a necessary party. <p>Furthermore, after a petitioner has completed the presentation of evidence, any other party to the proceeding, without waiving the right to offer evidence in the event the motion is not granted, may move for dismissal on the ground that based upon the facts and the law, the petitioner has shown no right to relief.</p>	RJPP 40.02
18.74	<p>SUMMARY JUDGMENT</p> <p>Pursuant to the timing, notice, and format requirements of Rule 7 of the Minnesota Rules of Civil Procedure, a party may move with or without supporting affidavits for summary judgment. Judgment shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact, and that a moving party is entitled to judgment as a matter of law.</p>	RJPP 40.03

	PROCEDURE	AUTHORITY
	FINAL HEARING IN UNCONTESTED MATTERS	
18.75	<p>GENERALLY</p> <p>A final hearing is a hearing to determine whether an uncontested adoption petition should be granted.</p>	RJPP 41.01
18.76	<p>COMMENCEMENT</p> <p>A final hearing relating to an uncontested adoption petition shall be held not sooner than ninety (90) days after the child is placed, unless there is a waiver of the residency requirement pursuant to Rule 35, but not later than ninety (90) days after the adoption petition is filed. If the petitioner has not requested a hearing date within sixty (60) days of the filing of the petition, the court administrator may schedule a hearing and serve notice of such hearing pursuant to Rule 31.04.</p>	RJPP 41.02
18.77	<p>HEARING PROCEDURE</p> <p>At the beginning of the final hearing, the court shall on the record:</p> <ol style="list-style-type: none"> 1. verify the name, age, and current address of the child who is the subject of the proceeding, except as provided in Rule 20.03; 2. determine whether the Indian child's tribe has been notified, if the child has been determined to be an Indian child; 3. determine whether all parties are present and identify those present for the record; 4. determine whether any necessary biological parent, guardian, or other person from whom consent to the adoption is required or whose parental rights will need to be terminated is present; 5. determine whether notice requirements have been met, and, if not, whether the affected person waives notice; and 6. determine whether the Interstate Compact on the Placement of Children, Minnesota Statutes §§ 260.851 - .91, applies. 	RJPP 41.03
18.78	<p>STANDARD OF PROOF</p> <p>The petitioner shall prove by a preponderance of evidence the facts alleged in the adoption petition and that the adoption is in the best interests of the child.</p> <p><i>Comment: The Indian Child Welfare Act, 25 U.S.C. § 1901, et. seq., does not state a standard of proof for adoption matters as it does for foster care and termination of parental rights matters.</i></p>	<ul style="list-style-type: none"> ● RJPP 41.01 ● 25 U.S.C. § 1901
18.79	<p>TIMING OF DECISION</p> <p>Within fifteen (15) days of the conclusion of the final hearing in an uncontested adoption, the court shall issue findings of fact, conclusions of law, order for judgment, and adoption decree pursuant to Rule 45. For good cause, the court may extend this period for an additional fifteen (15) days.</p>	RJPP 41.05

	PROCEDURE	AUTHORITY
	PRETRIAL CONFERENCE IN CONTESTED MATTERS	
18.80	<p>TIMING</p> <p>The court may convene a pretrial conference sua sponte or upon the motion of any party. Any pretrial conference shall take place at least ten (10) days prior to trial.</p>	RJPP 43.01
18.81	<p>PURPOSE</p> <p>The purposes of a pretrial conference shall be to:</p> <ol style="list-style-type: none"> 1. determine whether a settlement of any or all of the issues has occurred or is possible; 2. determine whether all parties have been served and, if not, review the efforts that have taken place to date to serve all parties; 3. determine whether all parties who seek legal representation have obtained legal representation and determine that attorneys of record have filed certificates of representation with the court; 4. identify any unresolved discovery matters; 5. resolve any pending pretrial motions; 6. determine the order in which evidence will be presented pursuant to Rule 45; 7. identify and narrow issues of law and fact for trial, including identification of: <ol style="list-style-type: none"> (a) the factual allegations admitted or denied; (b) any stipulations to foundation and relevance of documents; and (c) any other stipulations, admissions, or denials; 8. exchange witness lists and a brief summary of each witness' testimony; 9. set a deadline for the exchange of exhibits prior to trial and determine how exhibits shall be marked prior to the start of trial; 10. confirm the trial date and estimate the length of trial; and 11. determine any other relevant issues. 	RJPP 43.02
18.82	<p>PRETRIAL ORDER</p> <p>Following the pretrial conference, the court shall issue a pretrial order which shall specify all determinations required by this rule. From the date of the pretrial conference to the commencement of the trial, the parties shall have a continuing obligation to update information provided during the pretrial conference.</p>	RJPP 43.03

