

# CHAPTER 9560

## DEPARTMENT OF HUMAN SERVICES

### SOCIAL SERVICES FOR CHILDREN

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## ADOPTION

**9560.0010 PURPOSE OF STATE ADOPTION PROGRAM.**

Goal of the Minnesota adoption program: to ensure for each child, who is free to be legally adopted in the state, a suitable adoptive home and agency services supportive of his or her integration into the new family.

**Statutory Authority:** *MS s 245A.09; 257.05; 257.175; 259.59; 259.67; 259.75; 259.87*

**History:** *9 SR 909*

**9560.0015 SCOPE OF DEFINITIONS.**

The terms used in parts 9560.0010 to 9560.0180 have the meanings given them in part 9560.0020.

**Statutory Authority:** *MS s 257.05; 259.67; 259.75; 259.87*

**History:** *9 SR 909*

**9560.0020 DEFINITIONS.**

Subpart 1. **Adoptive home.** "Adoptive home" means a home approved by an authorized child-placing agency for the purpose of placing a child for adoption.

Subp. 2. **Authorized child-placing agency.** "Authorized child-placing agency" means the local social service agency or any agency licensed to place children by the commissioner or by a comparable authority in the state or country in which the agency exists.

Subp. 3. **Child.** "Child" means an individual under 18 years of age.

Subp. 3a. **Commissioner.** "Commissioner" means the commissioner of the Department of Human Services.

Subp. 4. **Foster family home.** "Foster family home" means a family home licensed to provide 24-hour-a-day care to children who are unrelated to the family.

Subp. 5. **Birth parent.** "Birth parent" means an individual who is referred to as the child's birth parent, who is named in the child's original birth record as a parent, whose claim to genetic parenthood is unchallenged, or whose genetic parenthood is established by a court of competent jurisdiction.

Subp. 6. **Independent placement.** "Independent placement" means a proposed or actual nonagency placement of a child by a parent or unlicensed third party with persons not related to the child within the third degree.

Subp. 7. **Infant.** "Infant" means a child under the age of 15 months.

Subp. 8. **Licensed child-placing agency.** "Licensed child-placing agency" means an agency authorized by the commissioner to place children for foster care or adoption.

Subp. 9. **Local social service agency.** "Local social service agency" means the local agency under the authority of the local social services agency or human service board responsible for arranging and providing social services to individuals.

Subp. 9a. **Minority race or minority ethnic heritage.** "Minority race or minority ethnic heritage" means a legacy of common traits and customs that society recognizes as belonging to a part of the population which differs from its predominant culture or characteristics.

Subp. 10. **Placing agency.** "Placing agency" means the Minnesota licensed child-placing agency which has guardianship of a child from a Minnesota court or the local social service agency which has financial and adoptive planning responsibility for a ward of the commissioner of human services. A placing agency may also include a supervisory agency which is providing adoptive planning services for the child.

Subp. 11. **Postplacement services.** "Postplacement services" means social services provided to the child and the adoptive parents from the time of placement until legal adoption.

Subp. 12. **Postadoption services.** "Postadoption services" means social services provided after legal adoption to the adoptive parents, birth parents, or adopted individuals.

Subp. 13. **Relative.** "Relative" means an individual who is related to a child within the third degree according to the civil table of consanguinity by blood, marriage, or adoption as a parent, stepparent, brother, sister, grandparent, great grandparent, aunt, uncle, niece, or nephew.

Subp. 14. **State adoption exchange.** "State adoption exchange" means the central adoptive home and child registration service operated by the Minnesota Department of Human Services' adoption unit for use by authorized child-placing agencies.

Subp. 15. **State agency.** "State agency" means the commissioner of human services or the Minnesota Department of Human Services.

Subp. 16. **Subsidized adoption.** "Subsidized adoption" means an adoption in which an agreement provides that financial assistance shall be made to the adoptive parents, subsequent guardian, or conservator because of special needs of a child who is certified as eligible for subsidy.

Subp. 17. **Suitability study.** "Suitability study" means the preadoptive counseling and subsequent evaluation made by the authorized child-placing agency to determine whether or not the proposed adoptive home can adequately parent and meet the social, educational, and health needs of a particular child.

**Statutory Authority:** *MS s 245A.09; 257.05; 257.175; 259.53; 259.67; 259.75; 259.87*

**History:** *9 SR 909; L 1994 c 631 s 31; L 2001 ISP9 art 15 s 32*

## 9560.0030 LEGALLY FREEING A CHILD FOR ADOPTION.

Subpart 1. **Legal or voluntary termination.** Before a valid agency adoptive placement may occur, court termination of the parent's rights under Minnesota Statutes, sections 260C.301 to 260C.317 or an agreement under Minnesota Statutes, section 259.25 which confers authority to place a child for adoption with the commissioner or a licensed child-placing agency must be obtained from any individual recognized by state law as having parental rights.

A. A local social service agency shall seek to free a child for adoption through court termination of parental rights unless the commissioner accepts, in writing, the agreement conferring authority to place the child.

B. On all agency adoptive placement plans, the local social service or licensed child-placing agency shall inform the birth parent, who is identified on the child's birth record by birth registration, affidavit, or court order, of the statutory conditions under which birth record information and certain agency record information may or may not be released. The agency shall assist the birth parent with the procedures in subitems (1) to (3).

(1) The birth parent shall sign an affidavit to be filed in the agency record attesting that the birth parent has been informed of statutory conditions that affect the agency release or nonrelease of identifying information, such as the birth parent's name, last known address, birth date, and birthplace, to the adopted person after that person reaches adult age as defined in Minnesota Statutes, sections 259.83 to 259.89.

(2) The birth parent may subsequently choose to file or not file in the agency adoption record an affidavit objecting to the agency release of any or all of the identifying information to the adopted person upon that person reaching adult age as specified in Minnesota Statutes, sections 259.83 to 259.89.

(3) The birth parent may file an affidavit at any time with the state registrar of vital statistics consenting to or refusing to consent to disclosure of the original birth record information to the adopted person after that person reaches adult age as specified in Minnesota Statutes, sections 259.83 to 259.89.

Subp. 2. **Written consents.** All written consents to adoption, executed in a manner prescribed by Minnesota Statutes, sections 259.24, subdivision 5 and 259.25, must be filed with the court prior to the hearing on the adoption petition.

Subp. 3. **Execution of consents.** All agreements with an agency to place a child and consents to adoption by the child's parent or legal guardian, must be executed before two competent witnesses and an agency representative. Consents to an adoption by the child's parent when that parent is either a copetitioner in the adoption proceedings or does not have custody of the child must be executed before two competent witnesses, but need not be executed before an agency representative. All consents by a parent must contain a notice to the parent of the right to revoke the consent for any reason within ten working days of its execution. Consents obtained in another state may be executed according to either Minnesota law or applicable consent laws of the other state.

The consenter's and the agency representative's signatures must each be duly notarized.

The two witnesses must be 18 years of age or older and of sound mind, and neither may be the subscribing notary public.

The agency representative must be a person qualified to counsel the consenting party on adoption matters.

Revocation of a parent's consent must be in writing and must be received by the agency no later than the tenth working day after the consent was executed.

Subp. 4. **Affidavits.** Affidavits submitted by individuals who allege or deny parent-hood which contain a consent to adoption must be executed according to the requirements in subpart 3.

**Statutory Authority:** *MS s 245A.09; 257.05; 257.175; 259.53; 259.67; 259.75; 259.87*

**History:** *9 SR 909; 17 SR 1279; L 1994 c 631 s 31; L 1999 c 139 art 4 s 2; L 2001 ISP9 art 15 s 32*

#### **9560.0040 STATE PHOTOGRAPHIC ADOPTION EXCHANGE.**

Subpart 1. **Child placement.** To ensure each child's placement in an adoptive home preferably away from the child's area of prior residence, the State Adoption Exchange shall be used by all authorized child-placing agencies in accordance with procedures under Minnesota Statutes, section 259.75 and the commissioner.

A. Each authorized child-placing agency shall register the child on the exchange using the registration form prescribed by the commissioner accompanied by a recent photograph of the child.

B. An authorized child-placing agency seeking to defer registration of the child shall make a written request to the exchange for written approval. The request for deferral must meet one of the conditions in subitems (1) to (6).

(1) The child is placed in an agency adoptive home and legal adoption occurs within two years of placement. The agency's report of the adoptive placement to the state agency shall constitute the basis for deferral.

(2) The child's foster home is being considered and meets the criteria of subpart 3. A deferral granted for this reason may not exceed 90 days unless the placement status formally becomes an adoptive placement.

(3) The child's prospective adoptive home is being considered. A deferral granted for this reason may not exceed 90 days unless an adoptive placement occurs.

(4) The child is undergoing diagnostic evaluation to aid the agency in adoptive planning. A deferral granted for this reason may not exceed 90 days.

(5) The child is hospitalized and needs continuing daily care which will not permit placement in a family setting. A deferral granted for this reason may not exceed the length of hospitalization.

(6) The child is 14 years of age or older and, after counseling with the agency on permanent placement options, will not consent to an adoption plan. The agency shall then assist the child in executing an affidavit to file with the exchange in which the child states that decision and an awareness that the decision may be changed at any time.

Subp. 2. **Special needs.** The local authorized child-placing agency shall, without undue delay, seek an adoptive home which will meet the child's special needs. Special needs include sibling ties, minority racial or minority ethnic heritage, religious background, and health, social, and educational needs.

A. The placing agency shall follow the order of placement preference and exception guidelines under Minnesota Statutes, section 259.29, when placing a child of minority race or minority ethnic heritage.

B. The adoptive placement of an Indian child who comes under the Indian Child Welfare Act of 1978, United States Code, title 25, sections 19 et seq., as amended through December 31, 1982, must follow the order of preference as determined by the child's tribe.

C. The placing agency shall document in its record any recruitment efforts it made and any requests or decisions made by the child's parent, the tribe, court, or agency which affects the order of placement preference.

Subp. 3. **Recruitment.** As required in Minnesota Statutes, section 259.77, an agency shall make special efforts to recruit adoptive families from among the child's relatives, if feasible, and families of the same minority racial or minority ethnic heritage. The agency may work with various community and religious organizations, as well as the media, and may accept offers of service and monetary contributions to successfully recruit families for adoption.

**Statutory Authority:** *MS s 245A.09; 257.05; 257.175; 259.53; 259.67; 259.75; 259.87*

**History:** 9 SR 909; 17 SR 1279; L 1994 c 631 s 31

#### 9560.0050 CHILD'S FOSTER HOME.

Subpart 1. **Criteria.** The local social service agency may consider the foster home in which the child is currently living as a potential adoptive resource for the child.

In such cases the criteria in items A to C apply.

A. The child has special needs as defined in part 9560.0040, subpart 2 which the foster family will be able to adequately meet, or the child is older than an infant, has lived at least 12 consecutive months in the foster home, and is an integrated member of the foster family.

B. The foster family will be able to accept the child and the child's background and help the child understand the adoption.

C. The foster family is either the best adoptive resource for the child or is at least comparable to available resources.

Subp. 2. **Joint decision required.** Except in Hennepin, Ramsey, and St. Louis counties, a joint decision between the state agency's adoption unit and the local social service agency as to whether the foster home would be a suitable adoptive home for the child must be made. The agencies shall base their decision upon:

A. the local social service agency's written statement and recommendation to the state agency identifying applicable criteria; and

B. the state agency's written response either approving or disapproving the recommendation.

Subp. 3. **Local agency approval required.** Where a licensed child-placing agency which is supervising a child under state guardianship wishes to consider the foster home

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as the adoptive resource for the child, it shall obtain approval from the local social service agency which has financial responsibility.

**Statutory Authority:** *MS s 245A.09; 257.05; 257.175; 259.53; 259.67; 259.75; 259.87*

**History:** *9 SR 909; 17 SR 1279*

### 9560.0060 CHILD PLACEMENT.

Subpart 1. **In general.** The policies in subparts 2 and 3 govern the local social service agency's preplacement and postplacement activities.

Subp. 2. **Preplacement activities.** Preplacement activities must include those in items A to E.

A. The adoptive family's agency shall, prior to the child being placed in an adoptive home, meet with the child's agency in a preplacement conference, obtain written background and health history on the child, and visit the child in the foster home. The preplacement conference may only be waived if the child is under six months of age and is without special needs.

B. The child's agency shall prepare the child for adoptive placement and provide the adoptive parents with a written nonidentifying background and health history of the child in which all identifying information on the child's relatives has been omitted. The history is to be written in a manner which is understandable and meaningful to the adoptive family.

C. An adoptive family shall spend at least two days in the child's community becoming acquainted with the child prior to the transfer of physical custody from the agency to them. This provision may be waived, in the discretion of the agency, where extraordinary circumstances dictate prompt placement.

D. The adoptive parents shall enter into a written adoptive placement agreement with the commissioner.

E. During the time the child resides in the adoptive home, the local social service agency shall continue administrative reviews but is not required to schedule a court dispositional hearing unless the child is either removed from the home or is not legally adopted within two years of the date of placement.

Subp. 3. **Postplacement activities.** Postplacement activities must include items A and B.

A. The agency placing the child shall arrange for and obtain written placement and postplacement reports from the agency supervising the child in the adoptive home.

B. The supervising agency shall provide postplacement counseling with the adoptive parents in a manner that enables the child and adoptive family to become an integrated family.

**Statutory Authority:** *MS s 245A.09; 257.05; 257.175; 259.53; 259.67; 259.75; 259.87*

**History:** *9 SR 909; 17 SR 1279*

### 9560.0070 [Repealed, 13 SR 529]

### 9560.0071 APPLICABILITY AND PURPOSE.

Subpart 1. **Applicability.** Parts 9560.0071 to 9560.0102 establish the procedures and standards for determining a child's eligibility for an adoption subsidy and the terms of the adoption subsidy.

Subp. 2. **Purpose.** The purpose of the adoption subsidy program is to make possible adoptive placement of children whose special needs prevent adoption without subsidy assistance.

