

Rule 48. Appeal**48.01 Applicability of Rules of Civil Appellate Procedure**

Except as provided in this rule, appeals of adoption matters shall be in accordance with the Minnesota Rules of Civil Appellate Procedure.

48.02 Procedure

Subdivision 1. Appealable Order. An appeal may be taken by an aggrieved person from a final order of the juvenile court affecting a substantial right of the aggrieved person.

Subd. 2. Timing. Any appeal shall be taken within thirty (30) days of the service of notice by the court administrator of the filing of the court's order. In the event of the filing and service of a timely and proper post-trial motion under Rule 46, or for relief under Rule 47 if the motion is filed within the time specified in Rule 46.02, subdivision 3, the provisions of Minn. R. Civ. App. P. 104.01 subds 2 and 3, apply, except that the time for appeal runs for all parties from the service of notice by the court administrator of the filing of the order disposing of the last post-trial motion.

Subd. 3. Service and Filing of Notice of Appeal. Within the time allowed for an appeal from an appealable order, the person appealing shall:

(a) serve a notice of appeal upon all parties or their counsel if represented, including notice of the correct case caption pursuant to Minn. R. Juv. Prot. P. 8.08; and

(b) file with the clerk of appellate courts a notice of appeal, together with proof of service upon all parties, including notice of the correct case caption as required under Minn. R. Juv. Prot. P. 8.08.

Subd. 4. Notice to Court Administrator. At the same time as the appeal is filed the appellant shall provide notice of the appeal to the court administrator. Failure to notify the court administrator does not deprive the Court of Appeals of jurisdiction.

Subd. 5. Failure to File Proof of Service. Failure to file proof of service does not deprive the Court of Appeals of jurisdiction over the appeal, but is grounds only for such action as the Court of Appeals deems appropriate, including a dismissal of the appeal.

Subd. 6. Notice to Legal Custodian. The court administrator shall notify the child's legal custodian of the appeal. Failure to notify the legal custodian does not affect the jurisdiction of the Court of Appeals.

(Amended effective January 1, 200)

2004 Advisory Committee Comment - 2006 Amendment

Minnesota Statutes, section 259.63, provides that adoption appeals are taken "as in other civil cases" under the Rules of Civil Appellate Procedure. The Committee recognizes that the timing provision of Rule 48.02, subdivision 2, is a departure from the Minnesota Rules of Civil Appellate Procedure in that under these Rules the appeal period now starts to run for all parties from the service of the Notice of Filing of Order by the court administrator rather than from the service of notice of filing by a party. In addition, the time for appeal is decreased to 30 days, consistent with the child's need for timely permanency. This departure is intended to expedite the appellate process, which the Committee deems to be in the best interests of the child. The appeal time and procedures are governed by these rules, specifically established for adoption proceedings, and not by the more general provisions of the appellate rules. See In Re Welfare of J.R., Jr., 655 N.W.2d 1 (Minn. 2003).

48.03 Application for Stay of Trial Court Order

The service and filing of a notice of appeal does not stay the order of the trial court. The order of the juvenile court shall stand pending the determination of the appeal, but the reviewing court may in its discretion and upon application stay the order.

48.04 Right to Additional Review

Upon an appeal, any party or the county attorney may obtain review of an order entered in the same case which may adversely affect that person by filing a notice of review with the clerk of appellate courts. The notice of review shall specify the order to be reviewed, shall be served and filed within fifteen (15) days after service of the notice of appeal, and shall contain proof of service.

48.05 Transcript of Proceedings

The requirements regarding preparation of a transcript shall be governed by Minn. R. Civ. App. P. 110.02, except that the estimated completion date contained in the certificate of transcript shall not exceed thirty (30) days.

48.06 Time for Rendering Decisions

All decisions regarding adoption matters shall be issued by the appellate court within sixty (60) days of the date the case is deemed submitted pursuant to the Minnesota Rules of Civil Appellate Procedure.