

RULE 2. DEFINITIONS**Rule 2.01. Definitions**

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

(1) "**Active efforts**" is defined in 25 C.F.R. section 23.2, and in the Minnesota Indian Family Preservation Act, Minnesota Statutes, section 260.755, subdivision 1a.

(2) "**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.

(3) "**Affidavit**" is defined in Rule 15 of the General Rules of Practice for the District Courts.

(4) "**Alleged father**" means an individual claimed by a party or participant to be the biological father of a child.

(5) "**Child**" means an individual under 18 years of age. "Child" also includes individuals under age 21 who are in foster care pursuant to Minnesota Statutes, section 260C.451.

(6) "**Child-placing agency**" is defined in Minnesota Statutes, section 260C.007, subdivision 7.

(7) "**Child custody proceeding**" means any judicial action within the definition of a "child custody proceeding" under the Indian Child Welfare Act, 25 U.S.C. section 1903(1) and 25 C.F.R. section 23.2, or a "child placement proceeding" under the Minnesota Indian Family Preservation Act, Minnesota Statutes, section 260.755, subdivision 3.

(8) "**Child support**" means an amount for basic support, child care support, and medical support pursuant to:

(a) the duty of support ordered in a parentage proceeding under the Parentage Act, Minnesota Statutes, sections 257.51 to 257.74;

(b) a contribution by parents ordered under Minnesota Statutes, section 256.87; or

(c) support ordered under Minnesota Statutes, chapter 518A, 518B, 518C, or 518E.

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

(10) "**Emergency protective care**" means the placement status of a child when:

(a) taken into custody by a peace officer pursuant to Minnesota Statutes, section 260C.151, subdivision 6; 260C.154; or 260C.175; or

(b) returned home before an emergency protective care hearing pursuant to Rule 41 pursuant to court-ordered conditions of release.

(11) "**Extended family member**" is defined in the Indian Child Welfare Act, 25 U.S.C. section 1903(2), and at 25 C.F.R. section 23.2.

(12) "**Foster care**" is defined in Minnesota Statutes, section 260C.007, subdivision 18.

(13) "**Independent living plan**" is a plan as described in Minnesota Statutes, section 260C.212, subdivision 1, paragraph (c), clause (12).

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

(15) **"Indian child's tribe"** is defined in the Indian Child Welfare Act, 25 U.S.C. section 1903(5), at 25 C.F.R. sections 23.2 and 23.109, and in the Minnesota Indian Family Preservation Act, Minnesota Statutes, section 260.755, subdivision 9.

(16) **"Indian custodian"** is defined in the Indian Child Welfare Act, 25 U.S.C. section 1903(6), at 25 C.F.R. section 23.2, and in the Minnesota Indian Family Preservation Act, Minnesota Statutes, section 260.755, subdivision 10.

(17) **"Indian tribe"** is defined in the Indian Child Welfare Act, 25 U.S.C. section 1903(8), at 25 C.F.R. section 23.2, and in the Minnesota Indian Family Preservation Act, Minnesota Statutes, section 260.755, subdivision 12.

(18) **"Juvenile protection case records"** means all records regarding a particular juvenile protection matter filed with or generated by the court, including orders, notices, the register of actions, the index, the calendar, and the official transcript.

(19) **"Juvenile protection matter"** means any of the following types of matters:

(a) child in need of protection or services matters as defined in Minnesota Statutes, section 260C.007, subdivision 6, including habitual truant and runaway matters;

(b) neglected and in foster care matters as defined in Minnesota Statutes, section 260C.007, subdivision 24;

(c) review of voluntary foster care matters as defined in Minnesota Statutes, section 260C.141, subdivision 2;

(d) review of out-of-home placement matters as defined in Minnesota Statutes, section 260C.212;

(e) termination of parental rights matters as defined in Minnesota Statutes, sections 260C.301 to 260C.328;

(f) permanent placement matters as defined in Minnesota Statutes, sections 260C.503 to 260C.521, including matters involving termination of parental rights, guardianship to the Commissioner of Human Services, transfer of permanent legal and physical custody to a relative, permanent custody to the agency, and temporary legal custody to the agency, and matters involving voluntary placement pursuant to Minnesota Statutes, section 260D.07; and

(g) progress toward adoption hearings as defined in Minnesota Statutes, section 260C.607.

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

(21) **"Nonresident parent"** means a parent who was not residing with the child at the time the child was removed from the home.

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

(23) **"Parentage matter"** means an action under the Parentage Act, Minnesota Statutes, sections 257.51 to 257.74.

(24) **"Person"** is defined in Minnesota Statutes, section 260C.007, subdivision 26.

