

STATE OF MINNESOTA

IN SUPREME COURT

C1-01-927

**ORDER PROMULGATING CORRECTIVE
AMENDMENTS TO THE RULES OF JUVENILE
PROTECTION PROCEDURE**

ORDER

On December 18, 2006, the Court promulgated corrective amendments to the Rules of Adoption Procedure, the Rules of Guardian Ad Litem Procedure in Juvenile and Family Court, and the Rules of Juvenile Protection Procedure. Included was an inadvertent amendment to Rule 33.02, subd. 2(b)(2). A corrective amendment is necessary to reinstate the prior language of Rule 33.02, subd. 2(b)(2).

IT IS HEREBY ORDERED that the attached amendment to Rule 33.02, subd. 2, of the Rules of Juvenile Protection Procedure be, and the same is, prescribed and promulgated to be effective retroactive to January 1, 2007.

Dated: January 4, 2007

BY THE COURT:

/s/

Russell A. Anderson
Chief Justice

RULES OF JUVENILE PROTECTION PROCEDURE

RULE 33. PETITION

Rule 33.02. Content.

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Subd. 2. Child in Need of Protection or Services Matters.

(a) **Petitions Drafted and Filed by County Attorney.** A child in need of protection or services matter is defined in Minnesota Statutes § 260C.007, subd. 6. All child in need of protection or services petitions shall be drafted and filed under the supervision of the county attorney, except as provided in Minnesota Statutes § 260C.141, subd. 1, and subdivision 2(b) of this rule.

(b) **Petitions Drafted and Filed By Others.**

(1) **Petition Form.** A child in need of protection or services petition filed by an individual who is not a county attorney or an agent of the Commissioner of Human Services shall be filed on a form developed by the state court administrator. Copies of the form shall be available from the court administrator in each county.

(2) **Additional Content Requirements for Petitions Not Filed by County Attorney.** In addition to the content requirements set forth in subdivision 1, a petition filed by an individual who is not a county attorney or an agent of the Commissioner of Human Services shall contain:

(i) a statement that the petitioner has reported the circumstances underlying the petition to the responsible social services agency and that protection or services were not provided to the child;

(ii) a statement, including court file numbers where possible, of pending juvenile or family court proceedings and prior or present juvenile or family court orders relating to the child;

(iii) a statement regarding the relationship of the petitioner to the child and to any other parties; and

~~(iii) a statement identifying any past or present cases involving the child or family that is the subject of the petition.~~

(3) **Review by Court Administrator.** Any petition filed by an individual who is not a county attorney or an agent of the Commissioner of Human Services shall be reviewed by the court administrator before it is filed to determine whether it is complete. The court administrator may reject the petition as incomplete if it does not indicate that the petitioner has contacted the responsible social services agency.

(4) **Court Review.** Within three (3) days of the date a petition is filed by a person who is not a county attorney or an agent of the Commissioner of Human Services, the court shall review the petition. If the court determines that the petition and attachments establish a prima facie case that a child in need of protection or services matter exists and that the child is the subject of that matter, the court shall set the matter for an admit/deny hearing pursuant to Rule 34 and shall direct notice pursuant to Rule 32.

The court shall not allow a petition to proceed if it appears that the sole purpose of the petition is to modify custody between the parents or if it fails to set forth the information required in subdivisions 1 and 2(b) of this rule.

(c) **Petition Based Upon Prima Facie Case.**

(1) **When Required.** In addition to the content requirements of subdivisions 1 and 2(b), a petition establishing a prima facie case that a child in need of protection or services matter exists and that the child is the subject of that matter shall be filed with the court:

(i) before the court may issue an ex parte order for emergency protective care pursuant to Rule 28; or

(ii) before an emergency protective care hearing is held pursuant to Rule 30 for a child taken into emergency protective care without a court order.

(2) **Manner.** The facts establishing a prima facie case that a child in need of protection or services matter exists and that the child is the subject of that matter may be set forth in writing in or with the petition, or in supporting affidavits, and may be supplemented by sworn testimony of witnesses taken before the court. If such testimony is taken, a note stating this fact shall be made by the court on the petition. The testimony shall be recorded pursuant to Rule 11.