

Rule 2. Definitions

2.01 Definitions

The terms used in these rules shall have the following meanings:

(1) **"Adjudicated father"** means an individual determined by a court, or pursuant to a Recognition of Parentage under Minnesota Statutes, section 257.75, to be the biological father of the child.

(2) **"Adoption case records"** means all records regarding a particular adoption matter filed with or generated by the court, including orders, notices, the register of actions, the index, the calendar, and the official transcript. See also "records" defined in subdivision (30).

(3) **"Adult adoption"** means the adoption of a person at least 18 years of age.

(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, sections 260C.601 to 260C.637, and any other type of adoption proceeding under Minnesota Statutes, chapter 259. Progress toward adoption hearings, as defined in Minnesota Statutes, section 260C.607, are juvenile protection matters and fall under the scope of the Rules of Juvenile Protection Procedure.

(5) **"Adoption placement agreement"** has the meaning given under Minnesota Statutes, section 260C.603, subdivision 3.

(6) **"Adoptive placement"** has the meaning given under Minnesota Statutes, section 260C.603, subdivision 5.

(7) **"Affidavit"** is as defined in rule 15 of the General Rules of Practice for the District Courts.

(8) **"Agency,"** as defined in Minnesota Statutes, section 259.21, subdivision 6, and as referenced in Minnesota Statutes, sections 245A.02 to 245A.16 and 260C.007, subdivision 2, means an organization or department of government designated or authorized by law to place children for adoption or any person, group of persons, organization, association, or society licensed or certified by the Commissioner of Human Services to place children for adoption, including a Minnesota federally recognized tribe.

(9) **"Birth relative,"** for purposes of entering into a communication or contact agreement pursuant to Rule 34.01, subdivision 2, means a parent, stepparent, grandparent, brother, sister, uncle, or aunt of a child. This relationship may be by blood, adoption, or marriage. "Birth relative" of an Indian child includes members of the extended family as defined by the law or custom of the Indian child's tribe or, in the absence of laws or custom, also includes any person age eighteen (18) or older who is the Indian child's niece, nephew, first or second cousin, brother-in-law, or sister-in-law as provided in the Indian Child Welfare Act, 25 U.S.C. section 1903(2).

(10) **"Child"** means a person under the age of eighteen (18) years.

(11) **"Child placing agency"** means a private agency making or supervising an adoptive placement.

(12) **"Commissioner"** means the Commissioner of Human Services of the State of Minnesota or any employee of the Department of Human Services to whom the commissioner has delegated authority regarding children under the commissioner's guardianship.

(13) **"Contested adoption"** means an adoption matter where:

- (a) there are two or more adoption petitions regarding the same child;
- (b) a party has filed a written challenge to the adoption; or
- (c) a legal custodian or legal guardian who is not a parent has withheld consent.

(14) **"Contested adoptive placement"** applies to children under the guardianship of the Commissioner of Human Services and means that portion of procedures under Minnesota Statutes, section 260C.607, subdivision 6, which provides for motion and hearing to contest the adoptive placement of a child under guardianship of the Commissioner of Human Services.

(15) **"Direct placement adoption"** means the placement of a child by a biological parent or legal guardian, other than an agency, under the procedure for adoption authorized by Minnesota Statutes, section 259.47.

(16) **"Electronic means"** is as defined in Rule 14.01(a)(7) of the General Rules of Practice for the District Courts.

(17) **"Father."** See "adjudicated father" and "putative father" as defined in this rule.

(18) **"Indian child,"** is defined in the Minnesota Indian Family Preservation Act, Minnesota Statutes, section 260.755, subdivision 8.

(19) **"Indian custodian,"** is defined in the Indian Child Welfare Act, 25 U.S.C. section 1903, at 25 C.F.R. section 23.2, and in the Minnesota Indian Family Preservation Act, Minnesota Statutes, section 260.755, subdivision 10.

(20) **"Indian tribe,"** is defined in the Indian Child Welfare Act, 25 U.S.C. section 1903, at 25 C.F.R. section 23.2, and in the Minnesota Indian Family Preservation Act, Minnesota Statutes, section 260.755, subdivision 12.

(21) **"Individual related to child,"** as defined under Minnesota Statutes, section 245A.02, subdivision 13, means a spouse, a parent, a biological or adopted child or stepchild, a stepparent, a stepbrother, a stepsister, a niece, a nephew, an adoptive parent, a grandparent, a sibling, an aunt, an uncle, or a legal guardian. Distinguish "relative" under Rule 2.01(31).

(22) **"Legal custodian"** means a person, including a legal guardian, who by court order or statute has sole or joint legal custody of the child.

(23) **"Legal guardian"** means a person who is the court-appointed legal guardian of the child pursuant to Minnesota Statutes, section 260C.325, subdivisions 1 and 3, or Minnesota Statutes, chapter 525, or an equivalent law in another jurisdiction.

(24) **"Local social services agency"** means the agency in the county of the petitioner's residence.

(25) **"Parent"** is defined in Minnesota Statutes, section 260C.007, subdivision 25.

