

**FILED**

September 25, 2023

**OFFICE OF  
APPELLATE COURTS**

STATE OF MINNESOTA

IN SUPREME COURT

ADM10-8041

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

The Advisory Committee on the Rules of Juvenile Protection, Adoption, and Guardian Ad Litem Procedure recommended amendments to the Minnesota Rules of Juvenile Protection, Adoption, and Guardian ad Litem Procedure in two reports. First, in a report filed on July 26, 2022, the committee recommended: (1) an amendment related to the modification of transfer of permanent legal and physical custody to a relative orders in Rule 59 of the Rules of Juvenile Protection Procedure; (2) amendments to Rule 36 of the Rules of Juvenile Protection Procedure related to changes to Minn. Stat. § 260C.163, subd. 3(c) (effective Jan. 1, 2023); (3) amendments to Rules 17 and 42 of the Rules of Juvenile Protection Procedure due to the legislative adoption of a new statutory chapter—chapter 260E—regarding the reporting of maltreatment of minors; (4) an amendment to Rule 47 of the Rules of Juvenile Protection Procedure concerning a child in need of protection services (CHIPS) admissions exception; (5) amendments to Rule 2.01 of the Rules of Juvenile Protection Procedure and Rule 2.01 of the Rules of Adoption Procedure concerning progress toward adoption review hearings; (6) an amendment to Rule 27.02 of the Rules of Juvenile Protection Procedure concerning notification of changes in a child’s foster care placement; (7) amendments for citation corrections in Rules 16.05, 45.02, and 54.02 of the Rules of Juvenile Protection

Procedure; and (8) amendments to Rules 902, 903, and 904 of the Rules of Guardian ad Litem Procedure, and related amendments to Rule 37 of the Rules of Juvenile Protection Procedure and Rule 24 of the Rules of Adoption Procedure. Second, in a report filed on December 13, 2022, the committee recommended amendments to Rules 11 and 13.03 of the Rules of Juvenile Protection Procedure, as well as Rules 12 and 14.03 of the Rules of Adoption Procedure, so that they will no longer constrain remote hearings.

By order filed on January 25, 2023, the court established a period for the public to file written comments in response to the proposed amendments. Order Establishing Comment Period on Proposed Amendments to the Minnesota Rules of Juvenile Protection, Adoption, and Guardian Ad Litem Procedure, ADM10-8041 (Minn. filed Jan. 25, 2023). Two comments were filed. First, the Honorable Sarah Hennesy, acting in her role as Chair of the Minnesota Supreme Court Advisory Committee on the General Rules of Practice for the District Courts, submitted a comment recommending a change to the proposed amendment to Rule 903 of the Rules of Guardian Ad Litem Procedure. Second, Rachele Stratton, acting on behalf of Hennepin County Adult Representation Services (ARS), submitted a comment regarding the proposed amendment to Rule 11 of the Rules of Juvenile Protection Procedure, opposing the proposed amendment and suggesting an alternate amendment.

The court agrees that most of the proposed amendments should be adopted, with a minor change to one of the proposed amendments. First, the court adopts the proposed amendment related to the modification of transfer of permanent legal and physical custody orders in Rule 59 of the Rules of Juvenile Protection Procedure. This amendment reinstates

a provision—former Rule 42.07, subdivision 4—that was erroneously deleted when the rules were revised in 2019.

Second, the court adopts the proposed amendments to Rule 36 of the Rules of Juvenile Protection Procedure related to changes to Minn. Stat. § 260C.163, subd. 3(c), with a minor typographical change. These amendments are intended to reduce confusion about when appointment of counsel for a parent, guardian, or custodian is required in light of the statutory changes on that topic. The amendments also make clear that a court-appointed attorney in a juvenile protection matter need not file a certificate of representation. The court adopts the amendments as proposed by the committee, with the exception that the adopted amendment corrects a typographical error in the proposal.

Third, the court adopts the proposed amendments to Rules 17 and 42 of the Rules of Juvenile Protection Procedure due to new statutory chapter 260E for reporting of maltreatment of minors. These amendments incorporate references to the new statutory chapter.

Fourth, the court adopts the proposed amendment to Rule 47 of the Rules of Juvenile Protection Procedure concerning a CHIPS admissions exception. This amendment clarifies when a parent who is a party or legal custodian need not admit or deny the statutory grounds set forth in a CHIPS petition.

Fifth, the court adopts the proposed amendments to Rule 2.01 of the Rules of Juvenile Protection Procedure and Rule 2.01 of the Rules of Adoption Procedure concerning progress toward adoption review hearings. These amendments clarify that such hearings are juvenile protection matters and fall under the scope of the Rules of Juvenile Protection Procedure.

