

STATE OF MINNESOTA
IN SUPREME COURT
ADM10-8041



**ORDER REGARDING MINN. STAT. § 260.67 AND
THE RULES OF JUVENILE PROTECTION PROCEDURE**

The Rules of Juvenile Protection Procedure govern court procedures for juvenile protection matters in the juvenile courts in Minnesota. Juvenile Protection Procedure Rule 23.02, subd. 2, gives parties in juvenile protection cases 20 days from service of a final order to file an appeal. The timing provisions of Rule 23.02, subd. 2, are a departure from Minn. Stat. § 260C.415 (2022), which provides a 30-day deadline to file an appeal in juvenile protection cases. In 2009, we amended Rule 23.02, subd. 2, to shorten the appeal deadline from 30 to 20 days to expedite the process based on best interests of the child considerations and federal standards for permanency timelines. *In re R.K.*, 901 N.W.2d 156, 162 n.8 (Minn. 2017). The provisions of Rule 23.02 govern over the conflicting statute, as the supreme court has the primary responsibility under the separation of powers doctrine to regulate matters of trial and appellate procedure, such as the time to file an appeal. *In re J.R., Jr.*, 655 N.W.2d 1, 3 (Minn. 2003). Since 2009, parties have had 20 days to file an appeal in a juvenile protection case.

The Minnesota Legislature enacted new legislation this year entitled the Minnesota African American Family Preservation and Child Welfare Disproportionality Act (“the Act”). Act of May 21, 2024, ch. 117. The Act includes Minn. Stat. § 260.67, subd. 5, a new statute

that provides the time to file an appeal for certain parties in certain juvenile protection proceedings. That statute provides:

Subd. 5. **Appeals.** Notwithstanding the Minnesota Rules of Juvenile Protection Procedure, rule 47.02, subdivision 2, a parent of an African American or a disproportionately represented child whose parental rights have been terminated may appeal the decision within 90 days of the service of notice by the court administrator of the filing of the court's order.¹

The Act, including Minn. Stat. § 260.67, subd. 5, will be phased in. The Act is effective January 1, 2025, in Hennepin and Ramsey Counties. The Act is effective statewide on January 1, 2027.

Minnesota Statutes section 260.67, subdivision 5, creates a conflict with Juvenile Protection Procedure Rule 23.02, because the statute gives a parent of an African American or a disproportionately represented child whose parental rights have been terminated 90 days to file an appeal instead of the 20 days provided by Rule 23.02. This conflict relates directly to a procedural rule in judicial proceedings, the time to file an appeal in a juvenile protection case.² Under the separation of powers doctrine, the judicial branch controls procedural rules in judicial proceedings. When there is a conflict between a rule and a statute regarding the

¹ Minn. Stat. § 260.67, subd. 5, incorrectly references Juvenile Protection Procedure Rule 47.02, subd. 2. It should instead cite to Juvenile Protection Rule 23.02, subd. 2, which provides the time for filing an appeal. The rule was renumbered from 47.02 to 23.02 in 2019 as part of the Juvenile Protection Rules revision. Minn. R. Juv. Prot. P. 23 advisory comm. cmt.—2019.

² This conflict is the same as the conflict that has existed between Juvenile Protection Procedure Rule 23.02, subd. 2, and Minn. Stat. § 260C.415 since 2009. There, Rule 23.02, subd. 2, governs the time to appeal. *In re J.R., Jr.*, 655 N.W.2d at 3.

time to file an appeal in a juvenile protection case, the Rules of Juvenile Protection Procedure control the process.

Based on all the files, records, and proceedings herein,

IT IS HEREBY ORDERED that notwithstanding Minn. Stat. § 260.67, subd. 5, the time to file an appeal in a juvenile protection case shall continue to be governed by the Rules of Juvenile Protection Procedure, which provides 20 days to file an appeal in a juvenile protection case.

Dated: October 22, 2024

BY THE COURT:

A handwritten signature in black ink that reads "Natalie E. Hudson". The signature is written in a cursive, flowing style.

Natalie E. Hudson
Chief Justice