

Appointment of Counsel for Parents

Parents' Right to Court-Appointed Counsel: [Minn. Stat. 260C.163, subd. 3\(c\)](#), requires the court to appoint counsel for a parent (regardless of party or participant status) involved in any juvenile court proceeding if:

1. there is a request for counsel (by the parent or someone on behalf of the parent);
2. the parent qualifies financially (a financial application must be completed); and
3. the court "feels that appointment of counsel for the parent is appropriate."

Truancy cases: Under the [Minn. Stat. 260C.163, subd. 3\(e\)](#), when the sole allegation in the petition is that the child is a habitual truant, parents do not have a right to court-appointed counsel, unless out-of-home placement (including foster care or inpatient treatment) of the child is being considered or ordered.

Must be a "Parent" to Have Court-Appointed Counsel (doesn't include an alleged father): Under [Minn. Stat. 260C.163, subd. 3\(c\)](#), in order to receive court appointed counsel, the person must be a "parent." Under [Minn. Stat. 260C.007, subd. 25](#), "Parent" means a person who has a legal parent and child relationship with a child which confers or imposes on the person legal rights, privileges, duties, and obligations" The statute provides that a "legally recognized parent and child relationship" exists between a child and a man (father) when there is a presumption of paternity (married to mother when child conceived or born), order adjudicating paternity and legal custody, or a fully executed Recognition of Parentage (ROP). A man who does not meet one of these three general categories is an alleged father, which means he is not a parent and does not have a right to court appointed counsel. If the child is an Indian child and ICWA applies, a parent includes any Indian person who has adopted a child by tribal law or custom and does not include an unwed (alleged) father where paternity has not been acknowledged or established.

Separate Appointment Orders for CHIPS, TPR, and Permanency: Under [Juv. Prot. Rule 2.01\(18\)](#), "juvenile protection matter" is generally defined to include CHIPS, TPR, and permanency proceedings. Under the statutes and rules, each of these is a separate proceeding requiring a separate petition, separate MNCIS file number, separate court disposition orders, and separate decisions about appointment of counsel. This means that if the parent has court appointed counsel in a CHIPS proceeding and wants an attorney in a related TPR or permanency proceeding, the court must issue a separate appointment order for the TPR or permanency file. Best practice is to reappoint the same attorney for purposes of continuity of representation.

Attorneys Must Appear at EPC Hearings: Pursuant to [Rule 25.01](#), a parent's right to legal representation attaches (becomes effective) no later than when the parent first appears in court. This means that parents must be able to apply for counsel prior to or when they show up for the first hearing (such as an EPC hearing), and attorneys must be available at EPC hearings so they can be appointed to represent parents during EPC hearings.

Attorneys for Parents Must be on Roster of Qualified Parent Attorneys: Pursuant to [Minn. Stat. § 260C.163, subd. 3\(i\)](#), and [Judicial Branch Policy 604](#), in order to be appointed by the court to represent parents, and in order to be paid by the county, attorneys who wish to represent parents in CHIPS and permanency proceedings must be listed on the roster of qualified CHIPS parent attorneys. To be maintained on the roster, attorneys must annually submit proof of having completed three hours of CHIPS-related CLE courses. Attorneys who fail to comply with that requirement are removed from the Parent Attorney Roster and have an ethical obligation to notify the court they no longer qualify to represent parents, which may affect pending cases. The roster is updated weekly. Click here to [Search Parent Attorney Roster by County or Attorney Name](#).

Discharge of Court-Appointed Counsel: Pursuant to [Rule 25.06\(a\)](#), an attorney must continue representing a parent (and the court must not discharge an attorney representing a parent), until “all district court proceedings in the matter have been completed, including filing and resolution of all post-trial motions under [Rule 45](#) and [Rule 46](#).” This means that at the conclusion of a CHIPS, TPR, or permanency proceeding the court may discharge the attorney for the parent, but such discharge cannot be effective immediately and, instead, must be prospective in nature. For example, the CHIPS, TPR, or permanency order should state “The attorney for (parent name) is discharged from representing the parent in this proceeding as of the date when time has elapsed for filing and resolution of all post-trial motions under Juvenile Protection Rule 45 and Rule 26.”

Appointment of Counsel for Parent on Appeal: If a parent wants an attorney for purposes of appeal, then just like in the CHIPS case the parent must apply and the district court judge must decide if the parent qualifies financially and should be appointed counsel on appeal. Because the parent has only 20 days from the date the notice of filing of order was served to file an appeal, this process of requesting and appointing counsel should be completed as soon as possible so the appellate attorney has time to file the appeal. Rule [Juv. Prot. Rule 25.02](#) says within 3 days, but it should be sooner if possible. Under [Juv. Prot. Rule 25.02](#), “When possible, the trial court attorney should be appointed as appellate counsel.” In some cases a different appellate attorney may need to be appointed because the CHIPS attorney may not have appellate practice skills.