Sixth, the court adopts the proposed amendment to Rule 27.02 of the Rules of Juvenile Protection Procedure concerning notification of changes in a child's foster care placement. This amendment creates a requirement for a responsible social services agency to promptly notify the court and parties of a change of foster care placement.

And seventh, the court adopts the proposed amendments to correct citations in Rules 16.05, 45.02, and 54.02 of the Rules of Juvenile Protection Procedure. These amendments are appropriate in order to correct typographical errors in the Rules.

With respect to the proposed amendments to Rules 902, 903, and 904 of the Rules of Guardian ad Litem Procedure, Rule 37 of the Rules of Juvenile Protection Procedure, and Rule 24 of the Rules of Adoption Procedure concerning the Guardian ad Litem Program, the court will take no action at this time. A matter involving the appointment and discharge of guardians ad litem is currently pending before the court. *See Blakey v. Jones*, No. A22-0098, Order at 3 & 5 (Minn. App. filed Nov. 1, 2022) (dismissing appeal for failure to timely serve guardian ad litem with notice of appeal, when district court had discharged guardian ad litem), *review granted* (Minn. Jan. 17, 2023). The court will take further action as appropriate following resolution of *Blakey*.

Finally, the court adopts the proposed amendments to Rules 11 and 13.03 of the Rules of Juvenile Protection Procedure, as well as Rules 12 and 14.03 of the Rules of Adoption Procedure. These amendments are appropriate to make the rules consistent with this court's April 19, 2022 order regarding Judicial Council Policy 525: oneCourtMN Hearings Initiative Policy. *See Order Governing the Continuing Operations of the Minnesota Judicial Branch*, ADM20-8001 (Minn. filed Apr. 19, 2022). With respect to the comment submitted on behalf

of ARS, opposing the amendments, the court appreciates the concerns expressed in the comment. But the suggested alternative amendment proposed by ARS would be inconsistent with this court's April 19, 2022 order.

IT IS HEREBY ORDERED that the attached amendments to the Minnesota Rules of Juvenile Protection Procedure and the Minnesota Rules of Adoption Procedure are prescribed and promulgated as shown below. The amendments are effective as of January 1, 2024, and shall apply to all cases pending on, or filed on or after, the effective date.

Dated: September 25, 2023

BY THE COURT:

A handwritten signature in black ink, appearing to read "Lorie S. Gildea". The signature is written in a cursive style with a large initial "L".

Lorie S. Gildea  
Chief Justice

**AMENDMENTS TO THE MINNESOTA RULES OF  
JUVENILE PROTECTION PROCEDURE**

*[Note: In the following amendments, deletions are indicated by a line drawn through the words and additions are indicated by a line drawn under the words.]*

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**Rule 2.01. Definitions**

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(19) “**Juvenile protection matter**” means any of the following types of matters:

(a) child in need of protection or services matters as defined in Minn. Stat. § 260C.007, subd. 6, including habitual truant and runaway matters;

(b) neglected and in foster care matters as defined in Minn. Stat. § 260C.007, subd. 24;

(c) review of voluntary foster care matters as defined in Minn. Stat. § 260C.141, subd. 2;

(d) review of out-of-home placement matters as defined in Minn. Stat. § 260C.212;

(e) termination of parental rights matters as defined in Minn. Stat. §§ 260C.301–.328; ~~and~~

(f) permanent placement matters as defined in Minn. Stat. §§ 260C.503–.521, including matters involving termination of parental rights, guardianship to the Commissioner of Human Services, transfer of permanent legal and physical custody to a relative, permanent custody to the agency, and temporary legal custody to the agency, and matters involving voluntary placement pursuant to Minn. Stat. § 260D.07; ~~and-~~

(g) progress toward adoption hearings as defined in Minn. Stat. § 260C.607.

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**RULE 11. USE OF TELEPHONE AND REMOTE TECHNOLOGY  
INTERACTIVE VIDEO**

**Rule 11.01. Motions and Conferences**

The court may hear motions and conduct conferences with counsel by telephone or remote technology ~~interactive video~~.

**Rule 11.02. Juvenile Protection Proceedings Hearings and Taking Testimony**

~~By agreement of the parties, or in exceptional circumstances upon motion of a party or the county attorney or on the court's own initiative, t~~The court may hold hearings and take testimony permit appearances for a juvenile protection proceeding by telephone or remote technology interactive video.

**Rule 11.03. ~~In Court Appearance Not Precluded~~**

~~This rule shall not preclude a party or county attorney from being present in person before the court at a hearing.~~

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**Rule 13.03. Hearing**

The alleged contemnor must appear ~~in person~~ before the court to be afforded the opportunity to oppose the motion for contempt by sworn testimony. The court shall not act upon affidavit alone, absent express waiver by the alleged contemnor of the right to offer sworn testimony.