	PROCEDURE	AUTHORITY
	TRIAL IN CONTESTED MATTERS	
18.83	<p>GENERALLY</p> <p>A trial is a hearing to determine whether an adoption petition should be granted.</p>	RJPP 44.01
18.84	<p>COMMENCEMENT</p> <p>A trial on a contested adoption petition shall commence within ninety (90) days of the filing of the petition or notice of a contested hearing, whichever is later. The trial shall be completed within thirty (30) days of commencement. Either or both deadlines may be extended for up to an additional thirty (30) days upon a showing of good cause and a finding by the court that the extension is in the best interests of the child.</p>	RJPP 44.02
18.85	<p>TRIAL PROCEDURE</p> <p>A. INITIAL PROCEDURE. At the beginning of the trial, the court shall on the record:</p> <ol style="list-style-type: none"> 1. verify the name, age, and current address of the child who is the subject of the proceeding, except as provided in Rule 20.03; 2. determine whether the Indian child's tribe has been notified, if the child has been determined to be an Indian child; 3. determine whether all parties are present and identify those present for the record; 4. determine whether any necessary biological parent, guardian, or other person from whom consent to the adoption or whose parental rights will need to be terminated is present; and 5. determine whether notice requirements have been met, and, if not, whether the affected person waives notice. <p>B. ORDER OF EVIDENCE. That trial shall proceed as follows:</p> <ol style="list-style-type: none"> 1. The parties, in the order determined by the court at the pretrial conference, may make an opening statement or may make a statement immediately before offering evidence on their own petition and the statement shall be confined to the facts expected to be proved. 2. The parties, in the order determined by the court at the pretrial conference, may offer evidence. 3. The parties, in the order determined by the court at the pretrial conference, may offer evidence in rebuttal. 4. When evidence is presented, the parties may, in the order determined by the court at the pretrial conference, cross-examine the witnesses. 	<p>RJPP 43.03, subd. 1</p> <p>RJPP 43.03, subd. 2</p>

	PROCEDURE	AUTHORITY
	<p>18.85 Trial Procedure (continued)</p> <p>5. At the conclusion of the evidence, the parties may make closing statements in the reverse order in which they presented their evidence.</p> <p>6. If a written argument is to be submitted, it shall be submitted within fifteen (15) days of the conclusion of testimony, and the trial is not considered completed until the time for written arguments to be submitted has expired.</p>	
18.86	<p>STANDARD OF PROOF</p> <p>The petitioner shall prove by a preponderance of evidence the facts alleged in the adoption petition and that the adoption is in the best interests of the child.</p> <p><i>Comment: The Indian Child Welfare Act, 25 U.S.C. § 1901, et. seq., does not state a standard of proof for adoption matters as it does for foster care and termination of parental rights matters.</i></p>	RJPP 44.04
18.87	<p>MOTION FOR JUDGMENT AT CONCLUSION OF TRIAL</p> <p>A motion for a judgment may be made at the close of the evidence offered by an opponent or at the close of all evidence. A party who moves for a judgment at the close of the evidence offered by an opponent shall, after denial of the motion, have the right to offer evidence as if the motion had not been made. A motion for a judgment shall state the specific grounds therefore.</p>	RJPP 44.05
18.88	<p>TIMING OF DECISION</p> <p>Within fifteen (15) days of the conclusion of the trial in a contested matter, the court shall issue findings of fact, conclusions of law, an order for judgment, and an adoption decree pursuant to Rule 45. For good cause, the court may extend this period for an additional thirty (30) days.</p>	RJPP 44.06
	FINDINGS OF FACT, CONCLUSIONS OF LAW, ORDER FOR JUDGMENT, AND ADOPTION DECREE	
18.89	<p>DENIAL OF ADOPTION PETITION</p> <p>If the court finds that the consent of the adult person to be adopted is not valid, the court shall deny the petition. The court may dismiss an adoption petition if appropriate legal grounds have not been proved. If the court is not satisfied that the proposed adoption is in the best interests of the child, the court shall deny the petition and:</p> <p>1. order that the child be returned to the custody of the person or agency legally vested with permanent custody; or</p>	RJPP 45.01

