

SUMMARY OF PROPOSED AMENDMENTS TO RULES OF JUVENILE PROTECTION PROCEDURE

Following is a summary of the significant proposed amendments to the Rules of Juvenile Protection Procedure:

1. Global Revisions:
 - Citations will be added to all rules to allow the reader to readily identify the underlying authority of each rule as being either federal or state statute.
 - Consistent with recent statutory amendment, revised “out-of-home placement” to “foster care placement.”
2. Rule 2: Consistent with federal and state statutes, definitions were added or amended for “foster care,” “Indian child,” “reasonable efforts,” and “trial home visit.”
3. Rule 4: Consistent with statutory amendments, the timeline provisions were amended to provide for a permanency progress review hearing at month 6 for children under age 8, and a permanent placement determination hearing for all children at month 12 (pursuant to statutory amendments, there is no longer a requirement to hold a permanent placement determination hearing at month 6 for children under age 8).
4. Rule 7.07: Consistent with the Rules of Civil Procedure, the rule regarding removal of judges was amended to provide for “notice” to remove rather than a “motion” to remove, and to add provisions for assignment of another judge.
5. Rule 8.04: Added a comment clarifying that the child’s name is to be redacted when the child is the reporter of the abuse or neglect.
6. Rule 10.03: Amended the rule to provide that:
 - orders are now to be served on participants,
 - orders shall be served upon the parties and their attorneys if represented,
 - orders following a TPR trial shall be served only upon counsel who shall provide a copy of the order to the party,
 - except for children who are parties, children under age 10 shall not be served with copies of orders, notices, motions, motions, case plans, or other documents, and
 - orders shall be served by the court administrator within 5 days of filing (previously was within 10 days of filing).
7. Rule 15.02: Added rule precluding the filing of summary adjudication (summary judgment) motions in juvenile protection matters.
8. Rule 15.04: Deleted rule describing the types of motions to dismiss that can be brought regarding lack of jurisdiction because they are covered in the generic rule.
9. Rule 15.06: Added rule requiring decisions regarding motions to be made within 10 days of the conclusion of the hearing.

10. Rule 16: Revised the rule regarding signature of pleadings to be consistent with the Rules of Civil Procedure and to provide that social workers and GALs are not required to sign their reports, although by filing the report with the court they are certifying that to the best of their information and belief it is not being presented for improper purposes, the claims are permitted under law, and the allegations and facts have evidentiary support.
11. Rule 21.01: The rule regarding parties was amended to add the following persons as parties in CHIPS proceedings:
 - Children age 10 and older,
 - The child's parent if the parent has sole or joint legal or physical custody, including adjudicated and presumed fathers but not alleged fathers, and
 - Persons proposed as permanent legal and physical custodians.
 - In addition, each child, regardless of age, is a party in truancy, runaway, and child prostitution matters.
12. Rule 21.02: The rule dealing with rights of parties was amended to provide that except for children who are parties, children under age 10 shall not be served with petitions, pleadings, motions, summonses, notices of hearings, orders, case plans, reports of social workers or GALs, or other documents. For children not represented by counsel, the child's social worker and GAL shall review the documents with the child.
13. Rule 22.01: The rule regarding participants was amended to include foster parents or relatives proposed as custodians if not already a party.
14. Rule 25.02: Consistent with statute, clarified that in truancy proceedings parents are not entitled to court appointed counsel unless out-of-home placement is being considered.
15. Rule 26:.01: Clarified to provide that if the court has issued an order appointing a GAL in the CHIPS file, the court may but need not issue a GAL appointment order in the TPR file unless a new person is being appointed as GAL.
16. Rule 26.02: Deleted the provisions dealing with GAL responsibilities when appointed to represent a minor or incompetent parent are moved them to the Rules of GAL Procedure.
17. Rule 30.09: Clarified the types of cases when CHIPS proceedings may be by-passed and can proceed directly to TPR.
18. Rule 31.02: Consistent with the Rules of Civil Procedure, added procedures for serving persons outside the state of Minnesota and outside the United States.
19. Rule 31.02: With respect to publication, clarified that before publication of a summons can be made, the petitioner must file an affidavit describing the efforts made to locate the person to be served and stating that publication shall be made in a location reasonably calculated to provide actual notice to the person (decided on a case-by-case basis)