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**Rule 16.05. Proof of Service**

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**Subd. 2. Exceptions.**

**(a) Social Worker and Guardian ad Litem Court Reports.**

Social workers and guardians ad litem are not required to file proof of service when serving the court reports required under Rule 27 and, instead, shall include with their report a certificate of distribution under oath or penalty of perjury under Minn. Stat. § 358.116~~7~~ stating:

- (1) the name of the person served,
- (2) the method of service,
- (3) the date and place of service, and
- (4) the name of the person submitting the certificate of distribution.

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### **Rule 17.01. Disclosure by Petitioner Without Court Order**

Upon the request of any party, the petitioner shall without court order make the following disclosures:

(a) **Documents and Tangible Items.** The petitioner shall allow access at any reasonable time to all information, material, and items within the petitioner's possession or control which relate to the case. The petitioner shall permit inspection and copying of any relevant documents, recorded statements, or other tangible items which relate to the case within the possession or control of the petitioner and shall provide any party with the substance of any oral statements which relate to the case. The release of a videotaped statement of a child abuse victim or alleged victim shall be governed by Minn. Stat. § 611A.90. The petitioner shall not disclose the name of or any identifying information regarding a reporter of maltreatment except as provided in Minn. Stat. § 260E.35 ~~626.556, subd. 11~~.

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### **Rule 17.04. Discovery Upon Court Order**

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(b) **Depositions.**

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(4) **Notice.** A party or the county attorney taking a deposition shall give reasonable notice of the deposition. The deposition shall be taken before an officer authorized to administer oaths by the laws of the United States, or before a person appointed by the court in which the matter is pending. The parties shall agree on or the court shall order the manner of recording of the deposition. A stenographic transcription may be made at a party's request. Examination and cross-examination of witnesses shall be as permitted at trial. However, the deponent shall answer any otherwise objectionable question, except that which would reveal privileged material (unless the privilege does not apply pursuant to Minn. Stat. § 260E.04 ~~626.556, subd. 8~~), so long as it leads to or is reasonably calculated to lead to the discovery of any admissible evidence.



(c) **Reports or Examinations and Tests.** Upon motion and order of the court, any party shall disclose and permit the county attorney, attorney for petitioner, and other parties to inspect and copy any results or reports of physical or mental examinations, chemical dependency assessments and treatment records, scientific tests, experiments, and comparisons relating to the particular case. It is not grounds for objection that the information sought will be inadmissible at trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence. Privileged communications may be discoverable in accordance with Minn. Stat. § 260E.04 626.556, subd. 8.

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### **Rule 27.02. Social Services Court Report – Child in Foster Care**

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**Subd. 4. Notice of Change in Foster Care Placement.** If the child’s foster care placement changes, the agency shall file with the court and serve upon all parties a notice of change of foster care placement, including the date of placement, and name and address of the new foster care placement, as soon as possible but no later than five days after the change in placement.

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### **Rule 36.02. Appointment of Counsel**

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**Subd. 2. Parent, Guardian, Legal Custodian, or Indian Custodian.** Appointment of counsel for a parent, guardian, or legal custodian whose child is the subject of a juvenile protection matter shall be pursuant to Minn. Stat. § 260C.163, subd. 3. Appointment of counsel for a parent or Indian custodian of an Indian child who is the subject of a juvenile protection matter shall be pursuant to the Indian Child Welfare Act, 25 U.S.C. § 1912(b). ~~The appointment of counsel for the parent, legal custodian, or Indian custodian shall occur as soon as practicable after the request is made.~~ For purposes of appeal, appointment of counsel in a juvenile protection matter shall be made within three days of the request for counsel. When possible, the trial court attorney should be appointed as appellate counsel.

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### **Rule 36.04. Certificate of Representation**

An attorney representing a client in a juvenile protection matter, other than a public defender, a court-appointed attorney, or a county attorney, shall on or before the attorney's first appearance file with the court a certificate of representation.

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### **Rule 42.06. Evidence**

The court may admit any evidence, including reliable hearsay and opinion evidence, that is relevant to the decision of whether to continue protective care of the child or return the child home. Privileged communications may be admitted if authorized by Minn. Stat. § 260E.04 ~~626.556, subd. 8.~~

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### **Rule 42.10. Protective Care Review**

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#### **Subd. 3. Formal Review.**

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(c) **Evidence.** The court may admit any evidence, including reliable hearsay and opinion evidence, which is relevant to the decision whether to continue protective care of the child or return the child home. Privileged communications may be admitted if authorized by Minn. Stat. § 260E.04 ~~626.556, subd. 8.~~

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### **Rule 45.02. Content**

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**Subd. 2. Out of State Party.** If a party resides out of state, or if there is a likelihood of interstate litigation, the petition or an attached affidavit shall include a statement regarding the whereabouts of the party and any other information required by the Uniform Child Custody Jurisdiction and Enforcement Act, Minn. Stat. §§ 518D.101–.317.

