

Rule 7. Access to Adoption Case Records and Birth Record Information**7.01 Access to Adoption Case Records Limited**

Adoption case records and files maintained by the court relating to adoption matters shall not be available for inspection or copying by any person except:

- (a) the court and court personnel;
- (b) the Commissioner of Human Services or the Commissioner's representatives, including the responsible social services agency, local social services agency, or child placing agency;
- (c) an agency acting under Minnesota Statutes, section 259.47, subdivision 10; or
- (d) upon an order of the court expressly permitting inspection and copying pursuant to a petition filed as provided in Rule 7.02.

2004 Advisory Committee Comment

Rule 7.01 mirrors Minnesota Statutes, section 259.61, which does not permit party access to adoption case records or court files relating to adoption matters.

7.02 Petition to Access Adoption Case Records and Birth Record Information

Subdivision 1. Content of Petition. A person not listed in Rule 7.01 may only access adoption case records or birth record information relating to an adoption matter by filing with the court in the county which issued the final adoption decree a petition which sets forth the reasons why the person is requesting access to the case records or birth record information and shall include the following, if known:

- (a) the procedural history of the adoption proceeding, including the date of adoption or of adoptive placement;
- (b) the names and addresses of all persons who may be affected by the request;
- (c) a factual statement about how granting the petitioner access to the adoption case records would be of greater benefit than not granting access;
- (d) the particular information sought, including whether the request for disclosure includes the name of the biological parent;
- (e) the date the petitioner contacted the Department of Health requesting identifying information on a birth record, if the petitioner is requesting identifying information in a birth record; and
- (f) the legal basis, if any, given to the petitioner by the Department of Health, the Department of Human Services, or agency responsible for supervising the adoptive placement for the Department's or agency's refusal to disclose the requested information.

Subd. 2. Service of Petition.

(a) Request for Access to Identifying Information in Birth Record - Commissioner of Health. Where access to identifying information in the birth record is sought, the court administrator shall serve the petition on the Commissioner of Health by U.S. mail or through the E-Filing System if the Commissioner has the resources and technical capacity to accept electronic service. Upon service of the petition on the Commissioner of Health, the Commissioner shall supply to the court any affidavit of notification it has from the Department of Human Services pursuant to Minnesota

Statutes, section 259.89, and any other information the Commissioner of Health has regarding the legal basis for its refusal to disclose the requested information, including whether:

(1) the biological parent has consented to disclosure of identifying information in the adoption record or birth record;

(2) the biological parent has filed an affidavit objecting to the release of identifying information which remains unrevoked; and

(3) the biological parent is living or deceased.

(b) Request for Access to Agency Records - Agency Supervising Adoptive Placement.

When access to records of the agency responsible for supervising the adoptive placement is requested, the court administrator shall serve the petition on the director of the agency by U.S. mail or through the E-Filing System if the agency has the resources and technical capacity to accept electronic service.

(c) Other Persons. The court may order the petition to be served on such other persons as are necessary to its determination regarding whether nondisclosure of the requested information is of greater benefit than disclosure. If the court orders service upon the biological parent when the biological parent's address is known to the Department or the agency, the court may order the Department or the agency to disclose the biological parent's name and address to the court administrator who shall maintain the information in a confidential manner and cause the petition to be served on the biological parent in a confidential manner by certified U.S. mail designated "deliver to addressee only."

Subd. 3. Access to Information - Other Agencies. The court shall forward data and information to agencies and others as required by statute or these rules.

Subd. 4. Tribal Affiliation Information. Upon application by an Indian person who has reached the age of eighteen (18) and who was the subject of an adoptive placement, the court which entered the final adoption decree shall inform such individual of the tribal affiliation, if any, of the individual's biological parents and provide such other information as may be necessary to protect any rights flowing from the individual's tribal relationship.

Subd. 5. Counsel Sharing Record with Client. Unless otherwise expressly ordered by the court, counsel for a party may only share adoption case records with that party consistent with state and federal access rules.

(Amended effective July 1, 2015)

2004 Advisory Committee Comment

Rule 7.01, subdivision 4, sets forth the substantive law of the Indian Child Welfare Act.

7.03 Stepparent Adoption

In a stepparent adoption, upon written request from a parent whose parental rights would be or have been severed by the adoption under Minnesota Statutes, section 259.59, the court may confirm in writing whether or not the adoption decree has been granted, and if so, the date of the adoption decree.

7.04 Disclosure to Employer and Military Prohibited

Adoption case records and court files relating to adoption matters shall not be inspected, copied, disclosed, or released to the military services or to any present or prospective employer of the adopted person.