**Statutory Authority:** *MS s 259.67*

**History:** *13 SR 529*

9560.0080 [Repealed, 13 SR 529]

**9560.0081 CRITERIA FOR ADOPTION SUBSIDY.**

Subpart 1. **Special needs.** For the purpose of parts 9560.0071 to 9560.0102, "special needs" refers to:

- A. sibling groups; or
- B. children entitled under Minnesota Statutes, section 259.29, to placement with an adoptive family of similar racial or ethnic background; or
- C. children with physical, mental, emotional, or behavioral disabilities or children whose background indicates a high risk of developing such disabilities.

Subp. 2. **General criteria.** The commissioner shall make subsidy payments to an adoptive parent or parents who adopt a child with special needs if:

- A. the child has been certified as eligible for an adoption subsidy;
- B. a written agreement setting forth the terms of the subsidy has been entered into; and
- C. the commissioner has determined that other resources or programs to meet the special needs are not available.

**Statutory Authority:** *MS s 259.67*

**History:** *13 SR 529; L 1994 c 631 s 31*

**9560.0082 CERTIFICATION.**

Subpart 1. **Certification criteria.** A child is eligible for certification for an adoption subsidy if the child:

- A. is a Minnesota resident;
- B. is under the legal guardianship of the commissioner or of a Minnesota licensed child placing agency; and
- C. has special needs that prevent adoptive placement without an adoption subsidy.

Subp. 2. **Certification criteria for foster children.** A child whose foster parents desire to adopt the child is eligible for certification for an adoption subsidy if:

- A. the child meets the requirements of subpart 1;
- B. the placing agency determines that adoption by the child's foster parents is in the best interest of the child according to part 9560.0050; and
- C. the child's special needs make it difficult to provide the child an adoptive home without subsidy.

Subp. 3. **Eligibility period.** A child is not eligible for certification after a final decree of adoption has been issued for the child.

Subp. 4. **Certification by placing agency.** A child is certified as eligible for an adoption subsidy by the placing agency. The placing agency shall certify a child as eligible if:

- A. the child meets the certification criteria in subpart 1 or 2; and
- B. the placing agency has made reasonable efforts without success to place the child in an adoptive home without an adoption subsidy. These efforts must include:
  - (1) registration of the child with the state adoption exchange;
  - (2) contact with Hennepin, Ramsey, and St. Louis counties and Minnesota licensed child placing agencies for potential adoptive homes; and
  - (3) at least one additional special effort to locate an adoptive home, such as use of photo listing services, newsletters, or adoption exchange services.

The requirements in item B may be waived by the state adoption unit if an eligible child's specific condition requires recruitment of a particular family able to care for that child, or if the child is in a foster home and will be adopted by the foster parents.

Subp. 5. **Written certification statement.** The placing agency shall certify a child's eligibility for an adoption subsidy in writing in the format prescribed by the commissioner. The certification statement must include:

A. a description of the special needs of the child upon which eligibility is based;

B. applicable supporting documents, such as:

- (1) a social history summary;
- (2) a medical evaluation;
- (3) a psychological evaluation; and
- (4) a special education evaluation (IEP); and

C. the signature of the director of the placing agency or the director's designee.

Subp. 6. **Commissioner review.** The commissioner shall review the facts upon which eligibility is based. The placing agency shall provide verification of eligibility factors at the request of the commissioner.

Subp. 7. **Eligibility for federal adoption assistance.** The placing agency shall determine the child's eligibility for federal adoption assistance under Title IV-E of the Social Security Act.

**Statutory Authority:** *MS s 259.67*

**History:** *13 SR 529*

#### **9560.0083 DETERMINATION OF AMOUNT OF ADOPTION SUBSIDY.**

Subpart 1. **Placing agency recommendation.** The placing agency shall recommend to the commissioner the amount and duration of subsidy payments.

The income of the adoptive parent or parents must not be considered in determining subsidy eligibility.

The placing agency shall provide written documentation to support its recommendation.

Subp. 2. **Identification of alternative resources.** The placing agency must identify resources available to meet the child's special needs before the amount of adoption subsidy payment is determined. Available resources include public income support programs, medical assistance, health insurance coverage, services available through community resources, and any other private or public benefits or resources available to the family or to the child to meet the child's special needs.

Subp. 3. **Basis for subsidy.** The amount of an adoption subsidy is based on the special needs of the child and the determination that other resources to meet those special needs are not available.

Subp. 4. **Payment limit.** The amount of a monthly subsidy payment must not exceed the monthly foster care maintenance payment rate and difficulty of care payment that would be allowable for the child.

Subp. 5. **Basic maintenance needs; adoption by reference.** Adoption subsidy is available to meet basic maintenance needs of food, clothing, and shelter. Monthly basic maintenance subsidy payments are made according to the following schedule:

- A. age 0 through 5, \$218;
- B. age 6 through 11, \$248;
- C. age 12 through 14, \$278;
- D. age 15 through 17, \$308; and
- E. age 18 through 21, \$308.

Increases in the monthly payment are based on the annual percentage change indicated by the Minnesota Urban Area Consumer Price Index, at the time of adoption of this rule published by the United States Department of Labor, Bureau of Labor



Statistics in August, 1987. The Consumer Price Index is incorporated by reference and is available from the Minitex interlibrary loan system. It is subject to frequent change.

**Subp. 6. Supplemental maintenance needs.** Adoption subsidy is available to meet supplemental maintenance expenses required to care for a child whose physical, mental, emotional, or behavioral disability necessitates care, supervision, and structure beyond that ordinarily provided in a family setting to persons of the same age.

A. The amount of payment for supplemental maintenance is based on the severity of the child's disability and the effect of the disability on the family, as assessed on a form prescribed by the commissioner. The 1987 version of the Supplemental Maintenance Needs Assessment form is incorporated by reference. It is available at the Minnesota State Law Library, 25 Rev. Dr. Martin Luther King Jr. Blvd., Saint Paul, Minnesota 55155, and is not subject to frequent change. Monthly supplemental maintenance subsidy payments are made according to the following schedule:

- (1) assessment level I, \$150;
- (2) assessment level II, \$275;
- (3) assessment level III, \$400; and
- (4) assessment level IV, \$500.

B. The placing agency shall assess the child's need for supplemental maintenance on the prescribed form and provide supporting documentation. An authorized child placing agency shall reassess and document the continuing need for supplemental maintenance at the request of the commissioner.

**Subp. 7. Special nonmedical needs.** Adoption subsidy is available for nonmedical services, items, or equipment periodically required to meet special needs documented at the time the child was certified as eligible for an adoption subsidy. Payment for nonmedical services, items, or equipment under this part is limited to:

A. Services for children under age three who are developmentally delayed if the programs are prescribed by a physician, psychologist, or developmental specialist and are not available through the public school system.

B. Child care during the adoptive parents' employment, training, or education hours if the child requires a caregiver trained to meet the child's special needs. The amount of subsidy payment is limited to:

- (1) the amount the local social service agency would pay for a trained caregiver in the home or in a licensed day care facility; or
- (2) the amount adoptive parents would pay under the child care sliding fee program authorized under Minnesota Statutes, section 268.91.

C. Family counseling required to meet the child's needs. Subsidy payments are limited to the prorated portion of the counseling fees allotted to the family when the family's insurance or the medical assistance program pays for the child's counseling but does not cover all fees for counseling the rest of the family.

D. Postadoption counseling to promote the child's integration into the adoptive family, provided by the placing agency during the first year following the date of the adoption decree. Subsidy payment is limited to 12 sessions of postadoption counseling.

E. Respite care provided in or out of the family residence for the relief of the child's family. Subsidy payments are limited to payment for 504 hours of respite care annually. If respite care is provided by the local social service agency, that amount of time is subtracted from the 504 hour annual total. Payment shall be no more than the respite care rate paid by the local social service agency.

F. The parental fee counties are authorized to charge parents under Minnesota Statutes, section 252.27, when a child is in 24 hour out-of-home care in a licensed residential facility. Subsidy payments shall not exceed the basic maintenance rate applicable under part 9560.0083, subpart 5.

G. Burial expenses up to \$1,000 if the special needs upon which eligibility for subsidy was based result in the death of the child.

H. Camping programs adapted to meet the child's special needs. Subsidy payments are limited to two weeks of camp per year.

I. Specialized communications equipment prescribed through the local school district but not covered through educational, vocational, or other rehabilitation resources.

J. The following alterations to the family home or vehicle to accommodate the child's special physical needs:

(1) Home:

- (a) wheelchair ramps;
- (b) handrail and grab bars;
- (c) accessible shower;
- (d) elevated bathtubs and toilets;
- (e) widened doorways;
- (f) shatterproof windows;
- (g) blinking lights and tactile alarms as alternate warning systems;
- (h) lowered kitchen work surfaces;
- (i) modified cabinets and sinks that provide wheelchair space;
- (j) handles and hoses for showerheads;
- (k) door hinge replacements;
- (l) lifting devices;
- (m) special communication devices that enable caregivers not immediately present to monitor and respond to a child;
- (n) air conditioning required due to a child's medical condition;
- (o) special covers such as Plexiglas for appliances, windows, fireplaces, and radiators required to protect the child; and
- (p) door opening devices; and

(2) Vehicle:

- (a) door widening;
- (b) lifting devices;
- (c) wheelchair securing devices;
- (d) adapted seats;
- (e) handrails and grab bars;
- (f) door handle replacements; and
- (g) air conditioning required due to a child's medical condition.

K. Nonrecurring adoption expenses, up to \$2,000, for:

- (1) agency adoption fees;
- (2) travel, meal, and lodging expenses at the time of placement;
- (3) attorney fees;
- (4) court filing fee; and
- (5) replacement birth record fee.

Subp. 8. **Medical needs.** Children for whom a subsidy agreement has been executed are eligible for the medical assistance program until they reach age 21.

A. The placing agency shall assist in establishing a child's eligibility at the time of adoptive placement by:

- (1) notifying the medical assistance program of the child's eligibility for medical assistance;
- (2) providing the adoptive parent or parents with medical assistance program information;
- (3) informing the adoptive parent or parents of the procedure required to establish initial and continuing eligibility for medical assistance;

(4) assisting the adoptive parent or parents with completion of the medical assistance application forms;

(5) assisting the adoptive parent or parents, if the child is covered under family health insurance, with the insurance information and assignment forms required by the medical assistance program within 30 days of placement; and

(6) providing insurance documentation to the state adoption unit, including the adoptive parents' health insurance carrier, policy number, insurance holder, and the amount of deductible under the policy.

B. Subsidy payment is not available for any service or item covered under the medical assistance program. Subsidy payment is not available for any service or item that the medical assistance program has determined is not medically necessary.

**Statutory Authority:** *MS s 259.67*

**History:** *13 SR 529; L 2001 ISP9 art 15 s 32*

**9560.0090** [Repealed, 13 SR 529]

**9560.0091 SUBSIDY AGREEMENT.**

Subpart 1. **Written subsidy agreement.** Before the final decree of adoption is issued, the placing agency, the adoptive parent or parents, and the commissioner shall enter into a written agreement stating the terms of the adoption subsidy.

Subp. 2. **Form of subsidy agreement.** The subsidy agreement must be in the form prescribed by the commissioner and must state:

- A. the responsibilities of the parties;
- B. the anticipated duration of the subsidy agreement;
- C. the payment terms;
- D. provision for modification of the terms of the agreement; and
- E. the effective date, which is the date the final decree of adoption is issued.

Subp. 3. **Preparation of subsidy agreement.** The placing agency shall prepare and submit to the commissioner for review an initial draft of the subsidy agreement. After the placing agency, the adoptive parent or parents, and the commissioner have agreed to the terms of the subsidy agreement, the placing agency shall:

- A. prepare six written copies;

B. ensure that all copies are signed by the adoptive parent or parents and the placing agency director or the director's designee; and

C. submit all copies to the state adoption unit for the commissioner's final approval and signature.

Subp. 4. **Duration.** The subsidy agreement continues in effect if the conditions in items A to C are met:

- A. the special needs upon which eligibility for subsidy was based continue;

B. the child remains dependent on the adoptive parent or parents for care and financial support; and

C. the adoptive parent or parents annually submit to the commissioner the affidavit required in part 9560.0092.

Subp. 5. **Extension to age 22.** The subsidy agreement continues beyond the child's 18th birthday if the adopted person:

- A. meets the requirements in subpart 4; and

B. is enrolled in a secondary education program as a full-time student; or is incapable of self sustaining employment because of a physical or mental disability upon which eligibility for subsidy was based.

Within 30 days of each birthday, the adopted person must apply to the local social service agency and to the Social Security Administration for services and financial benefits to meet the person's special needs.

Written documentation that services are not available or that financial benefits are not adequate to meet those special needs must be submitted to the commissioner.

**Subp. 6. Out-of-state residence.** A subsidy agreement remains in effect regardless of the state of residence of the adoptive parent or parents.

**Subp. 7. Subsidy payment upon death of the adoptive parent or parents or termination of parental rights.** The subsidy agreement ends upon the death or upon the termination of parental rights of adoptive parents who are parties to a subsidy agreement except in the following circumstances:

A. if the need for subsidy continues and the subsidy agreement provides for assignment to a guardian or conservator; or

B. for up to six months pending the appointment of a guardian or conservator if the child is placed in the temporary custody of a family member or other individual.

If the child is placed under the custody of an authorized child placing agency, payment of the subsidy must cease.

**Statutory Authority:** *MS s 259.67*

**History:** *13 SR 529*

#### **9560.0092 ANNUAL AFFIDAVIT.**

**Subpart 1. Affidavit contents.** The adoptive parent or parents shall annually submit to the state adoption unit a notarized affidavit certifying that:

A. the adopted person remains under the care of the adoptive parent or parents; and

B. the need for adoption subsidy continues.

**Subp. 2. Affidavit timetable.** The state adoption unit shall send the adoptive parent or parents an affidavit form 30 days before the anniversary date of the subsidy agreement. The adoptive parent or parents shall return the signed and notarized affidavit to the state adoption unit within 30 days after the anniversary date of the subsidy agreement.

**Subp. 3. Failure to submit a timely affidavit.** The state adoption unit shall follow the procedures in items A and B if the annual affidavit is not received 30 days after the anniversary date of the agreement.

A. Thirty days after the anniversary date of the agreement, the state adoption unit shall mail the adoptive parent or parents a notice stating:

(1) the annual affidavit has not been received; and

(2) the subsidy agreement will be terminated 30 days from the date of the notice if the affidavit is not submitted within that time.