	PROCEDURE	AUTHORITY
	<p>18.89 Denial of Adoption Petition (continued)</p> <p>2. order the case transferred for appropriate action and disposition by the court having jurisdiction to determine the custody and guardianship of the child.</p>	
18.90	<p>GRANTING ADOPTION PETITION</p> <p>If the court finds that it is in the best interests of the child that the petition be granted, the court shall issue findings of fact, conclusions of law, an order for judgment, and an adoption decree that the person shall be the child of the petitioner. If the person being adopted is an adult, the court shall grant an adoption decree if the court finds that the person's consent is valid. Once the court issues an adoption decree, the court shall also direct the court administrator to complete the appropriate forms so that a new birth record may be issued and notify the prevailing petitioner and his or her attorney of the determination, and provide them with an opportunity to obtain a certified copy of the adoption decree and new birth record prior to the closing of the file.</p>	RJPP 45.02
18.91	<p>SEPARATE ORDERS FOR EACH CHILD</p> <p>Although multiple children may be listed in an adoption petition, for each such child the court shall issue a separate findings of fact, conclusions of law, order for judgment, and adoption decree.</p>	RJPP 45.03, subd. 1
18.92	<p>FINDINGS OF FACT IN A CONTESTED ADOPTION MATTER</p> <p>In its decision in a contested adoption matter, the court shall make findings about:</p> <ol style="list-style-type: none"> the petitioner's full name and date of birth; the petitioner's marital status; whether petitioner has resided in Minnesota for at least one (1) year prior to filing the adoption petition or whether the residency requirement has been waived pursuant to Rule 35.01; the date petitioner acquired physical custody of the child and from whom; the type of placement, including whether it is an agency placement, a direct preadoptive placement, a relative placement, or some other type of placement; whether three (3) months have passed since the date petitioner acquired physical custody of the child or whether the residency requirement has been waived pursuant to Rule 35.02; the child's date of birth and the child's city, county, state, 	RJPP 45.03, subd. 2

	PROCEDURE	AUTHORITY
	<p>and country of birth;</p> <p>18.92 Findings of Fact in a Contested Adoption Matter (continued)</p> <p>h. whether a certified copy of the birth record of the child or of the adult to be adopted has been filed with the court;</p> <p>i. whether the post-placement assessment report required under Rule 38 and the adoption study report required under Rule 37 have been filed with the court;</p> <p>j. whether the child owns property and, if so, a list of such property;</p> <p>k. whether all consents required under Rule 33 have been properly executed and filed with the court or whether orders for termination of parental rights have been entered;</p> <p>l. whether all notices required under Rule 31 have been properly served and proof of service has been filed with the court;</p> <p>m. whether, if applicable, a communication or contact agreement pursuant to Rule 34 has been properly executed and filed with the court and whether the court finds that the communication or contact agreement is in the best interests of the child;</p> <p>n. whether a statement of expenses paid by the petitioner has been filed with the court pursuant to Rule 35.08 and whether the expenses are approved;</p> <p>o. whether a search of the Minnesota Fathers' Adoption Registry has been conducted and the results have been filed with the court pursuant to Rule 32; and</p> <p>p. whether the social and medical history form has been completed by the biological mother and biological father and has been filed with the court.</p>	RJPP 45.03, subd. 2
18.93	<p>FINDINGS OF FACT IN AN UNCONTESTED ADOPTION MATTER</p> <p>In its decision in an uncontested adoption matter, the court:</p> <ol style="list-style-type: none"> shall include findings about the issues identified in section 18.93 (a), (b), (c), (d), (g), (j), and (m); and may include findings about the issues identified in section 18.93 (e), (f), (h), (i), (k), (l), (n), (o), and (p). 	RJPP 45.03, subd. 3
18.94	<p>CONCLUSIONS OF LAW</p> <p>In its decision, the court shall make conclusions of law about whether all of the allegations contained in the adoption petition have been proved in accordance with the applicable standard of proof and whether the adoption is in the child's best interests.</p>	RJPP 45.03, subd. 4

	PROCEDURE	AUTHORITY
18.95	<p>ORDER FOR JUDGMENT</p> <p>If the court decides to grant the adoption petition, in its decision the court shall include an order stating:</p> <ol style="list-style-type: none"> 1. the child's new name; 2. that the child is the child of the petitioner; and 3. that an adoption decree shall be issued. 	RJPP 45.03, subd. 5
18.96	<p>ADOPTION DECREE</p> <p>If the court decides to grant the adoption petition, in its decision the court shall order that the child is the child of the petitioner and of any parent retaining parental rights.</p>	Rjpp 45.03, subd. 6
18.97	<p>FILING AND SERVICE</p> <p>The findings of fact, conclusions of law, order for judgment, and adoption decree shall be filed and served pursuant to Rule 10.03, subd. 2. If the adoptee is an Indian child, the court administrator shall provide the Secretary of the Interior with a copy of the adoption decree, along with such other information as may be necessary to show the following:</p> <ol style="list-style-type: none"> 1. the child's name and tribal affiliation; 2. the names and addresses of the child's biological parents; 3. the names and addresses of the child's adoptive parents; and 4. the identity of any agency having files or information relating to such adoptive placement. 	RJPP 45.04
POST-TRIAL MOTIONS		
18.98	<p>MOTION FOR AMENDED FINDINGS</p> <p>Upon motion of a party served and heard not later than the time allowed for a motion for a new trial pursuant to Rule 46.02, the court may amend its findings or make additional findings, and may amend the judgment accordingly if judgment has been entered. The motion may be made with a motion for a new trial and may be made on the files, exhibits, and minutes of the court. The question of the sufficiency of the evidence to support the findings may be raised on appeal regardless of whether the party raising the question has made in the district court an objection to such findings or has made a motion to amend them or a motion for judgment.</p>	RJPP 46.01
18.99	<p>MOTION FOR NEW TRIAL</p> <p>A motion for a new trial may be granted to any or all of the parties on all or part of the issues for any of the following causes:</p> <ol style="list-style-type: none"> 1. irregularity in the proceedings of the court, referee, or prevailing party, or any order or abuse of discretion whereby the moving party was deprived of a fair trial; 	RJPP 46.02