7.05 Protective Order

Upon motion pursuant to Rule 15, and for good cause shown, the court may at any time issue a protective order regarding any adoption case record or portion of such a record.

7.06 Suitability of Proposed Adoptive Parents

Pursuant to Minnesota Statutes, section 259.53, subdivision 3, paragraph (b), a judge of the court having jurisdiction of the adoption matter shall upon request disclose to a party to the proceedings or the party's counsel any portion of a report or record that relates only to the suitability of the proposed adoptive parents. In this disclosure, the judge may withhold the identity of individuals providing information in the report or record. When the judge is considering whether to disclose the identity of individuals providing information, the agency with custody of the report or record shall be permitted to present reasons for or against disclosure.

7.07 Release of Identifying Information

Subdivision 1. Request for Identifying Information. After first accessing or attempting to access the requested information pursuant to Minnesota Statutes, sections 259.83 and 259.89, an adopted person who is age nineteen (19) or older may petition the court for release of identifying information about a biological parent.

Subd. 2. Notice to Biological Parent. Upon petition for release of identifying information under Rule 7.02, including service of the petition on the agency that supervised the adoptive placement, the court may order such agency to locate and identify the biological parent's current address, including contacting the biological parent in a confidential manner as required under Minnesota Statutes, section 259.83. Pursuant to Minnesota Statutes, section 259.83, the agency may charge the petitioner a reasonable fee for its efforts to locate the biological parent. Not later than ninety (90) days after the order, or sooner if exigent circumstances exist, the agency shall inform the court of the results of the search.

Subd. 3. Biological Parent's Response to Notice.

(a) **Biological Parent's Consent.** If the biological parent has been located and consents to release of the identifying information, the petitioner shall advise the court when the requested identifying information is received at which time the court shall dismiss the petition.

(b) **Biological Parent's Refusal.** If the biological parent refuses release of identifying information, including through an affidavit objecting to the release of identifying information under Minnesota Statutes, section 259.83, the agency shall inform the court of the parent's refusal. If the parent's address is known, it shall be provided to the court administrator who shall maintain it in a confidential manner. Upon receipt of the parent's address, the court shall serve a copy of the petition requesting release of information and any supporting documentation on the biological parent by certified U.S. mail designated "deliver to addressee only."

(c) **Biological Parent Cannot be Located.** If the agency is unable to locate the biological parent's address, the agency shall inform the court about the efforts made to locate the parent's address. The court may then either direct the agency to conduct further search or grant the request for release of identifying information.

Subd. 4. Objection to Release of Identifying Information. A biological parent objecting to the release of identifying information shall have the opportunity to present evidence to the court that nondisclosure of identifying information is of greater benefit to the biological parent than disclosure to the adopted person. Such an objection shall be filed with the court within thirty (30) days of the contact and such objection shall be maintained by the court in a confidential manner.

7.08 Access to Original Birth Record Information; Decision

Subdivision 1. Adoptions Prior to August 1, 1977. A person adopted prior to August 1, 1977, may petition the court for disclosure of the original birth record. The petition shall include information necessary for the court to make the decision required in subdivision 2. Pursuant to Minnesota Statutes, section 259.89, for adoptions occurring prior to August 1, 1977, and after consideration of the interests of all known persons involved, if the biological parent is deceased and the court determines that disclosure of the birth record information would be of greater benefit than nondisclosure, the court shall grant the petition and order the Commissioner of Health to disclose identifying information including the name of the biological parent on the original birth record.

Subd. 2. Adoptive Placements After August 1, 1982. Pursuant to Minnesota Statutes, section 259.83, for adoptive placements made on or after August 1, 1982, and after consideration of the interests of all known persons involved, if a living biological parent has filed an unrevoked affidavit objecting to the release of identifying information and the court determines that disclosure of the birth record information would be of greater benefit than nondisclosure, the court shall grant the petition and order the agency responsible for supervising the adoptive placement to disclose identifying information retained by the agency including the name of the biological parent, the biological parent's last known address, the birth date, and birth place of the biological parent named on the adopted person's original birth record.

2004 Advisory Committee Comment

In many situations where adult adopted persons seek information about their adoptions including the names of biological parents, the Department of Health or the agency responsible for supervising the adoptive placement have legal authority to release the requested information. The instances where the Department of Health and responsible agencies do not have such legal authority are covered by Rule 7.08.

7.09 Information to Adopted Persons and Others About Access to Birth and Adoption Records

Upon inquiry from an adopted person, a biological or adopted parent, or an adult genetic sibling, the court administrator shall give information about access to information about original birth records or adoption records as provided in Minnesota Statutes, sections 259.83 and 259.89, on an information sheet prepared by the State Court Administrator's Office.