The state adoption unit shall send a copy of the notice to the local social service agency.

B. If the adoptive parent or parents do not submit the affidavit within 30 days of the mailing of the notice in item A, the subsidy agreement ends on the 30th day and the child's eligibility for medical assistance benefits ceases.

**Subp. 4. Medical assistance recertification.** On receiving the annual affidavit, the state adoption unit shall send a copy to the county of financial responsibility to recertify the child's continuing eligibility for medical assistance.

**Subp. 5. Local social service agency assistance.** The local social service agency shall, upon request, assist the adoptive parent or parents with:

A. the affidavit; and

B. health insurance information and assignment forms required for continued medical assistance eligibility.

**Statutory Authority:** *MS s 259.67*

**History:** *13 SR 529*

**9560.0093 MODIFICATION OF THE SUBSIDY.**

Subpart 1. **Modification or termination.** The parties to the subsidy agreement may at any time request modification or termination of the subsidy agreement. The subsidy agreement is subject to modification when a significant change in the child's circumstances affects the need for or amount of the subsidy. Requests for modification or termination must be made in writing.

The adoptive parent or parents shall notify the state adoption unit in writing within 30 days of any event affecting the need for or amount of subsidy payment, including:

- A. marriage of the child or adoptive parent;
- B. separation or divorce of the adoptive parents;
- C. residence of the child outside the adoptive home for a period exceeding 30 consecutive days; or
- D. death of the child or adoptive parent or parents.

The notification must describe the effect of the event on the need for subsidy.

Subp. 2. **Unilateral modification by the commissioner.** The commissioner shall modify the subsidy agreement if necessary to comply with changes in federal or state law or rules relating to the subsidy program. The commissioner shall notify the parties to the agreement in writing of the applicable statutory or regulatory amendments and the modifications needed in the subsidy agreement.

Subp. 3. **Appeal.** When the commissioner denies payment or otherwise modifies or discontinues the subsidy agreement, the adoptive parent or parents may appeal the commissioner's action under Minnesota Statutes, section 256.045.

Subp. 4. **Local social service agency assistance.** Upon request, the local social service agency in the county where the child resides shall assist the commissioner and the adoptive parent or parents with review or modification of the subsidy.

**Statutory Authority:** *MS s 259.67*

**History:** *13 SR 529*

**9560.0100** [Repealed by amendment, 9 SR 909]

**9560.0101 REIMBURSEMENT PROCEDURES.**

Subpart 1. **Payment schedule.** Subsidy payments for basic maintenance and supplemental maintenance are made monthly to the adoptive parent or parents.

Subp. 2. **Payment of special nonmedical and medical expenses.** When requesting subsidy payment for special nonmedical or medical expenses provided for in the subsidy agreement, the adoptive parent or parents shall submit the expense statement to the state adoption unit for reimbursement.

Subp. 3. **Expenses not specified in subsidy agreement.** When requesting subsidy payment for expenses not specifically provided for in the subsidy agreement, the adoptive parent or parents shall follow the procedures in items A and B.

A. The adoptive parent or parents shall contact the local social service agency to determine whether the local social service plan includes services to meet the child's needs. If services are available, the adoptive parent or parents shall complete a local social service application. The adoptive parent or parents shall send a copy of the local social service agency response to their request for service to the state adoption unit or shall inform the state adoption unit in writing if the local social service agency refuses to accept an application.

B. The adoptive parent or parents shall apply for other services to meet the child's needs when other resources are identified by the state adoption unit, for example:

- (1) the adoptive parent's or parents' insurance carrier;
- (2) the medical assistance program;

- (3) the community mental health center;
- (4) the local public school system; or
- (5) the local public health department.

Subp. 4. **Response time.** The state adoption unit shall answer requests for special expense authorizations within 30 days.

Subp. 5. **Cost estimates.** Requests for special equipment under part 9560.0083, subpart 7, item J, must include three estimates of cost.

Subp. 6. **Fiscal year.** The adoptive parent or parents shall submit statements for expenses incurred between July 1 and June 30 of a given fiscal year to the state adoption unit within 60 days after the end of the fiscal year in order for reimbursement to occur.

Subp. 7. **Address changes.** The adoptive parent or parents shall notify the state adoption unit of address changes.

**Statutory Authority:** *MS s 259.67*

**History:** *13 SR 529*

#### **9560.0102 REIMBURSEMENT FOR PLACING AGENCY.**

Subpart 1. **General provisions.** Within the limitations of subpart 2, the commissioner shall reimburse placing agencies for the portion of costs of providing or purchasing adoption services for children certified as eligible for adoption subsidy that are not reimbursed under other federal or state funding sources.

Subp. 2. **Reimbursement limitations.** Reimbursement to placing agencies is subject to the following limitations:

A. The commissioner shall set aside an amount not to exceed five percent of the total amount of fiscal year appropriation from the state of Minnesota for the adoption subsidy program to reimburse placing agencies for adoption services.

B. When subsidy payments for children's needs exceed 95 percent of the total amount of fiscal year appropriation from the state of Minnesota for the adoption subsidy program, the amount of reimbursement available to placing agencies for adoption services is reduced correspondingly.

C. Subsidy reimbursement for adoption services must not exceed \$4,000 for a single child.

D. Adoption services for which subsidy reimbursement is available are limited to services provided before the adoption decree including recruitment, counseling, and training of the adoptive family; preparation and placement of the child in an adoptive home; case management and supervision of the adoptive placement before a final decree of adoption; and referral services.

Subp. 3. **Procedures for reimbursement.** Placing agencies seeking reimbursement for the costs of adoption services provided for a child certified as eligible for adoption subsidy shall follow the procedures in items A to C. The Minnesota placing agency financially responsible for the child shall:

A. submit to the state adoption unit a statement describing the adoption services to be provided and the estimated costs;

B. submit to the state adoption unit itemized statements within 60 days after adoptive placement and within 60 days after the adoption decree is issued that list the adoption services provided and the cost for each service; and

C. use the purchase of service agreement form prescribed by the commissioner when adoption services are provided under a purchase of service agreement and submit to the state adoption unit for the commissioner's approval and signature a purchase of service agreement signed by the vendor of services.

**Statutory Authority:** *MS s 259.67*

**History:** *13 SR 529*

**9560.0110 TERMINATION OF ADOPTIVE PLACEMENT.**

Subpart 1. **Notice and reason.** The local social service or licensed child-placing agency supervising the child shall notify the state agency's adoption unit within five working days that the child's adoptive placement is terminated when one of the following circumstances arise:

- A. the child is removed from the adoptive home;
- B. the child dies;
- C. the adoptive placement has continued for two years without the formalization of the adoption; or
- D. adoption is no longer the agency's permanent plan for the child.

Subp. 2. **Finding of good cause.** Termination of the adoptive placement by a local social service agency may be made only upon a specific finding of good cause by responsible agency personnel. Good cause exists when the placement is shown to be detrimental to the physical, mental, or emotional well-being of the child or the adoptive parents. Prior to seeking the removal of the child from the home, the agency shall:

- A. inform the adoptive parents in writing of the reasons for removal; and
- B. in an emergency situation involving danger to the child's health or well-being, request the assistance of the appropriate law enforcement authorities in the immediate removal of the child from the home.

**Statutory Authority:** *MS s 257.05; 257.175; 259.53; 259.67; 259.75 259.87*

**History:** 9 SR 909

**9560.0120 SERVICES TO CHILDREN IN INDEPENDENT PLACEMENTS.**

Subpart 1. **Evaluation of identified family.** When the local social service agency learns that the child's parent or relative seeks to place the child for the purpose of adoption with a person who is an extended family member not defined in part 9560.0020, subpart 13 as a relative or is personally known to the child's parent, the agency shall:

- A. evaluate with the child's parent whether the placement will be in the interest of the child;
- B. arrange for a preadoption evaluation of the proposed home when it is needed to determine whether the placement plan is suitable for the child;
- C. assist the child's parents in legally freeing the child for adoption; and
- D. arrange the adoptive placement according to procedures in parts 9560.0040 to 9560.0110, unless a court of competent jurisdiction has determined that the best interests of the child are served by waiving the requirement of agency placement.

Subp. 2. **Waiver of agency placement requirement.** When the local social service agency is informed by the commissioner that a court of competent jurisdiction has waived the agency placement requirement, whether or not the child is already in the home:

- A. the local social service agency shall pursue licensing that home for foster care unless an adoption petition has been properly filed; and
- B. the prospective parents shall notify the commissioner of the child's placement within 30 days of that placement unless the commissioner was already involved in the proposed placement.

Subp. 3. **Unlicensed intermediary.** When the local social service agency learns that the child's parent or the prospective parent desires the adoptive placement of the child through the assistance of an unlicensed intermediary, the local social service agency shall take necessary steps, including legal actions, if necessary, to prohibit the placement.

Subp. 4. **Transportation of child.** When the local social service agency learns that the child's parent, legal guardian, prospective parents, or the unlicensed intermediary desire to transport the child into or out of Minnesota for adoptive placement, the local

social service agency shall advise the party or parties that the transportation requires the prior approval and consent of the commissioner.

The commissioner shall not give consent to or approval of importation or exportation of the child when a proposed placement was or is being arranged by an unlicensed intermediary even though a court of competent jurisdiction may waive the requirement of agency placement.

Applications for importation or exportation of a child must be made by the child's parent or legal guardian according to the statutory provisions of both the sending and the receiving states.

**Statutory Authority:** *MS s 257.05; 257.175; 259.53; 259.67; 259.75; 259.87*

**History:** 9 SR 909

### 9560.0130 CHILDREN IN NONRELATIVE HOMES.

**Subpart 1. Requirement of services.** When the local social service agency learns that a child is residing in a nonrelative home for the purpose of adoption, it shall carry out the duties of the commissioner and provide all appropriate child protection services prescribed under Minnesota Statutes, chapter 245A and section 252.28, subdivision 2, child-placing under Minnesota Statutes, sections 257.03, 257.04, and 260.851, and the Juvenile Court Act under Minnesota Statutes, chapter 260.

Local social service agency actions include:

- A. ensuring that the child is returned to a responsible person or agency in the state of origin when the child was imported into Minnesota in violation of statutes;
- B. obtaining temporary legal custody;
- C. placing the child into a licensed foster home or licensing the current home;
- D. providing services to the child's parents in making appropriate permanent plans for the child.

**Subp. 2. Investigative report.** In addition, within 30 days of learning that a child resides in a nonrelative home for the purpose of adoption, the local social service agency shall submit to the state agency a full written report of its investigation of the proposed or actual placement. The report shall include:

- A. names and addresses of the child's parents, the child, and the intended home;
- B. the names, addresses, dates, and the activities of all individuals involved in the independent placement plan;
- C. the circumstances surrounding the placement plan; and
- D. any compensation, promise of payment, solicitation, receipt of payment by any person to any person for placing or assisting in the placement of the child.

**Subp. 3. Legal action against violators.** The local social service agency shall, in writing, request the county attorney's opinion on taking legal action against the individuals involved in violations of child placement statutes.

**Subp. 4. Further recommendations.** The state agency's adoption unit shall recommend to the local social service agency any additional action required for the protection of the child.

**Statutory Authority:** *MS s 257.05; 257.175; 259.53; 259.67; 259.75; 259.87*

**History:** 9 SR 909; 13 SR 1448; L 1999 c 139 art 4 s 2

### 9560.0140 SERVICES TO FAMILIES APPLYING FOR ADOPTION.

**Subpart 1. Intake policy.** Each local social service agency shall establish a written intake policy, including social service fees when applicable, which provides for:

- A. performance of a suitability study upon the receipt of a properly filed adoption petition;
- B. screening of applications received from potential adoptive parents for children under state guardianship and other adoptable children who have special needs;



C. supervision of adoptive families moving into Minnesota when so requested by the prior state of residence through the state agency's adoption unit; and

D. performance of suitability studies on prospective families when requested by the state agency's adoption unit for out-of-state adoption agencies.

**Subp. 2. Standards governing adoptive homes.** Local social service agencies shall consider at a minimum the basic standards in items A, B, and C when determining the suitability of prospective adoptive parents.

A. The applicant shall be primarily motivated to meet the child's needs, emotionally mature with healthy interpersonal relationships, in good physical and mental health, and able to adequately support and parent a child in a healthy and emotionally secure environment.

B. The applicant shall have the capacity to accept and incorporate into the family a child born to other parents and to assist the child in understanding the child's genetic background and adoption.

C. The applicant, who desires to adopt a child of minority race or minority ethnic heritage, shall demonstrate an understanding and appreciation of the minority heritage and an ability to assist the child with it.

**Subp. 3. Determining suitability of adoptive parents.** The local social service agency is responsible for determining the suitability of adoptive parents whom it has accepted for service.

Prospective adoptive parents which the local social service agency certifies as suitable for placement of a child shall be registered on the state adoption exchange. This requirement is optional for Hennepin, Ramsey, and St. Louis social service agencies.

Prospective adoptive parents deemed unsuitable by the local agency shall be informed in writing of that decision. Notification must be sent after the agency has counseled with the family on the relevant facts upon which the decision was based.

Prospective adoptive parents which the local agency determines are not suitable for an adoptive placement may be further reviewed by that agency, the county welfare or human service board, or the state agency's adoption unit upon the written request of the applicant. This review is limited to those factors on which the local agency based its decision.

Grievances arising out of adverse suitability studies are not subject to further administrative review pursuant to Minnesota Statutes, chapter 14, or Minnesota Statutes, section 256.045.

**Statutory Authority:** *MS s 257.05; 257.175; 259.53; 259.67; 259.75 259.87*

**History:** *9 SR 909; 17 SR 1279*

#### **9560.0150 INTERSTATE AND INTERNATIONAL ADOPTIVE PLACEMENTS.**

**Subpart 1. Requirements.** No child may be brought into or sent out of Minnesota for adoptive placement into a nonrelative's home unless one of the following conditions is met:

A. the commissioner, as state administrator of the Interstate Compact on the Placement of Children, issues written approval for the importation or exportation pursuant to the requirements of that compact; or

B. the commissioner has, in noncompact situations, issued a written consent to importation or exportation of the child, pursuant to applicable state law.

