

Rule 357. Legal Representation and Appointment of Guardian Ad Litem**Rule 357.01 Right to Representation**

Each party appearing in the expedited process has a right to be represented by an attorney. A party, however, does not necessarily have the right to appointment of an attorney at public expense as provided in Rule 357.03.

(Amended effective January 1, 2005.)

Rule 357.02 Certificate of Representation

An attorney representing a party in the expedited process, other than a public defender or county attorney, shall on or before the attorney's first appearance file with the court a certificate of representation.

(Amended effective January 1, 2005.)

Rule 357.03 Appointment of Attorney at Public Expense

Unless a party voluntarily waives the right to counsel, the child support magistrate shall appoint an attorney at public expense for a party who requests an attorney and who cannot afford to retain an attorney when the case involves:

(a) establishment of parentage; or

(b) contempt proceedings in which incarceration of the party is a possible outcome of the proceeding.

Pursuant to Minnesota Statutes, section 257.69, subdivision 1, a court-appointed attorney shall represent a party only with respect to issues necessary for the initial establishment of parentage.

(Amended effective January 1, 2005; amended effective July 1, 2019; amended effective November 22, 2023.)

Advisory Committee Comment

Parentage. The Minnesota Parentage Act, codified as Minnesota Statutes 2000, sections 257.51 to 257.74, provides that "the court shall appoint counsel for a party who is unable to pay timely for counsel in proceedings under sections 257.51 to 257.74." Minnesota Statutes 2000, section 257.69, subdivision 1. A party has a right to appointed counsel for all matters brought under the Parentage Act. See *M.T.L. v. Dempsey*, 504 N.W.2d 529, 531 (Minn. App. 1993).

Contempt. In *Cox v. Slama*, 355 N.W.2d 401, 403 (Minn. 1984), the court established the right to counsel for persons facing civil contempt for failure to pay child support when incarceration is a real possibility.

Advisory Committee Comment - 2019 Amendment

Rule 357.03 is amended to reflect the 2012 amendment of Minnesota Statutes, section 257.69, to limit appointments of counsel to the initial establishment of parentage. Custody, parenting time, and name of child, to the extent agreed upon or defaulted, can be included in the initial establishment of parentage. Otherwise, under Rule 353.01, subd. 3(g), evidentiary hearings to establish custody, parenting time, or name of the child under Minnesota Statutes, chapter 257, must be held outside the expedited process.

Advisory Committee Comment - 2023 Amendments

Rule 357.03 is modified in 2023 to narrow the statutory reference to subdivision 1 as other parts of the statute address different issues.

Rule 357.04 Appointment of Guardian Ad Litem

A child support magistrate may appoint a guardian ad litem for a child or minor parent who is a party in any proceeding commenced in the expedited child support process solely for purposes of having the guardian ad litem serve as a representative of that person as authorized under Rule 17.02 of the Minnesota Rules of Civil Procedure. The appointment shall be made pursuant to Rule 17.02 of the Minnesota Rules of Civil Procedure.

(Amended effective for guardians ad litem appointed in Minnesota's juvenile and family courts after 12 o'clock midnight January 1, 2005; amended effective January 1, 2007.)