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**Rule 47.01. Generally**

**Subd. 1. Parent or Legal Custodian.** Unless the child’s parent or legal custodian is the petitioner, or except as provided in subd. 2(b) of this rule, a parent who is a party or a legal custodian shall admit or deny the statutory grounds set forth in the petition or remain silent. If the parent or legal custodian denies the statutory grounds set forth in the petition or remains silent, or if the court refuses to accept an admission, the court shall enter a denial of the petition on the record.

**Subd. 2. Child.**

(a) **Generally.** Except as otherwise provided in this rule, the child shall not admit or deny the petition.

(b) **Child’s Behavior.** In matters where the sole allegation is that the child’s behavior is the basis for the petition, only the child shall admit or deny the statutory grounds set forth in the petition or remain silent.

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**Rule 54.02. Content**

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**Subd. 2. Out of State Party.** If a party resides out of state, or if there is a likelihood of interstate litigation, the petition or an attached affidavit shall include a statement regarding the whereabouts of the party and any other information required by the Uniform Child Custody Jurisdiction and Enforcement Act, Minn. Stat. §§ 518D.101–.317.

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**RULE 59. PERMANENCY ORDER MODIFICATIONS**  
**REESTABLISHMENT OF LEGAL PARENT AND CHILD**  
**RELATIONSHIP**

**Rule 59.01 Reestablishment of Legal Parent and Child Relationship**

A petition for reestablishment of the legal parent and child relationship may be filed by the county attorney, or parent whose parental rights were terminated, under the Family Reunification Act of 2013, Minn. Stat. § 260C.329.

The petition shall be reviewed by the court, and the resulting order processed by court administration, as provided in Minn. Stat. § 260C.329.

**Rule 59.02 Modification of Transfer of Permanent Legal and Physical Custody to a Relative Order**

An order transferring permanent legal and physical custody of a child to a relative may be modified using the standards under Minnesota Statutes § 518.18 and § 518.185. The motion shall be filed in the court file in the county where the order was issued and, if appropriate, a party may file a motion to transfer venue. If the order was filed prior to August 1, 2012, the motion to modify shall be filed in family court. If the order was filed on or after August 1, 2012, the motion to modify shall be filed in juvenile court and may reinstate jurisdiction in the case where the order was issued. Notice of any motion to modify an order for permanent legal and physical custody issued under this rule and Minnesota Statutes § 260C.515, subd. 4, shall be provided by the court administrator to the responsible social services agency which shall be a party to the proceeding pursuant to Minnesota Statutes § 260C.521, subd. 2.

**AMENDMENTS TO THE MINNESOTA RULES OF  
ADOPTION PROCEDURE**

*[Note: In the following amendments, deletions are indicated by a line drawn through the words and additions are indicated by a line drawn under the words.]*

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**Rule 2.01. Definitions**

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(4) “Adoption matter” means any proceeding for adoption of a child or an adult in the juvenile courts of Minnesota, including a stepparent adoption, relative adoption, direct placement adoption, intercountry adoption, adoption resulting from a juvenile protection matter, proceeding under Minnesota Statutes §§ 260C.601–.637, and any other type of adoption proceeding under Minnesota Statutes Chapter 259. Progress toward adoption hearings, as defined in Minn. Stat. § 260C.607, are juvenile protection matters and fall under the scope of the Rules of Juvenile Protection Procedure.

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**RULE 12. USE OF TELEPHONE AND REMOTE TECHNOLOGY  
INTERACTIVE VIDEO**

**Rule 12.01. Motions and Conferences**

The court may hear motions and conduct conferences by telephone or remote technology ~~interactive video where testimony is not required and to resolve procedural matters.~~

**Rule 12.02. Adoption Proceedings Hearings and Taking Testimony**

~~By agreement of the parties, or in exceptional circumstances upon motion of a party on the court’s own initiative, t~~The court may hold hearings and take testimony permit appearances for an adoption proceeding by telephone or remote technology interactive video.

**~~Rule 12.03. In Court Appearance Not Precluded~~**

~~This rule shall not preclude a party from being present in person before the court at a hearing.~~

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### **Rule 14.03. Hearing**

The alleged contemnor shall appear ~~in person~~ before the court to be afforded an opportunity to oppose the motion for contempt by sworn testimony. The court shall not act upon affidavit alone, absent express waiver by the alleged contemnor of the right to offer sworn testimony.