**Subp. 2. Unlicensed third parties.** The commissioner shall not issue consent or approval for the movement of a child across state lines if the proposed placement is planned or made by an unlicensed third party.

**Subp. 3. Approval for importation.** The commissioner, upon receipt of all required documentation, shall issue consent or approval for importation when:

A. the foreign country allows the child to be exported for the purpose of adoption in the United States;

B. an authorized child-placing agency in the sending state has adoptive planning rights to the child and requests the importation into Minnesota; or

C. a family plans to move to Minnesota and has a child placed with them according to the laws of the other state or country.

Subp. 4. **Documents required.** The documents required for the commissioner's consent and approval are:

A. an authorized child-placing agency's written confirmation that the family is approved for adoptive placement;

B. a document which identifies the child, the child's birth date, birthplace, and parentage; and

C. legal documents which demonstrate that the child has been properly released for adoption.

Subp. 5. **Direct correspondence between agencies.** Local social service agencies, other than Hennepin, Ramsey, and St. Louis Counties, shall route correspondence directed to out-of-state agencies through the state agency's adoption unit.

**Statutory Authority:** *MS s 257.05; 257.175; 259.53; 259.67; 259.75 259.87*

**History:** 9 SR 909; 17 SR 1279

#### **9560.0160 LEGALIZATION OF THE ADOPTIVE PLACEMENT.**

The commissioner or an authorized child-placing agency shall initiate the process of legalizing adoptive placements of agency-placed children by sending the petitioner, or the petitioner's attorney, such nonidentifying information as is needed for completion of the adoption petition.

When an adoption petition which fails to meet the filing requirements of Minnesota Statutes, section 259.22, subdivisions 2 and 3 is nevertheless filed in a court of competent jurisdiction, the commissioner shall recommend to the court dismissal of that petition.

The final report and recommendation on a properly filed petition of an investigation by the commissioner or an authorized child-placing agency shall be made to the court within the 90-day time period.

The report and recommendation to the court on the form prescribed by the commissioner shall verify the allegations in the petition, determine whether the child is a proper subject for adoption, and ascertain the suitability of the proposed family and child to each other. When the child's placement was arranged through the agency, the report shall also include a statement on how the agency applied the order of placement preference in part 9560.0040, subpart 2 in selecting the adoptive family. On intercounty adoptions, the order of placement preference is deemed to have occurred when the appropriate authority in the child's country of birth approved the placement of the child abroad.

The commissioner or an authorized child-placing agency shall request a continuance of the court when the investigation cannot be completed in the 90-day time period.

A copy of all requests for continuances must be filed with the state agency's adoption unit, the servicing agency, and the petitioner's attorney.

**Statutory Authority:** *MS s 257.05; 257.175; 259.53; 259.67; 259.75; 259.87*

**History:** 9 SR 909; 17 SR 1279

#### **9560.0170 POSTADOPTION SERVICES.**

Subpart 1. **Postadoption assistance.** Authorized child-placing agencies shall provide reasonable postadoption assistance and counseling services pursuant to Minnesota Statutes, sections 259.83 and 259.89 to adoptive parents, birth parents, adult genetic

siblings, and adopted persons who have reached the age of 19 at their request in a manner which strengthens the adoption contract and complies with Minnesota Statutes, sections 259.53, subdivision 3, 259.61, and 259.83, subdivision 4 and applicable federal regulations on confidentiality and privacy of child welfare and adoption records. The agency shall:

A. prepare general background and health information with the deletion of all identifying information such as names, specific dates, addresses, and locations, to aid the adoptive parents of a minor child or the adopted adult 19 years of age or older in understanding the person's genetic background and adoption;

B. contact any one of the parties, in a personal and confidential manner;

C. provide the services requested when there is a mutual desire to receive or share information or to have contact;

D. provide services to adult genetic siblings where the agency has determined that:

(1) there is no known violation of confidentiality of a birth parent who is unknown to the genetic siblings or is deceased; or

(2) the birth parent has given written consent in order to allow the agency to provide the services requested;

E. provide services to a genetic relative for information or contact upon the written consent of the birth parent or verification that the birth parent is deceased;

F. share with the requesting person what options the agency may consider using to locate the other person; and

G. determine the extent and frequency to which the person contacted wishes to share information or have contact whether directly or through the agency.

**Subp. 2. Notification of birth parent.** Upon notice from the state agency adoption unit that the adopted adult of the age specified in the statute requests the original birth record, authorized child-placing agencies shall locate and notify each birth parent named on that record. The agency shall:

A. make complete and reasonable efforts within six months to locate and notify the birth parent in a personal and confidential contact of the right to file an affidavit with the state registrar and the effects of filing within the time allowed an affidavit of disclosure or nondisclosure, or of filing nothing, on the original birth record information; and

B. file through the state agency adoption unit the agency affidavit of notification for the state registrar that each named birth parent was located and notified, was not located and notified, or was found to be deceased.

**Subp. 3. Notification of genetically related persons.** An authorized child-placing agency shall, as required by Minnesota Statutes, section 259.83, subdivision 1, make a diligent effort to locate and inform genetically related persons of the medical or genetic information the agency has received. If the genetically related person is an adopted minor, the agency shall relay the information to the adoptive parent, subsequent guardian, or conservator. The agency shall make a diligent effort to notify the birth parents when the agency learns that the adopted person has died.

**Subp. 4. Locating birth parent.** Adopted persons of adult age placed for adoption by an authorized agency on or after August 1, 1982, may, under Minnesota Statutes, section 259.83, subdivision 3, upon reaching adult age, request from the placing agency the name, last known address, birth date, and birthplace of the birth parents who were identified on the adopted person's original birth record. The agency shall:

A. determine that the agency has on file the birth parent's affidavit attesting to receipt of information in the provisions of Minnesota Statutes, section 259.83, subdivision 3;

B. determine that the birth parent either has not filed a subsequent affidavit objecting to the release of identifying information or has withdrawn that affidavit;

C. disclose the identifying information to the adopted person when the condition in item A is met and when the agency has verified that the condition in item B exists or that the birth parent is deceased; and

D. contact the birth parent if requested by the court upon the adopted person's petition for release of identifying information. The agency shall advise the birth parent of the opportunity for that birth parent to present evidence to the court, either directly or through the agency, that nondisclosure of the information is a greater benefit to the birth parent than disclosure to the adopted person.

**Subp. 5. Counseling services.** Authorized child-placing agencies shall provide liaison and skilled counseling services through appropriately trained social workers to the adoptive parents, adopted adults who have reached the age of 19, birth parents, and adult genetic siblings.

**Subp. 6. Documentation of postadoption services.** Authorized child-placing agencies shall document the postadoption services provided in the agency's adoption service record.

**Subp. 7. Reimbursement.** Authorized child-placing agencies may require a reasonable expense reimbursement for providing postadoption services.

**Statutory Authority:** *MS s 257.05; 257.175; 259.53; 259.67; 259.75; 259.87*

**History:** *9 SR 909; 17 SR 1279; L 1994 c 631 s 31; L 2001 ISP9 art 15 s 32*

#### **9560.0180 MAINTENANCE OF ADOPTION RECORDS.**

**Subpart 1. Content.** The adoption records of authorized child-placing agencies shall contain copies of all relevant legal documents, responsibly collected genetic, medical, and social history, the child's placement record, documentation of the placement preference in part 9560.0040, subpart 2, copies of all pertinent agreements or contracts, copies of all reports and recommendations to the court, and copies of all pertinent correspondence and a summary of postadoption services. Nonidentifying information in the agency record may be disclosed to the parties it concerns according to the criteria in parts 9560.0060, subpart 2, item B and 9560.0170, subpart 1, item A. Identifying information may not be disclosed except under Minnesota Statutes, sections 259.61, 259.83, subdivision 3, and 259.89. The agency shall maintain a record of the postadoption services provided under part 9560.0170. Disclosure of identifying information within the standards of part 9560.0170, subpart 4 does not constitute disclosure of the agency's adoption record.

**Subp. 2. Use.** Each adoption record constitutes the permanent record upon which all court action is based, agency services are administrated, and the adoptive family unit is identified and established.

**Subp. 3. Confidentiality.** All adoption records are confidential and permanent. Adoption records must be retained under a protected record system which ensures confidentiality and lasting preservation.

**Statutory Authority:** *MS s 257.05; 257.175; 259.53; 259.67; 259.75; 259.87*

**History:** *9 SR 909; L 1994 c 631 s 31*

### **PROTECTIVE SERVICES FOR CHILDREN**

#### **9560.0210 PURPOSE.**

The purpose of child protective services is to protect children from maltreatment.

**Statutory Authority:** *MS s 256.01 subd 2 cl (2); 256E.05; 257.175; 393.07; 626.556*

**History:** *13 SR 303*

#### **9560.0212 SCOPE.**

Parts 9560.0210 to 9560.0234 govern the administration and provision of child protective services by local social service agencies.

**Statutory Authority:** *MS s 256.01 subd 2 cl (2); 256E.05; 257.175; 393.07; 626.556*

**History:** *13 SR 303*

**9560.0214 DEFINITIONS.**

Subpart 1. **Scope.** As used in parts 9560.0210 to 9560.0234, the following terms have the meanings given them.

Subp. 2. **Alleged offender.** "Alleged offender" means a person who is reported to have committed maltreatment.

Subp. 3. **Assessment.** "Assessment" means a process for determining whether a child has been maltreated and whether child protective services are needed and that:

A. is conducted by a child protection worker;

B. includes gathering facts, assessing the risk to the child, and formulating a plan of services; and

C. includes authority to interview the child, any person responsible for the child's care, the alleged offender, and any other person with knowledge of the maltreatment.

Subp. 4. **Child.** "Child" means a person under the age of 18.

Subp. 5. **Child protection worker.** "Child protection worker" means an employee of a local agency who is responsible for providing child protective services.

Subp. 6. **Child protective services.** "Child protective services" means services provided by the local agency to protect a child who has reportedly been maltreated by a person within the family unit or within a facility who is responsible for the child's care. Child protective services include assessment or investigation; protective intervention under parts 9560.0218, subpart 8, 9560.0220, subpart 8, and 9560.0222, subpart 11; and the planning and provision of services under part 9560.0228.

Subp. 6a. **Commissioner.** "Commissioner" means the commissioner of the Department of Human Services or the commissioner's designee.

Subp. 7. **County board.** "County board" means the county board of commissioners in each county. A human services board established under Minnesota Statutes, chapter 402, or a welfare board established under Minnesota Statutes, chapter 393, shall be considered the county board for purposes of parts 9560.0210 to 9560.0234.

Subp. 8. **Department.** "Department" means the Minnesota Department of Human Services.

Subp. 9. [Repealed, 17 SR 3412]

Subp. 10. **Facility.** "Facility" means a facility or program for the care of children required to be licensed by the Department of Corrections under Minnesota Statutes, section 241.021, or the Department of Human Services under Minnesota Statutes, chapter 245A.

Subp. 11. **Family unit.** "Family unit" means:

A. the child; and

B. all persons related to the child by blood, marriage, or adoption; and

C. persons living within the same household as the child; or

D. the child's guardian.

Subp. 12. **Imminent danger.** "Imminent danger" means that a child is threatened with immediate and present maltreatment that is life threatening or likely to result in abandonment, sexual abuse, or serious physical injury.

Subp. 12a. **Indian child.** "Indian child" means an unmarried person under the age of 18 who is either a member of or eligible for membership in an American Indian tribe.

Subp. 13. **Infant medical neglect.** "Infant medical neglect" includes, but is not limited to, the withholding of medically indicated treatment from a disabled infant with a life threatening condition. For the purposes of this subpart, "infant" means a child less than one year of age, or a child one year of age or older who has been continuously hospitalized since birth as specified in Code of Federal Regulations, title 45, part 1340, section 15(b)(3)(i). The term "withholding of medically indicated

treatment” means the failure to respond to the infant’s life threatening condition by providing treatment including appropriate nutrition, hydration, and medication which, in the treating physician’s or physicians’ reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all conditions, except that the term does not include the failure to provide treatment other than appropriate nutrition, hydration, or medication to an infant when, in the treating physician’s or physicians’ reasonable medical judgment:

- A. the infant is chronically and irreversibly comatose;
- B. the provision of the treatment would merely prolong dying, not be effective in ameliorating or correcting all of the infant’s life threatening conditions, or otherwise be futile in terms of the survival of the infant; or
- C. the provision of the treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane.

Subp. 14. **Investigation.** “Investigation” means a process for determining whether maltreatment has occurred:

- A. that is conducted by a law enforcement agency; or
- B. that is conducted by the department or a local agency when a report alleges maltreatment by a person within a facility who is responsible for the child’s care.

Subp. 15. **Law enforcement agency.** “Law enforcement agency” means the Department of Public Safety, the local police or sheriff’s department, or the state highway patrol.

Subp. 16. **Legal custody.** “Legal custody” means the right to care, custody, and control of a child as defined in Minnesota Statutes, section 260B.007, subdivision 8, or 260C.007, subdivision 22.

Subp. 17. **Local agency.** “Local agency” means the social services agency authorized by the county board to provide social services and financial assistance under Minnesota Statutes, section 393.07.

Subp. 18. **Maltreatment.** “Maltreatment” means physical or sexual abuse or neglect under Minnesota Statutes, section 626.556, subdivision 10e. “Neglect” includes prenatal exposure to a controlled substance as listed in Minnesota Statutes, section 253B.02, subdivision 2, and infant medical neglect.

Subp. 19. **Report or report of maltreatment.** “Report” or “report of maltreatment” means an oral or written report received by a local agency that alleges a child is being or has been maltreated.

Subp. 20. **Shelter care facility.** “Shelter care facility” means a physically unrestricted facility, such as a hospital, group home, or licensed facility for foster care, used for the temporary care of a child.

Subp. 21. **Subject.** “Subject” means any person on whom the local agency retains private or confidential information obtained from reports of maltreatment or during assessments or investigations of reports of maltreatment.