(25) "**Presumed father**" means an individual who is presumed to be the biological father of a child under Minnesota Statutes, section 257.55, subdivision 1, or section 260C.150, subdivision 2.

(26) "**Protective care**" means the right of the responsible social services agency or child-placing agency to temporary physical custody and control of a child for purposes of foster care placement, and the right and duty of the responsible social services agency or child-placing agency to provide the care, food, lodging, training, education, supervision, and treatment the child needs.

(27) "**Protective supervision,**" as referenced in Minnesota Statutes, section 260C.201, subdivision 1, paragraph (a), clause (1), means the right and duty of the responsible social services agency or child-placing agency to monitor the conditions imposed by the court directed to the correction of the child's need for protection or services while in the care of the child's parent or legal custodian.

(28) "**Putative father**" is defined in Minnesota Statutes, section 260C.007, subdivision 26a.

(29) "**Qualified expert witness**" is defined in the Minnesota Indian Family Preservation Act, Minnesota Statutes, section 260.755, subdivision 17a.

(30) "**Reasonable efforts to prevent placement**" is defined in Minnesota Statutes, section 260.012, paragraph (d).

(31) "**Reasonable efforts to finalize a permanent plan for the child**" is defined in Minnesota Statutes, section 260.012, paragraph (e).

(32) "**Relative**" is defined in Minnesota Statutes, section 260C.007, subdivision 27. For an Indian child, "relative" also includes persons within the definition of "relative of an Indian child" as defined in Minnesota Statutes, section 260C.007, subdivision 26b, and persons within the definitions of "extended family member," "Indian custodian," or "parent" under the Indian Child Welfare Act, 25 U.S.C. sections 1903(2), (6), and (9), and under 25 C.F.R. section 23.2.

(33) "**Removed from home**" means the child has been taken out of the care of the parent or legal custodian, including a substitute caregiver, and placed in foster care or in a shelter care facility.

(34) "**Reservation**" is defined in the Indian Child Welfare Act, 25 U.S.C. section 1903(10), and in 25 C.F.R. section 23.2.

(35) "**Shelter care facility**" is defined in Minnesota Statutes, section 260C.007, subdivision 30.

(36) "**Trial home visit**" is defined in Minnesota Statutes, section 260C.201, subdivision 1, paragraph (a), clause (3).

(37) "**Tribal court**" is defined in the Indian Child Welfare Act, 25 U.S.C. section 1903(12), and in 25 C.F.R. section 23.2.

(38) "**Voluntary foster care**" is a placement of a child in foster care as described in Minnesota Statutes, section 260C.227 or 260C.229, or chapter 260D. For an Indian child, voluntary foster care placements are defined at Minnesota Statutes, section 260.755, subdivision 22, and are subject to the procedural requirements of Minnesota Statutes, section 260.765.

(Amended effective January 1, 2024.)

2019 Advisory Committee Comment

Rule 2 is amended in 2019 as part of a revision of the Rules of Juvenile Protection Procedure.

Rule 2.01(7) cites the definitions of "child custody proceeding" under the Indian Child Welfare Act (ICWA), 25 U.S.C. section 1903(1), "child-custody proceeding" under the ICWA regulations, 25 C.F.R. section 23.2, and "child placement proceeding" under the Minnesota Indian Family Preservation Act (MIFPA), Minnesota Statutes, section 260.755, subdivision 3. There are some differences between each of the definitions. The ICWA definition exempts "placement[s] based upon an act which, if committed by an adult, would be deemed a crime." In contrast, the ICWA regulation definition expressly includes "status offenses" within the definition of "child-custody proceeding," but unlike ICWA exempts "emergency proceeding[s]" from the definition. The ICWA regulation definition also specifies that for its purposes, "an action that may culminate in one of these four outcomes [foster-care placement, termination of parental rights, preadoptive placement, or adoptive placement] is considered a separate child-custody proceeding from an action that may culminate in a different one of these four outcomes." Meanwhile, the MIFPA definition includes "placements based upon juvenile status offenses, but do[es] not include a placement based upon an act which if committed by an adult would be deemed a crime." The applicability and interplay of these three definitions should be determined on a case-by-case basis.

*Rule 2.01(14) cites the definition of "Indian child" under MIFPA, Minnesota Statutes, section 260.755, subdivision 8. Unlike the definition of Indian child under 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(15) cites the definitions of "Indian child's 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.

Rule 2.01(16) 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(32) cites the statute defining who is a "relative" for purposes of juvenile protection matters. The rule cites the additional state statutes that govern who is a "relative" for an Indian child for purposes of juvenile protection matters. The state statute provides that a "relative" of an Indian child includes anyone who is an "extended family member," an "Indian custodian," or a "parent" of the child as defined in ICWA.