20. Rule 31.04: Revised to provide that orders shall be served upon both the party and the party's attorney, if represented, except for orders resulting from a TPR which shall be served upon counsel who shall provide a copy to the client.
21. Rule 31.07: Amended to provide that social workers and GALs are not required to file a notarized proof of service when serving their reports but must include an un-notarized certificate of distribution describing who was served, when they were served, where they were served, and the method of service.
22. Rule 32.06: Clarified that in cases involving an Indian child, the petitioner is responsible for serving the Indian child, the child's parents and Indian custodian, and the tribe with the notice of ICWA proceeding and that such service must be by registered mail, return receipt requested.
23. Rule 33.01: With respect to Petitions,
- Amended to provide that if the petition contains information under Rule 8.04 that is inaccessible to the public, in addition to filing the original petition the petitioner must also provide to the court administrator a redacted copy of the petition. Redacted copies of other pleadings, reports, exhibits, etc., need not be provided.
 - Amended to clarify the types of situations in which a TPR petition must be filed (e.g., prior involuntary TPR or egregious harm), thus by-passing the CHIPS proceeding.
 - Clarified that the agency must be joined as a party in cases where a pro se petition is filed.
 - Consistent with recent statutory amendments, amended to provide that only the county attorney or social services agency may file a petition for long term foster care; other parties may only file petitions for TPR or Transfer of Permanent Legal and Physical Custody and not long term foster care.
24. Rule 34.02: Consistent with recent statutory amendment, revised to provide that the timing of the admit/deny hearing:
- in a CHIPS matter shall be held no sooner than 3 days (previously was 5 days) and no later than 20 days after the parties are served.
 - In a TPR or Permanent Placement matter shall be held not less than 10 days after service is complete (previously was at least 20 days prior to the date sent for the permanency hearing).
25. Rule 34.03: Amended to provide that if the Admit/Deny Hearing is the first hearing, the court must make a prima facie determination about whether the petition establishes that a juvenile protection matter exists and whether the child is the subject of that matter.
26. Rule 35.03: Amended to provide that when questioning a person who has entered an admission, the court must determine whether the person understands the permanency progress review hearing that must take place by month 6 if the child is under age 8 and the permanent placement determination hearing that must take place by month 12 for any child in out-of-home placement.

27. Rule 36: Changed term from “pretrial conference” to “pretrial hearing” to clarify that it is intended to be an in-court, on-the-record proceeding.
28. Rule 37.02: Clarified the content of the case plans required to be filed by the social services agency for children in foster care, and clarified how to proceed if a parent refuses to participate in the development of the plan, cannot be located to participate, or disagrees with the services offered by the agency.
29. Rule 37.03: Amended to add that when a child is in foster care due to the child’s emotional disturbance or disability, the child’s mental health treatment provider shall be consulted in preparation of the plan.
30. Rule 38: With respect to social services and GAL reports, amended to provide that:
- social workers and GALs are not required to sign their reports, although by filing the report with the court they are certifying that to the best of their information and belief it is not being presented for improper purposes, the claims are permitted under law, and the allegations and facts have evidentiary support.
 - For children in placement due solely to emotional disturbance, the case plan must include diagnostic and assessment information, specific services relating to the mental health needs of the child, and treatment outcomes.
 - Case plans must include a statement about whether the child is an Indian child, whether ICWA applies, and the name of the Tribe in which the child is enrolled or eligible for membership.
 - GAL reports must include the child’s name, date of birth, age at the time the report is filed, and the names of the child’s parents.
 - GAL and social services report must be filed and served at least 5 business days prior to the hearing.
31. Rule 39.02: Consistent with recent statutory amendments, the rule regarding trial was amended to provide that a trial regarding a permanent placement determination matter not involving a TPR must commence on or before 60 days after the Admit/Deny Hearing or 90 days after the filing of the petition, whichever is earlier.
32. Rule 40.02: Amended to provide that when the court has withheld adjudication, the court may dismiss the matter if both the child and the parent who is a party have complied with the terms of the continuance or adjudicate if compliance has not been achieved.
33. Rule 41.03: Add a rule providing that before making a disposition or terminating parental rights, the court may consider any report or recommendation from the social services agency, GAL, probation officer, tribal representative, etc., concerning the effect of placing the child in a different school district or other material information.
34. Rule 41.05: Rule regarding dispositions amended to add provisions for;
- Trial home visit with legal custody to the agency,