**Statutory Authority:** *MS s 14.388; 256.01; 256E.05; 257.175; 393.07; 626.556*

**History:** *13 SR 303; 17 SR 3412; L 1999 c 139 art 4 s 2; 25 SR 1772; L 2001 c 178 art 1 s 44*

## 9560.0216 BASIC REQUIREMENTS.

Subpart 1. **Response to reports of maltreatment.** The local agency shall accept and screen or forward according to subpart 3 every report of maltreatment received from any source. Upon request, the local agency shall inform the reporter within ten days after the report is made, either orally or in writing, whether the report was accepted for assessment or investigation.

Subp. 1a. **County of service: no imminent danger.** The local agency shall provide child protective services to any child residing in the county who is alleged to have been maltreated.

In any situation of no imminent danger, including a situation where a report of maltreatment involves a member of the family unit who is an employee or board member of the local agency, the local agency may request another local agency to provide child protective services.

Subp. 2. **County of service: imminent danger.** In a situation of imminent danger, the local agency shall screen and assess reports of maltreatment of any child found in the county without regard to the legal residence of the child.

A. The local agency shall provide child protective services as an emergency social service.

B. The local agency shall not seek a determination of the county of financial responsibility for the child and reimbursement for services provided until after providing for the safety of the child.

**Subp. 3. Screening reports.**

A. The local agency shall screen reports of maltreatment to determine the need for assessment or investigation.

Except for those reports described in item B, the local agency shall conduct an assessment or investigation if a report meets the criteria in subitems (1) to (3):

(1) the allegations in the report constitute maltreatment as defined under part 9560.0214, subpart 18;

(2) sufficient identifying information to locate the child or at least one member of the family unit exists to permit an assessment; and

(3) the report contains information that has not previously been received and assessed by the local agency.

B. If a report alleges maltreatment in a facility licensed by the commissioner, other than a foster care or family day care facility, the local agency shall immediately forward the report to the commissioner for investigation.

**Subp. 3a. Report alleging maltreatment of a child of a facility license holder.**

A. If the report of maltreatment alleges maltreatment of a child related by blood, marriage, or adoption to the license holder in a facility during nonbusiness hours of the facility, the local agency shall follow the procedures under part 9560.0220. The local agency shall notify the responsible licensing agency listed in part 9560.0222, subpart 1, when the local agency receives the report of maltreatment and when the local agency completes an assessment.

B. If the report of maltreatment alleges maltreatment of a child in a facility during business hours of the facility and if the child is related by blood, marriage, or adoption to the license holder, facility staff, or volunteer of the facility, the investigating agency shall follow the procedures under part 9560.0222.

Subp. 4. **Notifying law enforcement.** The local agency shall notify the law enforcement agency orally and in writing within 24 hours of receiving a report of maltreatment.

Subp. 5. **Time frames for initiating an assessment.** The local agency shall respond to reports of maltreatment within the time limits under item A, B, or C.

A. When a report of maltreatment indicates that a child is in imminent danger, the local agency shall take action as soon as the report is received to provide for the safety of the child.

B. When a report of maltreatment alleges infant medical neglect, the local agency shall initiate an assessment as soon as the report is received.

C. When a report of maltreatment does not indicate a child is in imminent danger, the local agency shall initiate an assessment within one working day after

receiving the report. The local agency may delay initiating the assessment up to 72 hours if:

- (1) the local agency has reasonable grounds to believe the child will not be in imminent danger during that time; and
- (2) the need to respond to more serious reports prevents the local agency from acting within one working day.

Subp. 5a. **Conflict of interest.** A person who conducts an assessment or investigation under this part or under Minnesota Statutes, section 626.5561, may not have:

- (1) any direct or shared financial interest or referral relationship resulting in a direct or shared financial gain with a provider of treatment for child abuse and neglect; or
- (2) a personal or family relationship with a party in the investigation.

If an independent assessor or investigator is not available, the person responsible for making the maltreatment determination may use the services of an assessor or investigator with a financial interest, referral relationship, or personal or family relationship.

Subp. 6. **In person observation.** In the initial stages of an assessment, the local agency shall conduct an in person observation of the child reported to be maltreated.

Subp. 7. **Notice to persons being interviewed.** The agency conducting an assessment or investigation:

A. shall orally inform a person asked to provide private or confidential data about himself or herself as part of an assessment or investigation:

- (1) why the information is being requested;
- (2) how the information will be used;
- (3) that the person may refuse to answer the questions;
- (4) the consequences of either answering or refusing to answer questions;

and

(5) the other persons or agencies authorized to receive the information being requested;

B. shall provide in writing:

- (1) the information given orally under item A;
- (2) rights to access data provided under Minnesota Statutes, section 13.04, subdivision 3; and
- (3) a description of the procedure for contesting the accuracy and completeness of the agency's records provided under Minnesota Statutes, section 13.04, subdivision 4; and

C. may waive the required notice in items A and B when interviewing a child under ten years of age who is reported to be maltreated.

**Statutory Authority:** *MS s 14.388; 256.01; 256E.05; 257.175; 393.07; 626.556*

**History:** *13 SR 303; 17 SR 3412; 25 SR 1772; L 2003 ISP14 art 11 s 11*

#### **9560.0218 RESPONSE TO REPORTS OF INFANT MEDICAL NEGLECT.**

Subpart 1. **Screening.** The local agency shall screen reports alleging infant medical neglect to determine whether the report meets the criteria in items A to E:

- A. the child is an infant as defined in part 9560.0214, subpart 13;
- B. the infant is hospitalized;
- C. the allegations constitute infant medical neglect as defined in part 9560.0214, subpart 13;
- D. the report contains sufficient identifying information to permit an assessment; and



E. the report contains information that has not previously been received by the local agency.

Reports meeting the criteria in items A to E must be assessed as soon as the report is received according to the procedures in subparts 2 to 6.

**Subp. 2. Hospital notice.** The local agency shall inform the hospital where the infant is hospitalized that a report of infant medical neglect has been received and contact the liaison designated by the hospital to handle reports of infant medical neglect.

**Subp. 3. Department consultation.** The local agency shall consult with the department's child protective services staff.

**Subp. 4. Consultation with parents and physician.** The local agency shall consult with the infant's parents, the attending physician, and other appropriate hospital staff to determine the parents' understanding of the infant's condition, treatment choices, and prognosis.

**Subp. 5. Medical consultation.** The local agency shall consult with an independent medical consultant who shall determine whether infant medical neglect has occurred.

A. The local agency shall arrange for a review by the medical consultant of the infant's medical records.

B. The local agency shall arrange for an examination of the infant by the medical consultant if necessary to make the determination. The local agency shall:

(1) obtain consent from the infant's parents for the examination; or

(2) if the parents do not consent, ask the county attorney to obtain an expedited court order for the examination.

**Subp. 6. Parental authorization.** If the medical consultant confirms infant medical neglect and recommends treatment, the local agency shall, with the medical consultant, seek authorization from the infant's parents for the recommended treatment.

**Subp. 7. Local agency determinations.** The local agency shall make determinations in accordance with item A or B.

A. If the parents authorize the recommended treatment, the local agency shall make a determination that maltreatment has not occurred and that child protective services are not needed.

B. If the parents refuse to authorize the recommended treatment, the local agency shall make a determination that maltreatment occurred and that child protective services are needed.

**Subp. 8. Protective intervention.** If the local agency makes a determination that maltreatment occurred and that child protective services are needed, the local agency shall:

A. ask the county attorney to obtain a transfer of legal custody of the infant to the local agency in order to provide the recommended treatment; and

B. provide protective services under part 9560.0228.

**Statutory Authority:** *MS s 256.01; 256E.05; 257.175; 393.07; 626.556*

**History:** *13 SR 303; 17 SR 3412*

## **9560.0220 RESPONSE TO REPORTS OF MALTREATMENT WITHIN THE FAMILY UNIT.**

**Subpart 1. Basic procedures.** The local agency shall follow the basic requirements in part 9560.0216 when a report alleges maltreatment by a person within the family unit who is responsible for the child's care. The local agency shall also collect available and relevant information to determine whether maltreatment occurred and whether protective services are needed as specified in Minnesota Statutes, section 626.556, subdivision 10, paragraph (h). Relevant information includes information on the existence of substance abuse as specified in Minnesota Statutes, section 626.556, subdivision 10, paragraph (a).

**Subp. 2. Coordination with law enforcement.** The local agency shall:

A. ask a representative from a law enforcement agency to accompany the child protection worker to interview the child when a report of maltreatment:

(1) indicates there is imminent danger to a child or danger to the child protection worker; or

(2) alleges violation of a criminal statute involving sexual abuse, physical abuse, malicious punishment of a child, or neglect or endangerment under Minnesota Statutes, section 609.378;

B. coordinate its assessment with the law enforcement agency's investigation to avoid duplication of fact finding efforts and multiple interviews; and

C. prepare an independent report of its assessment.

**Subp. 3. Child interviews.** When a local agency and a law enforcement agency that coordinate assessments and investigations jointly determine that an interview by one person with the child who is reported to be maltreated is in the best interests of the child, and the interview is conducted by the law enforcement agency, the interview can be substituted for the procedures in items A to F.

When necessary to make the determinations in subpart 6, the local agency shall interview any other minors within the family unit. When interviewing children, the local agency shall follow the procedures in items A to F.

A. The local agency shall interview the child in a face-to-face meeting in a manner appropriate to the child's age, development, and ability to understand and verbalize. The agency shall use a question-and-answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. In the initial stages of an assessment or investigation, the local agency must conduct a face-to-face observation of the child reported to be maltreated.

B. The local agency may waive the notice required in part 9560.0216, subpart 7, when interviewing a child under ten years of age who is reported to be maltreated.

C. The local agency may interview a child under this part without parental consent. By the time the assessment is completed, the local agency shall notify the parent, legal custodian, or guardian that the interview has occurred unless ordered by the juvenile court to withhold notification.

D. If a parent, legal custodian, or guardian prevents the local agency from interviewing a child, the local agency shall ask the county attorney to obtain a judicial order to produce the child for an interview.

E. The local agency shall make a record of every interview according to subitems (1) and (2):

(1) interviews must be audiotaped whenever possible and, in cases of alleged sexual abuse, interviews with alleged victims and child witnesses must be audio-taped; and

(2) the record must include:

(a) the date, time, place, and duration of the interview;

(b) the identity of the persons present at the interview; and

(c) a written summary completed within 72 hours if the interview is recorded in writing.

F. When a child is interviewed at the child's school, the local agency shall:

(1) before the interview, give the school a written notice, signed by the chair of the county board or the chair's designee, that includes the following:

(a) the name of the child to be interviewed;

(b) the purpose of the interview; and

(c) the authority of the local agency under Minnesota Statutes, section 626.556, subdivision 10, to interview the child on school premises;

(2) conduct the interview within 24 hours after the school receives the notification in subitem (1);

(3) determine the persons present during the interview; and

(4) cooperate with the school officials' reasonable conditions as to the time, place, and manner of the interview.

**Subp. 4. Parent interviews.** The local agency shall interview parents and persons responsible for the child's care within the family unit. The agency must use a question-and-answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. These interviews must take place within 72 hours of interviewing the child unless postponement is necessary to prevent risk to a child or interference with law enforcement's investigation. If, after reasonable effort, the local agency is unable to locate a parent, this requirement is waived. All interviews with witnesses and collateral sources must be audiotaped whenever possible.

**Subp. 4a. Interview of alleged offender.** In the initial stages of an assessment or investigation, the agency must conduct a face-to-face interview of the alleged offender. The interview with the alleged offender may be postponed if it jeopardizes an active law enforcement investigation. The agency must use a question-and-answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. The local agency must provide the alleged offender with an opportunity to make a statement. The alleged offender may submit supporting documentation relevant to the assessment or investigation. The interviews must be audiotaped whenever possible.

**Subp. 5. Other interviews.** When necessary to make the determinations in subpart 6, the local agency shall interview other persons whom the agency believes may have knowledge of the alleged maltreatment. The agency must use a question-and-answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. All interviews with witnesses and collateral sources must be audiotaped whenever possible.

**Subp. 6. Local agency determinations.** When the local agency has completed its assessment under subparts 1 to 5, the local agency shall make determinations.

A. The local agency shall make a determination that maltreatment has occurred if:

(1) there is a preponderance of evidence that a child is a victim of maltreatment; and

(2) the maltreatment was caused by the act or failure to act of a person within the family unit who is responsible for the child's care.

B. The local agency shall make a determination that child protective services are needed when the agency has documented conditions sufficient to cause a child protection worker to conclude that a child is at significant risk of maltreatment if protective intervention is not provided and that the persons responsible for the child's care have not taken or are not likely to take actions to protect the child from maltreatment or risk of maltreatment. This determination shall be made using a risk assessment tool that has been approved by the department and includes the factors in subitems (1) to (11):

(1) vulnerability of the child;

(2) location, severity, frequency, and recentness of abuse;

(3) severity, frequency, and recentness of neglect, and condition of home;

(4) physical, intellectual, or emotional capacities and control of the person or persons responsible for the child's care;

(5) degree of cooperation of the person or persons responsible for the child's care;

(6) parenting skills and knowledge of the person or persons responsible for the child's care;

(7) alleged offender's access to the child;

(8) presence of a parent substitute or other adult in the home;

(9) previous history of child maltreatment;

(10) strength of family support systems; and

(11) stressors on the family.

Subp. 6a. **Early determination of maltreatment allegations.** If the collected information shows no basis for a full assessment or investigation, the local agency may make a determination of no maltreatment early in an assessment, close the case, and retain immunity.

Subp. 7. **Determining the need for protective intervention.** The local agency shall determine the need for protective intervention according to items A to C.

A. If there is a determination that child protective services are needed, regardless of whether there is a determination that maltreatment occurred, the local agency shall provide protective intervention under subpart 8.

B. If there is a determination that maltreatment occurred and a determination that no child is in need of child protective services, the local agency shall offer any needed alternative services.

C. If there is no determination that maltreatment occurred and no determination that child protective services are needed, the local agency shall not provide protective services.

