

CHAPTER 19**POST-TRIAL MOTIONS AND APPEALS****TABLE OF CONTENTS**

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	PROCEDURE	AUTHORITY
19.01	<p>APPLICABILITY OF RULES OF CIVIL APPELLATE PROCEDURE Except as noted below in section 19.03 regarding the timing of filing an appeal, appeals of juvenile protection matters shall be in accordance with the Rules of Civil Appellate Procedure.</p>	RJPP 47.01
19.02	<p>APPEALABLE ORDER An appeal may be taken by an aggrieved person from a final order of the juvenile court affecting a substantial right of the aggrieved person, including, but not limited to, an order adjudging a child to be in need of protection or services, neglected, or in foster care.</p>	RJPP 47.02, subd. 1
19.03	<p>TIMING</p> <p>A. GENERALLY. Any appeal shall be taken within twenty (20) days of the date the court administrator serves notice of the filing of the court's order.</p> <p>B. APPEAL FOLLOWING POST-TRIAL MOTION. In the event of the filing and service of a timely and proper post-trial motion under Rule 45, or motion for relief under Rule 46 if the motion is filed within the time specified in Rule 45.01, subd. 1, the provisions of Minnesota Rules of Civil Appellate Procedure Rule 104.01, subd. 2 and 3, apply, except that the time for appeal runs for all parties from the service of notice by the court administrator of the filing of the order disposing of the last post-trial motion.</p> <p><i>COMMENT: Minn. Stat. § 260C.415 provides that an appeal shall be taken within 30 days of the filing of the appealable order and "as in other civil cases" under the Rules of Civil Appellate Procedure. Rule 47.02, subd. 2, however, is a departure from the statute in that it provides that the appeal time is limited to 20 days and begins to run from the date the court administrator serves notice of the filing of the order. This departure is intended to expedite the appellate process, which is deemed to be in the best interests of the child.</i></p>	<p>RJPP 47.02, subd. 2</p> <p>RJPP 47.02, subd. 2</p> <ul style="list-style-type: none"> • Minn. Stat. § 260C.415 • <i>In Re Welfare of J.R., Jr. and A.I.R.</i>, 655 N.W.2d 1 (Minn. 2003) (difference between statutes and rules regarding timing of appeals)
19.04	<p>RESPONSIBILITIES OF APPEALING PARTY</p> <p>A. SERVE AND FILE NOTICE OF APPEAL. Within the time allowed for an appeal the party appealing shall:</p> <ol style="list-style-type: none"> 1. Serve a notice of appeal upon the county attorney and all parties, or their counsel if represented, including notice of the correct case caption pursuant to RJPP 8.08; and 2. File with the clerk of appellate courts a notice of appeal, together with proof of service upon all parties, including notice of the correct case caption pursuant to RJPP 8.08. 3. A notice of appeal shall be accompanied by a copy of the request for transcript required by Rule 47.02, subd. 5. <p>COMMENT: <i>RJPP 8.08 provides that upon the filing of an appeal the appellant shall provide to the juvenile court administrator, the appellate court, and the parties and participants notice of the correct appellate case caption. RJPP 8.08 also provides that all juvenile protection court files opened in any Minnesota appellate court shall be captioned in the initials of the parent(s) or legal custodian(s) as follows: "In the Matter of the Welfare of the Child(ren) of _____, Parent(s)/Legal Custodian(s)." The caption shall not include the child's name or initials.</i></p>	<ul style="list-style-type: none"> • RJPP 47.02, subd. 3 • <i>In Re Welfare of J.R., Jr. and A.I.R.</i>, 655 N.W.2d 1 (Minn. 2003) (failure to timely serve notice of appeal on GAL in TPR appeal was jurisdictional defect requiring dismissal of appeal) <p>RJPP 8.08, subd. 2</p>

	PROCEDURE	AUTHORITY
	<p>19.04 Responsibilities of Appealing Party (continued)</p> <p>B. NOTICE TO COURT ADMINISTRATOR. At the same time as the appeal is filed the appellant shall provide notice of the appeal to the court administrator. Failure to notify the court administrator does not deprive the court of appeals of jurisdiction.</p> <p>C. FAILURE TO FILE PROOF OF SERVICE. Failure to file proof of service required above in section 19.04(A)(2) does not deprive the court of appeals of jurisdiction over the appeal, but is grounds only for such action as the court of appeals deems appropriate, including a dismissal of the appeal.</p>	<ul style="list-style-type: none"> • RJPP 47.02, subd. 4 • RJPP 47.02, subd. 6
19.05	<p>NOTICE TO LEGAL CUSTODIAN</p> <p>The court administrator shall notify the child’s legal custodian of the appeal. Failure to notify the legal custodian does not affect the jurisdiction of the court of appeals.</p>	RJPP 47.02, subd. 7
19.06	<p>APPLICATION FOR STAY OF TRIAL COURT ORDER</p> <p>The service and filing of a notice of appeal does not stay the order of the trial court. The trial court order stands pending the determination of the appeal, but the trial court may in its discretion and upon application stay the order. If the trial court denies the application for stay of appeal, the appellate court may, upon motion, grant a stay pending appeal.</p>	RJPP 47.03
19.07	<p>TIMING OF BRIEFS</p> <p>Rule 131.01 of the Rules of Civil Appellate Procedure applies to the timing of briefs in juvenile protection matters, except that the respondent shall serve and file a brief and any appendix within twenty (20) days after service of the brief of the appellant; within twenty (20) days after service of the last appellant’s brief, if there are multiple appellants; or within twenty (20) days after delivery of a transcript ordered by respondent pursuant to Civil Appellate Procedure Rule 110.02, subd. 1, whichever is later.</p>	
19.08	<p>RIGHT TO ADDITIONAL REVIEW</p> <p>Upon an appeal, any party or the county attorney may obtain review of an order entered in the same case which may adversely affect that person by filing a notice of review with the clerk of appellate courts. The notice of review shall specify the order to be reviewed, shall be served and filed within fifteen (15) days after service of the notice of appeal, and shall contain proof of service.</p>	RJPP 47.04
19.09	<p>TRANSCRIPT OF PROCEEDINGS</p> <p>The requirements regarding preparation of a transcript shall be governed by Minn. R. Civ. P. 110.02, except that the estimated completion date contained in the certificate of transcript shall not exceed thirty (30) days.</p>	RJPP 47.05
19.10	<p>TIME FOR RENDERING DECISIONS</p> <p>All decisions regarding juvenile protection matters shall be issued by the appellate court within forty-five (45) days of the date the case is deemed submitted pursuant to the Rules of Civil Appellate Procedure.</p>	RJPP 47.06

	PROCEDURE	AUTHORITY
19.11	<p>PETITION IN SUPREME COURT FOR REVIEW OF DECISION OF COURT OF APPEALS</p> <p>Rule 117 of the Rules of Civil Appellate Procedure applies to petitions for review of decisions of the court of appeals in juvenile protection matters, except that any petition for further review shall be filed with the clerk of the appellate courts and served upon the parties within fifteen (15) days of the filing of the court of appeals' decision, and any response to such petition shall be filed with the clerk of appellate courts and served upon the parties within ten (10) days of service of the petition.</p>	RJPP 47.07