	PROCEDURE	AUTHORITY
	<p>18.99 Motion for New Trial (continued)</p> <ol style="list-style-type: none"> 2. misconduct of the prevailing party; 3. accident or surprise which could not have been prevented by ordinary prudence; 4. material evidence newly discovered, which with reasonable diligence could not have been found and produced at the trial; 5. errors of law occurring at the trial, and objected to at the time, or, if no objection need have been made pursuant to these rules, plainly assigned in the notice of motion; 6. the decision is not justified by the evidence or is contrary to law; but, unless it be so expressly stated in the order granting a new trial, it shall not be presumed on appeal to have been made on the ground that the decision was not justified by the evidence; or 7. in the interest of justice. <p>Upon a motion for a new trial, the court may open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law, or make new findings and conclusions, and direct entry of a new judgment.</p>	
18.100	<p>TIMING OF DECISION</p> <p>Within fifteen (15) days of the conclusion of the hearing on the motion the court shall issue its decision and order. For good cause shown, the court may extend this period for an additional fifteen (15) days.</p>	RJPP 46.03
INVALIDATION OF DISTRICT COURT ACTION – INDIAN CHILD CASES		
18.101	<p>PROCEDURE</p> <ol style="list-style-type: none"> A. PETITION. Any Indian child who is the subject of an adoption proceeding under State law, parent or Indian custodian from whose custody such child was removed, and the Indian child's tribe may file with any court of competent jurisdiction a petition to invalidate such action upon a showing that such action violates any provisions of the Indian Child Welfare Act, 25 U.S.C. §§ 1911, 1912, or 1913. B. EVIDENTIARY HEARING. Upon the filing of a petition to invalidate, the court shall schedule an evidentiary hearing. The form and content of the petition to invalidate shall be governed by Rule 15. C. FINDINGS AND ORDER. At the conclusion of the evidentiary hearing the court shall issue a written order which shall include findings of fact and conclusions of law. 	<p>RJPP 47.03, subd. 1</p> <p>RJPP 47.03, subd. 2</p> <p>RJPP 47.03, subd. 3</p>

	PROCEDURE	AUTHORITY
18.102	<p>VACATION OF ADOPTION DECREE – INDIAN CHILD CASES</p> <p>A. PETITION TO VACATE. After the entry of an adoption decree of an Indian child in any State court, the parent may withdraw consent upon the grounds that the consent was obtained through fraud or duress and may petition the court to vacate such decree. Upon a finding that such consent was obtained through fraud or duress, the court shall vacate such decree and return the child to the parent. No adoption which has been effective for at least two (2) years may be invalidated under the provisions of this rule unless otherwise permitted under State law.</p> <p>B. EVIDENTIARY HEARING. Upon the filing of a petition to vacate, the court shall schedule an evidentiary hearing. The form and content of the petition to vacate shall be governed by Rule 15.</p> <p>C. FINDINGS AND ORDER. At the conclusion of the evidentiary hearing the court shall issue a written order which shall include findings of fact and conclusions of law.</p>	<p>RJPP 47.04, subd. 1</p> <p>RJPP 47.04, subd. 2</p> <p>RJPP 47.04, subd. 3</p>
ADOPTIVE PLACEMENTS – INDIAN CHILD		
18.103	<p>PLACEMENT PREFERENCES</p> <p>A. GENERALLY. In any adoptive placement of an Indian child, a preference shall be given, in the absence of good cause to the contrary, to a placement with:</p> <ol style="list-style-type: none"> (a) a member of the Indian child's extended family; (b) other members of the Indian child's tribe; or (c) other Indian families. <p>B. PREADOPTIVE PLACEMENTS. An Indian child accepted for preadoptive placement shall be placed in the least restrictive setting which most approximates a family and in which the child's special needs, if any, may be met. The child shall also be placed within reasonable proximity to his or her home, taking into account any special needs of the child. In any preadoptive placement, a preference shall be given, in the absence of good cause to the contrary, to a placement with:</p> <ol style="list-style-type: none"> 1. a member of the Indian child's extended family; 2. a foster home licensed, approved, or specified by the Indian child's tribe; 3. an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or 4. an institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs. 	<p>RJPP 50.01, subd. 1</p> <p>RJPP 50.01, subd. 2</p>