(26) **"Petitioner"** means a person, with a spouse, if any, petitioning for the adoption of any person pursuant to Minnesota Statutes, sections 259.20 to 259.89. "Petitioner" also means the responsible social services agency petitioning for the adopting parent to adopt a child under state guardianship pursuant to Minnesota Statutes, section 260C.623.

(27) **"Placement"** means the transfer of physical custody of a child from a biological parent, legal guardian, or agency with placement authority to a prospective adoptive home.

(28) **"Placement activities"** means any of the following:

- (a) placement of a child;
- (b) arranging or providing short-term foster care pending an adoptive placement;
- (c) facilitating placement by maintaining a list in any form of biological parents or prospective adoptive parents;
- (d) completing or updating a child's social and medical history as required under Minnesota Statutes, sections 259.41 and 260C.611;
- (e) conducting an adoption study;
- (f) witnessing consents to an adoption; or
- (g) engaging in any activity listed in clauses (1) to (6) for purposes of fulfilling any requirements of the Interstate Compact on the Placement of Children, Minnesota Statutes, section 260.851.

(29) **"Putative father"** means a man, including a male who is less than eighteen (18) years of age, who may be a child's father, but who:

- (a) is not married to the child's mother on or before the date that the child was or is to be born; and
- (b) has not established paternity of the child according to Minnesota Statutes, section 257.57, in a court proceeding before the filing of an adoption petition regarding the child; or
- (c) has not signed a recognition of parentage under Minnesota Statutes, section 257.75, which has not been revoked or vacated.

(30) **"Records"** is as defined in Rule 3 of the Rules of Public Access to Records of the Judicial Branch. See also "adoption case records" defined in subdivision (2).

(31) **"Relative"** means a person related to the child by blood, marriage, or adoption, or an individual who is an important friend with whom the child has resided or had significant contact. For an Indian child, relative includes members of the extended family as defined by the law or custom of the Indian child's tribe or, in the absence of laws or custom, any person age eighteen (18) or older who is the Indian child's grandparent, aunt, uncle, brother, sister, niece, nephew, first or second cousin, brother-in-law, sister-in-law, or stepparent as provided in the Indian Child Welfare Act of 1978, 25 U.S.C. section 1903(2). Distinguish "Individual Related to Child" under Rule 2.01(21).

(32) **"Responsible social services agency"** means the county agency acting as agent of the Commissioner of Human Services when the commissioner is legal guardian of the child.

(33) **"Working day"** refers solely to revocation of consents and means Monday through Friday, excluding any holiday as defined under Minnesota Statutes, section 645.44, subdivision 5.

(34) **"Intercountry adoption"** means adoption of a child by a Minnesota resident under the laws of a foreign country or the adoption under the laws of Minnesota of a child born in another country.

(Amended effective January 1, 2007; amended effective July 1, 2014; amended effective July 1, 2015; amended effective September 1, 2019; amended effective January 1, 2024.)

2019 Advisory Committee Comment

*Rule 2.01(18) cites the definition of "Indian child" under the Minnesota Indian Family Preservation Act (MIFPA), Minnesota Statutes, section 260.755, subdivision 8. Unlike the definition of Indian child under the Indian Child Welfare Act (ICWA), 25 U.S.C. section 1903(4), MIFPA does not require a child who is eligible for tribal membership to be the biological child of a member of an Indian tribe. The Committee notes that the MIFPA definition provides a "higher standard of protection to the rights of the parent or Indian custodian" as contemplated by ICWA, 25 U.S.C. section 1921. See *In re the Adoption of M.T.S.*, 489 N.W.2d 285, 288 (Minn. Ct. App. 1992).*

Rule 2.01(19) cites the definitions of "Indian custodian" under ICWA, 25 U.S.C. section 1903(6), the ICWA regulations, 25 C.F.R. section 23.2, and MIFPA, Minnesota Statutes, section 260.755, subdivision 10. The ICWA regulation definition additionally provides that "[a]n Indian may demonstrate that he or she is an Indian custodian by looking to Tribal law or Tribal custom or State law."

Rule 2.01(20) cites the definitions of "Indian tribe" under ICWA, 25 U.S.C. section 1903(5), the ICWA regulations, 25 C.F.R. sections 23.2 and 23.109, and MIFPA, Minnesota Statutes, section 260.755, subdivision 9. In situations where a child is a member or eligible for membership in more than one tribe, the ICWA definition states that the "Indian child's tribe is the tribe with which the Indian child has the most significant contacts." The MIFPA definition restates the ICWA definition, and then provides that if the tribe with which the child has the most significant contacts does not become involved with the outcome of the court actions, "any other tribe in which the child is eligible for membership that expresses an interest in the outcome may act as the Indian child's tribe." In contrast, 25 C.F.R. section 23.109, "How should a State court determine an Indian child's Tribe when the child may be a member or eligible for membership in more than one Tribe?", sets out a different procedure. The applicability and interplay of these three definitions should be determined on a case-by-case basis.