Subp. 8. **Protective intervention procedure.** When the local agency provides protective intervention, the local agency shall:

A. evaluate the risks to all children in the home;

B. provide for the protection of the child under subitems (1) to (3), which are listed in order of preferred action:

(1) maintain the child within the home and provide protective services on a voluntary basis or through protective supervision;

(2) have the alleged offender removed from the home under Minnesota Statutes, section 260C.148; or

(3) seek removal of the child from the home according to subpart 9 if the child is found in surroundings or conditions which endanger the child's health or welfare and the child cannot be protected from harm while remaining in the home;

C. if the family refuses to accept protective services, request the county attorney to obtain a judicial order authorizing the local agency to provide involuntary protective services; and

D. if the family accepts or a court authorizes services, formulate a written protective services plan and provide protective services under part 9560.0228.

Subp. 9. **Removal procedures.** The local agency shall follow the procedures in items A to E when a child is removed from the home.

A. The local agency shall place the child pursuant to part 9560.0223.

B. The local agency shall determine whether a voluntary placement provides for the child's health, safety, and welfare.

C. If the child is not placed voluntarily and the child is in imminent danger, the local agency:

(1) shall obtain the emergency removal of the child from the home by:

(a) seeking the assistance of the law enforcement agency to take the child into immediate custody; or

(b) petitioning the juvenile court for immediate legal custody of the child; and

(2) shall, if the child is placed with a relative or in a shelter care facility, advise the person taking the child into custody or the court whether disclosure of the child's location would endanger the child.

D. If a child is not placed voluntarily and the child is not in imminent danger, the local agency shall ask the county attorney to petition the juvenile court for placement of the child under parts 9560.0500 to 9560.0670.

E. When a child is placed on an emergency basis for alleged maltreatment, the local agency shall review the placement to determine the services necessary to allow the child to return home.

**Statutory Authority:** *MS s 14.388; 256.01; 256E.05; 257.175; 393.07; 626.556*

**History:** *13 SR 303; 17 SR 3412; L 1999 c 139 art 4 s 2; 25 SR 1772; L 2003 ISP14 art 11 s 11*

**9560.0221 CRITERIA FOR SEEKING CHILD'S REMOVAL FROM HOME.**

Subpart 1. **Agency evaluation before seeking removal.** Before seeking removal of a child from the child's home, the local agency must evaluate whether:

A. the child is an Indian child as defined in Minnesota Statutes, section 260.755, subdivision 8; and if so, the agency must follow the process in subpart 3;

B. the agency has made reasonable efforts except as specified in Minnesota Statutes, section 260.012, paragraph (a), to provide services that are:

- (1) relevant to the safety and protection of the child;
- (2) adequate to meet the needs of the child and family;
- (3) culturally appropriate;
- (4) available and accessible;
- (5) consistent and timely; and
- (6) realistic under the circumstances;

C. in the case of child maltreatment, the alleged offender can be removed from the child's home;

D. a caregiver is willing and able to protect the child if the alleged offender cannot be removed from the child's home; or

E. the child and child's caregiver are informed of the services and accept the services the agency offers.

**Subp. 2. Removal of non-Indian child from home.**

A. If the local agency determines that a child is in imminent danger of maltreatment and that the actions in subpart 1 would not ensure the child's safety, then an emergency exists and the agency must seek removal of the child from the home according to part 9560.0220, subpart 9, or obtain an appropriate protective court order.

B. The local agency may seek legal authority to place the child in foster care in nonemergency circumstances when:

- (1) a parent voluntarily requests placement of the child; or
- (2) when the local agency believes the child is in need of protection and services as defined in Minnesota Statutes, section 260C.007, subdivision 6.

**Subp. 3. Removal of Indian child.**

A. The agency must seek emergency removal of any Indian child who is temporarily or permanently located off the reservation if necessary to prevent imminent physical damage or harm to the child. The agency must expeditiously initiate a child custody proceeding subject to the Indian Child Welfare Act, United States Code, title 25, chapter 21, subchapter I, section 1915, transfer the child to the jurisdiction of the appropriate tribe, or restore the child to the parent. The emergency placement must terminate immediately when it is no longer necessary to prevent imminent physical damage or harm to the child.

B. If the agency believes it will be involved with an Indian child for more than 30 days, it must notify the child's tribe of the potential for foster care placement within seven days of determining that the child might be placed out of the home.

C. If the Indian child resides on a reservation with jurisdiction over child welfare matters or is a ward of a tribal court, the agency may not seek nonemergency removal of the child even when the maltreatment occurs off the reservation. In nonemergency cases, the agency must refer the Indian child to tribal social services.

D. In cases involving an Indian child who is not a resident of or domiciled on a reservation, the agency may seek nonemergency removal of the child only if clear and convincing evidence can show that the child is likely to suffer serious emotional or physical damage in the care of the parent or Indian custodian.

E. An agency removing an Indian child must satisfy the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful. Active efforts include, but are not limited to, soliciting the advice of tribal representatives and, if the parents do not object, members of the child's extended family.

F. Removal of an Indian child requires testimony by a qualified expert witness as to the likelihood of harm from continued residence with the parent or Indian custodian.

G. A "qualified expert witness" means:

(1) a member of an Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs of family organization and child rearing;

(2) a lay expert witness having substantial experience in the delivery of child and family services to Indians, and extensive knowledge of prevailing social and cultural standards and child rearing practices within the Indian child's tribe; or

(3) a professional person having substantial education and experience in the area of the professional person's specialty, along with substantial knowledge of prevailing social and cultural standards and child-rearing practices within the Indian community.

**Statutory Authority:** *MS s 14.388; 257.071; 257.072; 260C.212; 260C.215; 626.556*

**History:** *20 SR 2777; L 1999 c 139 art 4 s 2; 25 SR 1772; L 2001 c 178 art 1 s 44*

#### **9560.0222 INVESTIGATION OF REPORTS OF MALTREATMENT IN A FACILITY.**

**Subpart 1. Responsibility for investigation.** The local agency shall screen reports of maltreatment to determine the need for investigation. If a report of maltreatment alleges maltreatment of a child in a facility and if the child is related by blood, marriage, or adoption to the license holder, facility staff, or volunteer of the facility, the local agency shall follow the basic requirements in part 9560.0216. The local agency must investigate a report of maltreatment in a foster care or family child care facility and in facilities licensed by the Department of Corrections when the report meets the criteria in items A to C. The commissioner has primary responsibility for investigating reports of maltreatment in facilities licensed by the commissioner, except for foster care and family day care, and must follow the procedures outlined in Minnesota Statutes, section 626.556. The commissioner may request assistance from the local agency. When the local agency assists the commissioner, it must follow the procedures outlined in parts 9560.0216 to 9560.0234.

A report of maltreatment must be investigated when the conditions in items A to C apply:

A. the allegations in the report constitute maltreatment as defined in part 9560.0214, subpart 18;

B. the report contains sufficient identifying information to permit an investigation; and

C. the report contains information that has not previously been investigated by the local agency.

The investigating agency must collect available information relevant to the investigation or assessment to ascertain whether maltreatment occurred and whether protective services are needed. Relevant information includes the information specified in Minnesota Statutes, section 626.556, subdivision 10, paragraphs (a) and (h).

**Subp. 1a. Report to licensing agency.** A report that does not meet the criteria for investigation in subpart 1, items A to C, must be reported by the local agency as a

possible licensing violation to the responsible licensing agency listed in items A to E within 48 hours after the report is received, excluding weekends and holidays.

A. Reports involving family day care must be referred to the local agency and the commissioner must also be notified.

B. Reports involving a child foster care provider whose licensure is supervised by the local agency must be referred to the local agency and the commissioner must also be notified.

C. Reports involving a child foster care provider whose licensure is supervised by a private agency licensed under parts 9545.0755 to 9545.0845 must be referred to the private agency and the commissioner must also be notified.

D. Reports about facilities that the commissioner licenses directly without delegating any licensing function to the county or a private agency must be sent to the commissioner.

E. Reports concerning facilities licensed by the Department of Corrections or the Department of Health must be sent to the department that licenses the facility.

**Subp. 2. Coordination with law enforcement.** The investigating agency shall:

A. ask a representative from a law enforcement agency to accompany the investigator to interview the child when a report of maltreatment:

(1) indicates there is imminent danger to a child or danger to the investigator; or

(2) alleges violation of a criminal statute involving sexual abuse, physical abuse, malicious punishment of a child, or neglect or endangerment under Minnesota Statutes, section 609.378;

B. coordinate its investigation with the law enforcement agency investigation to avoid duplication of fact finding efforts and multiple interviews; and

C. prepare an independent report of its investigation.

**Subp. 3. Coordination with licensing agencies.** The local agency shall coordinate the investigation of maltreatment within a facility with the agencies responsible for licensing the facility listed in subpart 1a.

A. The local agency shall notify the responsible licensing agencies listed in subpart 1a within 48 hours, excluding weekends and holidays, of receiving a report of maltreatment. This notification must include:

(1) the date and time the local agency received the report;

(2) identification of the facility, the child or children alleged to be maltreated, and the alleged offender;

(3) the nature of the maltreatment and extent of any injuries to children;

(4) immediate treatment and protection measures being provided by the local agency; and

(5) the name of the child protection worker responsible for investigating the report.

B. The local agency shall provide the responsible licensing agencies listed in subpart 1a with ongoing information as the investigation proceeds.

**Subp. 4. Notice to ombudsman for mental health and mental retardation.** The investigating agency shall provide the notice in subpart 3, item A, to the ombudsman for mental health and mental retardation when a report of maltreatment involves a child receiving residential treatment services for mental health, mental retardation, chemical dependency, or emotional disturbance.

**Subp. 5. Notice to parents, guardians, or legal custodians.** The investigating agency shall provide the following notice when reports of maltreatment within a facility have been received.

A. The investigating agency shall provide the following information to the parents, guardians, or legal custodians, including agencies responsible for placement, of

any child who is reported to be maltreated by a person within a facility who is responsible for the child's care:

- (1) the name of the facility;
- (2) that a report of maltreatment of their child has been received;
- (3) the nature of the alleged maltreatment;
- (4) that an investigation is being conducted;
- (5) the protective or corrective measures currently being provided; and
- (6) that a written report will be furnished when the investigation is

completed.

B. The notice required in item A must be provided before the investigating agency interviews any child who is reported to be maltreated unless:

- (1) the interview is necessary to protect children within the facility; and
- (2) the investigating agency is unable, after reasonable effort, to locate

the parents.

C. The investigating agency may provide the notice required in item A to the parents, guardians, or custodians of children who are in the care of the facility who are not the subjects of the report. In making the decision to provide this notice, the agency shall consider:

- (1) whether there are reasonable grounds to believe maltreatment has occurred;
- (2) the seriousness of the maltreatment;
- (3) the number of children reported to be maltreated; and
- (4) the length of time it may take to complete the investigation.

Subp. 6. **Interviewing children.** When necessary to make the determination in subpart 10, the investigating agency in the course of the investigation shall interview any child alleged to be maltreated who is in the care of the facility and may interview any other child who is or has been in the care of the facility, or any child related by blood, marriage, or adoption to the alleged offender, or any child who resides or has resided with the alleged offender. Interviews shall be conducted and recorded according to part 9560.0220, subpart 3.

Subp. 7. **Interviewing facility staff.** The investigating agency shall begin to interview the following facility staff within 24 hours after interviewing children: the alleged offender, in a face-to-face interview, but the interview may be postponed if it jeopardizes an active law enforcement investigation; other staff members who may have knowledge of the maltreatment; supervisors of the alleged offender; and the director of the facility. The agency shall use a question-and-answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. All interviews with witnesses and collateral sources must be audiotaped whenever possible.

Staff interviews may be postponed beyond 24 hours to prevent interference with an investigation by law enforcement authorities.

Subp. 8. **Interviewing persons outside the facility.** The investigating agency shall interview the parents, guardians, or legal custodians of children who are in the care of the facility and children no longer in the care of the facility if there is reason to believe they may have knowledge of maltreatment. The agency shall use a question-and-answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. All interviews with witnesses and collateral sources must be audiotaped whenever possible.

Subp. 8a. **Other interviews.** When necessary to make the determinations in subpart 10, the investigating agency shall interview other persons who the agency believes may have knowledge of the alleged maltreatment. The agency shall use a question-and-answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. All interviews with witnesses and collateral sources must be audiotaped whenever possible.



Subp. 9. [Repealed, 17 SR 3412]

Subp. 10. **Maltreatment determinations.** The investigating agency shall determine that maltreatment has occurred within the facility on the basis of the criteria in items A and B:

A. there is a preponderance of evidence that a child is a victim of maltreatment; and

B. the maltreatment is caused by the act or failure to act of a license holder, facility staff, or a volunteer.

In determining whether the facility or individual is the responsible party for the maltreatment, the investigating agency shall consider the following mitigating factors:

(1) whether the actions of the facility or the individual caregivers were according to, and followed the terms of, an erroneous physician order, prescription, individual care plan, or directive; however, this is not a mitigating factor when the facility or caregiver was responsible for the issuance of the erroneous order, prescription, individual care plan, or directive or knew or should have known of the errors and took no reasonable measures to correct the defect before administering care;

(2) comparative responsibility between the facility, other caregivers, and requirements placed upon an employee, including the facility's compliance with related regulatory standards and the adequacy of facility policies and procedures, facility training, an individual's participation in the training, the caregiver's supervision, and facility staffing levels and the scope of the individual employee's authority and discretion; and

(3) whether the facility or individual followed professional standards in exercising professional judgment.

Subp. 11. **Protective action.** If there is a determination that maltreatment has occurred or that child protective services are needed, the investigating agency shall take the following action to provide for the safety of the children within the facility.

A. The investigating agency shall provide a written report to the parents, guardians, or legal custodians, including agencies responsible for placement, of every child who is in the care of the facility or was in the care of the facility from the time of the maltreatment until the investigation is completed or the alleged offender is no longer present in the facility, whichever comes first. The report must not disclose the names of the children who were maltreated, the reporter, the offender, or the persons interviewed during the investigation. The report must include:

- (1) the name of the facility;
- (2) the nature of the maltreatment;
- (3) the names of the investigators and agencies represented;
- (4) a summary of the results of the investigation;
- (5) the investigating agency's determination; and
- (6) remedial measures being provided.

B. The investigating agency shall inform parents, guardians, and legal custodians about alternative facilities.

C. When the investigation is conducted by a local agency, the local agency shall provide the applicable licensing agency or agencies listed in subpart 1a with an oral report immediately after the investigation is completed and a written report within one week after the investigation is completed.