- Special services to treat or ameliorate a physical or mental disability or emotional disturbance, and
 - Monitoring.
35. Rule 41.06. Rule regarding hearings to review disposition amended to add provisions for trial home visit with custody to agency and protective supervision in home of parent.
36. Rule 42.01. Rule regarding permanent placement matters amended to:
- Require to the court to include in the disposition order the date or deadline for the permanency progress review hearing for children under age 8 and the permanent placement determination hearing.
 - Clarify that a permanency progress review hearing must take place within 6 months of the date the child is placed in foster care for a child under age 8, and that a permanent placement determination hearing must take place within 12 months.
 - Add that the purpose of the permanency progress review hearing for children under age 8 is to review the progress of the case, the parent's progress on the case plan, and provision of services by the agency, and the purpose of the permanent placement determination hearing is to determine the permanent status of the child.
37. Rule 42.04: Amended to specify the procedures and timing for the permanency progress review hearing and the permanent placement determination hearing, including:
- the filing of a report by the county attorney,
 - the agency's or county attorney's duties following the review hearing,
 - and the determinations to be made by the court about the parent's progress on the case plan and whether the parent is maintaining regular contact with the child,
 - that the admit/deny hearing on the permanency petition must be commenced not later than 12 months after the child is placed in foster care (previously was that the trial on the permanency petition must commence by month 12)
 - requiring the permanency petition or motion to be filed not later than 30 days prior to the admit/deny hearing (previously was prior to commencement of permanency hearing).
38. Rule 42.05: Amending the content of the permanency order to:
- Specify what the court may order when returning the child home under protective supervision or trial home visit,
 - Add that a parent may voluntarily agree to transfer permanent legal and physical custody,
 - Require the court to return the child to the care of the parent if the child has been in placement for 15 of the last 22 months unless the court approves the agency's determination of compelling reasons as to why the child should not be returned home,
 - Require the court to hold annual reviews to ensure that long term foster care continues to the most appropriate arrangement for the child,
 - Include objectives for a child placed in foster care for a specified period of time for more than 12 months.

39. Rule 42.06. Added a rule authorizing the agency to file a motion to modify adjudication and transfer custody for a child who continues in placement due solely to the child's emotional disturbance or developmental disability.
40. Rule 43.03. Amended the rule regarding long term foster care to:
- limit when it may be ordered,
 - authorize only the agency or county attorney to request long term foster care,
 - require an annual review, and
 - require the court to retain jurisdiction through the child's minority, unless the court extends jurisdiction to age 19.
41. Rule 44.02. Pursuant to recent statutory amendments, revised rule regarding voluntary placement matters to:
- provide that the permanency provisions of Minn. Stat. 260C.201, subd. 11, do not apply to cases of voluntary placement due to the child's disability,
 - require a CHIPS petition to be filed if the child continues in foster care for 13 consecutive months,
 - required a permanency hearing no later than 14 months after the date of the voluntary placement.
 - Requiring the court to review the matter every 12 months as long as the child remains in placement, and requiring the court to provide notice of such annual review by registered mail or on the record notice at the time of the permanency hearing.
42. Rule 45.01: Amended the rule regarding the timing of post-trial motions to provide that all post-trial motions must be filed within 15 days of the court administrator's service of the order (previously, it was within 15 days of the filing of the order).
43. Rule 45.03: Added rule authorizing the court to amend its findings or make additional findings.
44. Rule 47.02: Amended the rule regarding the timing of appeals to provide that all appeals must be filed within 30 days of the court administrator's service of the order (previously, it was within 30 days of the filing of the order) (the timeline is different from that stated in the statutes)
45. Rule 48: Added a rule for proceedings governed by the Indian Child Welfare Act, including:
- Requiring the court to inquire as to whether the child resides on or is domiciled on an Indian reservation, or is a ward of a tribal court,
 - Procedures if the tribal court has exclusive jurisdiction,
 - Procedures if the child's parent objects to transfer of the matter to tribal court,
 - Procedures to transfer jurisdiction to tribal court, and
 - Procedures if district court retains jurisdiction.