

**Rule 37. Adoption Study and Background Study****37.01 Adoption Study and Background Study Required; Exception**

An approved adoption study, completed background study as required under Minnesota Statutes, section 245C.33, and written adoption study report must be completed before the child is placed in a prospective adoptive home, except as allowed by Minnesota Statutes, section 259.47, subdivision 6. An approved adoption study, which includes the background study, shall be completed by a licensed child-placing agency and must be thorough and comprehensive. The study shall be paid for by the prospective adoptive parent, except as otherwise required under Minnesota Statutes, section 259.67 or 259.73. A placement for adoption with an individual who is related to the child, as defined by Minnesota Statutes, section 245A.02, subdivision 13, is not subject to this rule except as required by Minnesota Statutes, sections 245C.33 and 259.53, subdivision 2, paragraph (c). In the case of a licensed foster parent seeking to adopt a child who is in the foster parent's care, any portions of the foster care licensing process that duplicate requirements of the adoption study may be submitted in satisfaction of the relevant requirements of this rule.

(Amended effective January 1, 2007; amended effective August 1, 2009.)

**37.02 Adoption Study Report**

The adoption study is the basis for completion of a written report which must be in a format specified by the Commissioner of Human Services. An adoption study report must include at least one in-home visit with each prospective adoptive parent. At a minimum, the report must document the following information about each prospective adoptive parent:

(a) a background study pursuant to Minnesota Statutes, sections 259.41, subdivision 3, and 245C.33, including:

(i) an assessment of the data and information required in Minnesota Statutes, section 245C.33, subdivision 4, to determine if the prospective adoptive parent and any other person over the age of 13 living in the home has a felony conviction consistent with subdivision 3 and section 471(a)(2) of the Social Security Act; and

(ii) an assessment of the effect of any conviction or finding of substantiated maltreatment on the capacity of the prospective adoptive parent to safely care for and parent a child;

(b) an assessment of medical and social history;

(c) an assessment of current health;

(d) an assessment of potential parenting skills;

(e) an assessment of ability to provide adequate financial support for a child;

(f) an assessment of the level of knowledge and awareness of adoption issues, including, where appropriate, matters relating to interracial, cross-cultural, and special needs adoptions; and

(g) recommendations regarding the suitability of the subject of the study to be an adoptive parent.

(Amended effective August 1, 2009.)

**37.03 Direct Placement Adoption; Background Study Incomplete**

Unless otherwise ordered by the court, in a direct placement adoption the child may be placed in the preadoptive home prior to completion of the background study if each prospective adopting

parent has completed and filed with the court an affidavit stating whether the affiant or any person residing in the household has been convicted of a crime. The affidavit shall also:

(a) state whether the adoptive parent or any other person residing in the household is the subject of an open investigation of, or has been the subject of a substantiated allegation of, child or vulnerable adult maltreatment within the past ten (10) years;

(b) include a complete description of the crime, open investigation, or substantiated allegation of child abuse or vulnerable adult maltreatment, and a complete description of any sentence, treatment, or disposition; and

(c) include the following statement: "Petitioner acknowledges that if, at any time before the adoption is final, a court receives evidence leading to a conclusion that a prospective adoptive parent knowingly gave false information in the affidavit, it shall be determined that the adoption of the child by the prospective adoptive parent is not in the best interests of the child."

(Amended effective January 1, 2007; amended effective August 1, 2009; amended effective July 1, 2015.)

### **37.04 Background Study; Timing**

**Subdivision 1. Timing of Background Study.** The background study required in Rule 37.03 shall be completed before an adoption petition is filed.

**Subd. 2. Direct Placement Adoption.** In a direct placement adoption, if an adoption study report has been submitted to the court before the background study is complete, an updated adoption study report which includes the results of the background study shall be filed with the adoption petition.

**Subd. 3. Agency Unable to Complete Background Study.** In the event that an agency is unable to complete the background study, the agency shall submit with the adoption petition an affidavit documenting the agency's efforts to complete the background study.

(Amended effective January 1, 2007; amended effective August 1, 2009.)

### **37.05 Updates to Adoption Study Report; Period of Validity**

An adoption study report is valid if the report has been completed or updated within twelve (12) months of the adoptive placement.

### **37.06 Filing of Adoption Study Report**

**Subdivision 1. Agency Placement.** The adoption study report shall be filed with the court at the time the adoption petition is filed.

**Subd. 2. Direct Placement Adoption.** The adoption study report shall be filed with the court pursuant to Rule 29 in support of a motion for a non-emergency preadoptive custody order or, if the study and report are complete, in support of an emergency preadoptive custody order.

(Amended effective January 1, 2007.)

### **37.07 Foster Parent Assessment May be Used for Adoption Study**

A licensed foster parent seeking to adopt a child in the foster parent's care may submit any portion of the foster care licensing assessment that duplicates requirements of the adoption study report in satisfaction of the adoption study report requirements.