D. For all cases in which the ombudsman received notice under subpart 4, the investigating agency must provide a written report to the ombudsman within one week after completing the investigation.

Subp. 12. **No determination of maltreatment or a need for child protective services.** If there is no determination of either maltreatment or a need for child protective services, the investigating agency shall provide, within ten working days after

the investigation is completed, the notice in subpart 11, item A, subitems (1) and (3) to (5), to:

- A. parents, guardians, or legal custodians notified under subpart 5;
- B. the applicable licensing agencies listed under subpart 1a if the investigation was conducted by a local agency;
- C. the ombudsman notified under subpart 4;
- D. the alleged offender; and
- E. the facility director.

Subp. 12a. **Early determination of maltreatment allegations.** The investigating agency may make a determination of no maltreatment early in an assessment or investigation, close the case, and retain immunity if the collected information shows no basis for a full assessment or investigation.

Subp. 13. **Removal procedures.** Child placement by the local agency shall be made according to part 9560.0223.

**Statutory Authority:** *MS s 14.388; 256.01; 256E.05; 257.175; 393.07; 626.556*

**History:** *13 SR 303; 17 SR 3412; 25 SR 1772*

#### **9560.0223 PLACEMENT CONSIDERATIONS.**

Items A to D must be followed when a local agency temporarily removes a child from the home in accordance with part 9560.0220, subpart 9, or from a facility in accordance with part 9560.0222, subpart 13:

A. The child shall be placed in the least restrictive setting consistent with the child's health and welfare and in closest proximity to the child's family as possible.

B. If a child has been taken into immediate custody, placement may be with a child's relative or in a shelter care facility.

C. An Indian child shall be placed according to the Indian Child Welfare Act of 1978, United States Code, title 25, section 1915, and the Minnesota Indian Family Preservation Act, Minnesota Statutes, sections 260.751 to 260.781. If an extended family member as defined in United States Code, title 25, section 1903(2), is not available, temporary placement must be made in the following order of preference, absent good cause to the contrary:

- (1) with a foster home licensed or approved by the tribe;
- (2) with an Indian foster home licensed by an authorized non-Indian authority; or
- (3) with an institution approved by the tribe or operated by an Indian organization.

If an Indian child's tribe establishes a different order of placement preference by resolution, the local agency shall follow that order.

D. The placement considerations of Minnesota Statutes, section 260C.193, subdivision 3, must be followed.

**Statutory Authority:** *MS s 14.388; 256.01; 256E.05; 257.175; 393.07; 626.556*

**History:** *17 SR 3412; L 1999 c 139 art 4 s 2; 25 SR 1772*

#### **9560.0224 REPORTS NOT REQUIRING ASSESSMENT OR INVESTIGATION BY LOCAL AGENCY.**

When the local agency receives a report of maltreatment that does not involve an alleged offender from within the family unit or from within a facility, the local agency shall notify the law enforcement agency orally as soon as the report is received. Written notice must be sent within 24 hours.

The local agency shall make appropriate social services available to the child and family.

**Statutory Authority:** *MS s 256.01 subd 2 cl (2); 256E.05; 257.175; 393.07; 626.556*

**History:** *13 SR 303*

**9560.0225 APPEALS OF MALTREATMENT DETERMINATIONS.**

Subpart 1. **Notice of right to appeal.** The investigating agency must notify the designee of a child who is the subject of a report, and any persons or facilities determined to have maltreated a child, of their appeal and reconsideration rights under Minnesota Statutes, section 626.556, subdivision 10i.

Subp. 2. **Notice after reconsideration.** If, as a result of the reconsideration, the investigating agency changes the final determination of maltreatment, that agency must notify the parties specified in Minnesota Statutes, section 626.556, subdivisions 10b, 10d, and 10f.

**Statutory Authority:** *MS s 14.388; 626.556*

**History:** *25 SR 1772*

**9560.0226 INFORMATION PROVIDED REPORTERS UPON COMPLETION OF ASSESSMENT OR INVESTIGATION.**

Subpart 1. **Voluntary reporters.** Upon request, the agency that conducted the assessment or investigation of a report of maltreatment shall provide a voluntary reporter a concise summary after the assessment or investigation has been completed. A concise summary is limited to:

- A. the agency's classification of the report under part 9560.0230; and
- B. a statement whether child protective services are being provided.

Subp. 2. **Mandated reporters.** The agency that conducted the assessment or investigation shall provide a mandated reporter a summary consisting of:

- A. a concise summary under subpart 1;
- B. the name of the child protection worker or investigator that conducted the assessment or investigation;
- C. the nature of the maltreatment, if the agency determined maltreatment occurred; and
- D. whether the case has been opened for child protection or other services, or if a referral has been made to a community organization.

Subp. 3. **Refusal to disclose information.** The agency shall refuse to provide a concise summary to voluntary reporters and a summary to mandated reporters if the agency determines disclosure would be detrimental to the best interests of the child.

**Statutory Authority:** *MS s 14.388; 256.01; 256E.05; 257.175; 393.07; 626.556*

**History:** *13 SR 303; 17 SR 3412; 25 SR 1772*

**9560.0228 PROTECTIVE SERVICES.**

Subpart 1. **General requirement.** The local agency shall ensure that protective services are provided according to a written protective services plan meeting the criteria under subpart 2, item B, to every child and family who are residents of the county when:

- A. a determination of infant medical neglect is made under part 9560.0218, subpart 7, item B; or
- B. protective intervention is required or protective services are accepted or authorized under part 9560.0220, subpart 7.

Subp. 2. **Written protective services plan.** The written protective services plan based on the risk assessment in part 9560.0216 must be prepared within 60 days after the assessment is completed. The written protective services plan must meet the criteria in items A to D:

A. A child protection worker shall work with the appropriate members of the family unit, and, if applicable, custodians, guardians ad litem, and, if a tribe has intervened, tribal representatives to formulate the protective services plan and shall provide the appropriate members of the family unit with a copy of the protective services plan signed by the appropriate members of the family unit and the child protection worker. If the appropriate members of the family unit do not sign the plan, the child protection worker shall document the reasons why the appropriate members of the family unit did not sign.

B. The written protective services plan must identify:

- (1) the reasons for provision of protective services;
- (2) achievable goals of the appropriate members of the family unit to reduce risk of harm to the child, and observable behaviors and timelines that will demonstrate achievement of these goals;
- (3) the specific services expected to ameliorate the conditions that present harm to children;
- (4) specific tasks to be performed by each appropriate member of the family unit, the child protection worker, and other service providers;
- (5) consequences of failure to comply with the written protective services plan; and
- (6) a projected date for the quarterly reassessment under subpart 5.

C. For children in out-of-home placement, the local agency may use a substitute care plan under Minnesota Statutes, section 260C.212, in lieu of a written protective services plan.

D. When a family unit has at least one child residing in the home who requires child protective services and at least one child in out-of-home placement, the local agency shall develop both a protective services plan that meets the criteria in items A and B and a substitute care plan under Minnesota Statutes, section 260C.212.

**Subp. 3. Service delivery.** Protective services shall be provided directly or arranged by the local agency. The local agency shall retain case management responsibility including responsibility for planning, coordinating, authorizing, monitoring, and evaluating services.

**Subp. 4. Monitoring services.** The local agency shall monitor the provision of services in accordance with items A to C to assure compliance with the written protective services plan.

A. When a child remains in the home while protective services are being provided, the child protection worker shall:

- (1) meet with the family at least monthly; or
- (2) contact the family at least monthly and ensure that a service provider meets with the family at least monthly; and
- (3) consult with other service providers, if any, at least quarterly.

B. When a child remains in the home while protective services are being provided, the child protection worker's supervisor shall conduct a review at least semiannually. This review must consist of:

- (1) a review of the written protective services plan or other records relating to the family;
- (2) a supervisory conference with the child protection worker; or
- (3) any equivalent method of determining whether appropriate services are being provided.

C. When a child is in out-of-home placement, the local agency shall monitor services in accordance with part 9560.0580.

**Subp. 5. Quarterly reassessment.** The child protection worker and the appropriate members of the family unit shall meet at least quarterly to jointly assess the written protective services plan to:

A. assess the family unit's progress in achieving goals; and

B. modify goals, behaviors, tasks, and services that have been achieved or found to be inappropriate.

Subp. 6. **Termination of protective services.** A risk assessment tool under part 9560.0220, subpart 6, item B, must be used when the local agency considers termination of protective services. Protective services to the appropriate members of the family unit must be terminated when the local agency determines:

A. the goals in the written protective services plan have been accomplished and the appropriate members of the family unit no longer need protective services; or

B. the family unit fails to achieve goals and there are insufficient legal grounds to proceed with court action that would authorize the local agency to provide involuntary protective services, unless the appropriate members of the family unit agree to voluntary protective services.

**Statutory Authority:** *MS s 256.01; 256E.05; 257.175; 393.07; 626.556*

**History:** *13 SR 303; 17 SR 3412; L 1999 c 139 art 4 s 2*

### 9560.0230 OFFICIAL RECORDS.

Subpart 1. **Report records.** The local agency shall maintain a record of every report of maltreatment under parts 9560.0218 to 9560.0222.

Subp. 2. **Classification of reports.** The local agency shall make the determination required under parts 9560.0218, subpart 7; 9560.0220, subpart 6; and 9560.0222, subparts 10 and 12 within 90 days of receiving the report.

Subp. 3. **Disclosure of report records.** The investigating agency may disclose report records to:

A. members of the case consultation committee of a multidisciplinary child protection team established under Minnesota Statutes, section 626.558;

B. a family court services agency in accordance with Minnesota Statutes, section 626.556, subdivision 10h; and

C. any other person or entity authorized by state or federal law to receive the reports.

Subp. 4. **Nondisclosure of reporter's identity.** Neither the local agency nor the investigating agency, if different, shall disclose the identity of the person making the report of maltreatment while the assessment or investigation is being conducted. After the assessment or investigation is completed, neither agency shall disclose the identity of the person reporting the maltreatment without:

A. the reporter's written consent to disclosure; or

B. a written court finding that the report is false and that there is evidence the report was made in bad faith.

Subp. 5. **Notice of determinations.** Within ten working days after the assessment or investigation is completed, the agency that conducted the assessment or investigation shall notify the parent or guardian of the child reported to be maltreated, the alleged offender, and, in facility investigations, the director of the facility in writing of the following:

A. the agency's determinations; and

B. the period of time report records will be maintained before being destroyed under subpart 6.

The notice must include a certification that information collection procedures under Minnesota Statutes, section 626.556, subdivision 10, paragraphs (h), (i), and (j), were followed and a notice of the right of data subjects to obtain access to other private data collected, created, and maintained as a result of the assessment or investigation.

Subp. 6. **Retention of report records.** The investigating agency's records relating to reports of maltreatment must be retained or destroyed according to items A to C.

A. If the investigating agency has made a determination that maltreatment has not occurred and that child protective services are not needed, the investigating agency must retain the records of the report for four years.

B. If the investigating agency has made a determination either that maltreatment has occurred or that child protective services are needed, the investigating agency shall maintain the records relating to the report for at least ten years after the date of the final entry in the case record.

C. The local agency shall notify a school that received a notice of intent to interview under part 9560.0220, subpart 3, to destroy all records relating to the report when records are destroyed under item A or B.

Subp. 7. **Data collection by the department.** Within ten days after completing the assessment or investigation, the local agency shall send the department data on every report of maltreatment. Data must be submitted in a manner approved by the department.

**Statutory Authority:** *MS s 14.388; 256.01; 256E.05; 257.175; 393.07; 626.556*

**History:** *13 SR 303; 17 SR 3412; 25 SR 1772*

#### **9560.0232 ADMINISTRATIVE REQUIREMENTS.**

Subpart 1. **Service availability.** The local agency shall ensure that child protective services are available on a 24 hour basis to respond to reports alleging imminent danger.

Subp. 2. **Emergency facility.** The local agency shall ensure that a shelter care facility is available on a 24 hour basis for children needing emergency placement.

Subp. 3. **Staffing.** The local agency shall have sufficient staff to perform its duties under parts 9560.0216 to 9560.0234 and shall assign individual responsibility for:

A. notifying law enforcement under part 9560.0216; and

B. emergency placement of children.

Subp. 4. **Child protection team.** The county shall establish a multidisciplinary child protection team under Minnesota Statutes, section 626.558, subdivision 1, and the local agency:

A. shall participate on the team;

B. may provide records collected and maintained under part 9560.0230 to the case consultation committee; and

C. may accept recommendations of the case consultation committee about protective services to be provided under part 9560.0228.

Subp. 5. **Child mortality review panel.**

A. For purposes of this subpart, "local review panel" means a local multidisciplinary child mortality review panel.

B. Under the commissioner's authority in Minnesota Statutes, section 256.01, subdivision 12, paragraph (b), each county shall establish a local review panel and shall participate on the local review panel. The local agency's child protection team may serve as the local review panel. The local review panel shall require participation by professional representatives, including professionals with knowledge of the child mortality case being reviewed.

C. The local review panel shall:

(1) have access to not public data under Minnesota Statutes, section 256.01, subdivision 12, paragraph (c), maintained by state agencies, statewide systems, or political subdivisions that are related to a child's death or circumstances surrounding the care of the child;

(2) conduct a local review of the case within 60 days of the death of a child if:

(a) the death was caused by maltreatment;

(b) the manner of death was due to sudden infant death syndrome or was other than by natural causes, and the child was a member of a family receiving social services from a local agency, a member of a family that received social services during the year before the child's death, or a member of a family that was the subject of a child protection assessment; or

(c) the death occurred in a facility licensed by the department if the manner of death was by other than natural causes; and

(3) submit a report of the review to the department within 30 days of completing subitem (2).

A review may be delayed if there is pending litigation or an active assessment or investigation.

D. Under Minnesota Statutes, section 256.01, subdivision 12, paragraph (d):

(1) data acquired by the local review panel in the exercise of its duty is protected nonpublic or confidential data as defined in Minnesota Statutes, section 13.02, but may be disclosed as necessary to carry out the purposes of the local review panel. The data is not subject to subpoena or discovery; and

(2) the commissioner may disclose conclusions of the local review panel, but shall not disclose data classified as confidential or private on decedents under Minnesota Statutes, section 13.10, or data classified as private, confidential, or protected nonpublic in the disseminating agency.

E. Persons attending the local review panel meeting, members of the local review panel, persons who presented information to the local review panel, and all data, information, documents, and records pertaining to the local review panel must comply with the requirements under Minnesota Statutes, section 256.01, subdivision 12, paragraph (e).

F. When the department notifies the local agency that a state review will be conducted under Minnesota Statutes, section 256.01, subdivision 12, paragraph (a), the local agency shall submit a copy of the social service file within five working days.

**Statutory Authority:** *MS s 256.01; 256.05; 257.175; 393.07; 626.556*

**History:** *13 SR 303; 17 SR 3412*

## **9560.0234 TRAINING REQUIREMENTS.**

Subpart 1. **Agency training plan.** The local agency shall have an annual training plan for child protection workers. The plan must include:

A. the subject areas to be covered;

B. the methods of providing training, such as in service programs, workshops, or college courses; and

C. the number of hours of training to be provided.

Subp. 2. [Repealed, 25 SR 1772]

Subp. 3. **Individual training plan.** The local agency shall develop and approve an individual training plan for each child protection worker that meets the criteria in items A to C:

A. the training is relevant to providing child protective services. Relevant training topics include:

(1) the training areas specified in Minnesota Statutes, section 626.559, subdivision 2;

(2) permanency planning for children; and

(3) other subject areas related to protecting children from maltreatment and providing child protective services;

B. the plan is developed in consultation with the individual child protection worker and based on identified areas of knowledge and skills to be developed; and

C. the plan provides for at least 15 credit hours of training per year.

Subp. 4. **Credit hours.** A credit hour of training is based on a clock hour of instruction. Up to one-half of required training hours may be earned by teaching a course approved by the department. One hour of teaching earns two credit hours.

Subp. 5. **Training record.** The local agency shall maintain a record of training completed by each child protection worker, including:

- A. the course titles;
- B. the instructors' names;
- C. the dates and times of the training;
- D. the number of credit hours earned; and
- E. local agency documentation of successful completion of the training.

**Statutory Authority:** *MS s 14.388; 256.01 subd 2 cl (2); 256E.05; 257.175; 393.07; 626.556*

**History:** *13 SR 303; 25 SR 1772*

**9560.0250** [Repealed, 13 SR 303]

**9560.0260** [Repealed, 13 SR 303]

**9560.0270** [Repealed, 13 SR 303]

**9560.0280** [Repealed, 13 SR 303]

**9560.0290** [Repealed, 13 SR 303]

**9560.0300** [Repealed, 13 SR 303]

## INTERSTATE PLACEMENT OF CHILDREN FOR FOSTER CARE

### 9560.0350 SCOPE.

Parts 9560.0350 to 9560.0370 govern the placement of children into or out of the state of Minnesota for the purpose of foster care.

**Statutory Authority:** *MS s 257.40; 257.175; 260.851*

**History:** *L 1999 c 139 art 4 s 2*

### 9560.0360 DEFINITIONS.

Subpart 1. **Child.** "Child" means a person who is under the age of 18.

Subp. 2. **Commissioner.** "Commissioner" means Minnesota commissioner of the Department of Human Services.

Subp. 3. **Placing children in foster care or placement.** "Placing children in foster care or placement" means placing children in any of the following residential facilities: foster family home, work home, free home, group home, residential treatment center.

**Statutory Authority:** *MS s 257.40; 257.175*

**History:** *L 1984 c 654 art 5 s 58; L 1999 c 139 art 4 s 2*

### 9560.0370 PLACEMENT PROVISIONS.

Subpart 1. **Interstate compact.** Placement of children to and from states which are parties of the Interstate Compact on the Placement of Children shall be made in accordance with the current terms of the compact.

Subp. 2. **Placements to and from noncompact states.** When a child enters or leaves the state of Minnesota for placement in foster care, the following policies are to be used when the move involves noncompact states:

A. The commissioner's consent must be obtained for children entering or leaving the state for the purpose of placement in foster care, except for placements made by certain relatives and guardians under conditions prescribed in statute.



B. Those seeking to place a child must demonstrate:

- (1) that they have legal authority to do so;
- (2) that the move is in the best interest of the child; and
- (3) that the move is necessary to provide the optimum placement opportunity for the child.

C. Those seeking to place a child shall furnish the commissioner such supporting or additional information, consents, or guarantees as the commissioner may deem necessary to protect the child.

Subp. 3. **Agreements submitted to commissioner.** Prior to the commissioner's consent for a child to leave the state for the purpose of foster care, the following information and agreements must be furnished the commissioner:

- A. identifying information on the child and parents;
- B. the name, address, and relationship of the individual in the receiving state responsible for the child's care;
- C. the authority of the agency or individual to make such placements; and
- D. written authorization for the out-of-state placement by the court of jurisdiction, or written authorization from the child's parent or guardian.

**Statutory Authority:** *MS s 257.40; 257.175*

**History:** *L 1999 c 139 art 4 s 2*

## CHILDREN IN NEED OF PROTECTION OR SERVICES

### 9560.0410 SCOPE.

Parts 9560.0410 to 9560.0485 identify and govern the administration of local agency responsibilities for children under state guardianship in need of protection or services pursuant to Minnesota Statutes, sections 260B.101 et seq., and the delegation to local agencies of the authority to grant consents.

**Statutory Authority:** *MS s 256.01; 256.91; 256E.05; 257.175; 259.24; 260.111; 260.241; 260.242; 260.40; 260C.101; 260C.317; 260C.325; 260C.451; 393.07*

**History:** *15 SR 2533; L 1999 c 139 art 4 s 2*

### 9560.0420 PURPOSE.

The purpose of state guardianship is to carry out the responsibility to act and care for children in need of protection or services committed to the guardianship of the commissioner.

**Statutory Authority:** *MS s 256.01; 256.91; 256E.05; 257.175; 259.24; 260.111; 260.241; 260.242; 260.40; 260C.101; 260C.317; 260C.325; 260C.451; 393.07*

**History:** *L 1984 c 654 art 5 s 58; 15 SR 2533; L 1999 c 139 art 4 s 2*

### 9560.0430 DEFINITIONS.

Subpart 1. **Applicability.** The terms used in parts 9560.0410 to 9560.0485 have the meanings given them in this part.

Subp. 2. **Commissioner.** "Commissioner" means the commissioner of human services or a designee.

Subp. 3. **County of residence.** "County of residence" means the county in which the child is physically present:

- A. in the home of a relative as defined in subpart 8;
- B. in a residential program as defined in Minnesota Statutes, section 245A.02, subdivision 14; or
- C. in an adoptive placement.

Subp. 4. **County of financial responsibility.** "County of financial responsibility" means the county financially responsible under Minnesota Statutes, chapter 256G, for the cost of providing services to a child under state guardianship.

Subp. 5. **Indian child.** "Indian child" means an unmarried person under age 18 who is either a member of or eligible for membership in an American Indian tribe.

Subp. 6. **Local agency.** "Local agency" means the agency authorized by the county welfare or human service board to provide and ensure social services.

Subp. 7. **Licensed child-placing agency.** "Licensed child-placing agency" means an agency defined under Minnesota Statutes, sections 245A.02, subdivision 12; 260.755, subdivision 17; and 259.21, subdivision 6, and authorized by the commissioner to place children for foster care or adoption.

Subp. 8. **Relative.** "Relative" has the meaning given in Minnesota Statutes, section 260C.007, subdivision 27.

**Statutory Authority:** *MS s 256.01; 256.91; 256E.05; 257.175; 259.24; 260.111; 260.241; 260.242; 260.40; 260C.101; 260C.317; 260C.325; 260C.451; 393.07*

**History:** *15 SR 2533; L 1999 c 139 art 4 s 2; L 2001 c 178 art 1 s 44*

#### **9560.0440 GENERAL RESPONSIBILITIES.**

Subpart 1. **Financial responsibility.** The local agency in the county of financial responsibility shall provide financial assistance and shall pay the cost of services provided to a child under state guardianship.

Subp. 2. **Notice.** The local agency in the child's county of residence shall notify the commissioner and, for a child eligible for tribal membership, the appropriate tribe when a child is placed under state guardianship. The notice to the commissioner must be on the form prescribed by the commissioner and must be provided to the commissioner within 30 days after the child is placed under state guardianship. The notice to the appropriate tribe may be by letter.

Subp. 3. **Social service plan.** The local agency in the child's county of residence must develop a social service plan within 90 days after a child becomes a ward. The plan must be developed according to items A to E.

A. The child's social service plan must be developed by the local agency and with the child if the child is seven years of age or older and capable of articulating his or her thoughts. The plan must be reviewed at least annually by the local agency. A child seven years of age or older at the time of the annual review and capable of articulating his or her thoughts shall participate in the review.

B. The plan must address the emotional, health, educational, vocational, and spiritual needs of the child, and preserve, where feasible, the racial and familial identity of the child. For an Indian child, the plan must include arrangement to apply for or obtain verification of tribal membership status under Minnesota Statutes, section 270.761, subdivision 1. For an Indian child or a child of minority race or minority ethnic heritage, the plan must also comply with the racial, ethnic, and religious placement preference requirements under Minnesota Statutes, sections 260C.212, subdivision 2; 259.29; 259.77; and 260C.193, subdivision 3. If a child has at least one sibling, the plan must provide for preserving the sibling relationship, where feasible.

C. The aim of the plan must be to establish a permanent family relationship for the child through the selection of a family committed to providing a home until the child reaches majority. The plan must include the goal of adoption for a child under age 14, using the procedures required in Minnesota Statutes, section 259.75. However, if there is established a permanent family relationship between the child and the child's relative as defined in part 9560.0430, subpart 8, adoption must be encouraged but is not required as a condition of permanent placement.

For a child age 14 or older, the child shall be counseled regarding adoption and other available permanent placement options. If the child chooses not to be adopted,

the local agency shall notify the commissioner by submitting a written report and a copy of the child's affidavit in the form prescribed by the commissioner.

D. Any plan which permits a child to live independently without local agency guidance does not relieve a local agency of its responsibility to be aware of the child's needs and provide for them if necessary.

E. The goals, plans, and objectives for children under the supervision of licensed child-placing agencies must be made only with the agreement of the local agency in the child's county of residence after notification to the county of financial responsibility, if different from the county of residence.

Subp. 3a. **Review of social service plan.** Within two weeks after a child's move into a county, the county's local agency must review the social service plan developed by the local agency in the child's previous county of residence to determine the continued applicability of the plan.

The local agency in the child's new county of residence may approve or disapprove the plan. If the local agency disapproves the plan, it must notify the local agency in the child's previous county of residence and the county of financial responsibility, if different from the county of residence. If, after 45 days, the local agency and the local agency in the child's previous county of residence continue to disagree as to the plan, the local agency may change the plan after receiving written approval of the change from the commissioner.

Subp. 4. **Change in child's county of residence.** Before a child moves to a new county, the local agency in the child's current county of residence shall notify the new county's local agency and, if applicable, the Indian child's tribe of the change in the child's residence. The notification must be in writing and must indicate that the new county's local agency shall assume responsibility for implementing the social service plan developed under subpart 3. If the child's new county of residence does not become the county of financial responsibility, the child's new county of residence shall provide reports requested by the local agency in the county of financial responsibility. Payment responsibilities for services provided to the child by the child's new county of residence are governed by Minnesota Statutes, chapter 256G.

Subp. 5. **Appointment of guardian ad litem.** The local agency in the child's county of residence shall assure the appointment of a guardian ad litem to represent the child under state guardianship:

- A. when the child has a legal claim against another party;
- B. when the child has an interest in an existing legal action;
- C. when an action has been instituted against the child by another; and
- D. in all other instances when the best interest of the child requires legal counsel.

**Statutory Authority:** *MS s 256.01; 256.91; 256E.05; 257.175; 259.24; 260.111; 260.241; 260.242; 260.40; 260C.101; 260C.317; 260C.325; 260C.451; 393.07*

**History:** *L 1984 c 654 art 5 s 58; 15 SR 2533; L 1994 c 631 s 31; L 1999 c 139 art 4 s 2; L 2003 ISP14 art 11 s 11*

#### 9560.0450 CONSENTS.

Subpart 1. **Delegated consents.** The following consents are delegated to local agencies:

- A. autopsy;
- B. baptism or other similar religious rites;
- C. medical treatment, except for subpart 2, item H;
- D. mental health services, including treatment with psychotropic medications;
- E. application for marriage license;
- F. admission to a regional treatment center or other inpatient mental health facility to the extent permitted under law;

- G. giving the body or parts of the body to science after death;
- H. out-of-state or out-of-country travel for more than 30 days, but less than 90 days, including application for passports and visas necessary for travel;
- I. permanent placement agreement on a child over 14 years of age;
- J. application for driver's permit or driver's license;
- K. petition to transfer guardianship;
- L. petition for change of name;
- M. surgical treatment;
- N. publicity about the child;
- O. enlistment in the armed services, peace corps, or job corps; and
- P. request for tuition waiver under Minnesota Statutes, section 136.11, subdivision 1, or as allowed by Number 3.3.2.5 of the State Board of Technical College's System Policy Manual, approved May 10, 1988. This manual is incorporated by reference and is subject to frequent change. It is available at the Minnesota State Law Library, Minnesota Judicial Center, 25 Rev. Dr. Martin Luther King Jr. Blvd., Saint Paul, Minnesota 55155.

Subp. 2. **Nondelegated consents.** All consents not specifically delegated to local agencies may be issued only by the commissioner. The consents not specifically delegated include:

- A. adoption;
- B. taking or sending a child out of Minnesota for purposes of placing a child in foster care or adoption;
- C. out-of-state or out-of-country travel for 90 days or more;
- D. giving a part of the body for therapeutic purposes for another person while the child is living;
- E. transfer from one regional treatment center to another regional treatment center;
- F. sterilization;
- G. separation of siblings; and
- H. requests that the child not be resuscitated or intubated.

**Statutory Authority:** *MS s 256.01; 256.91; 256E.05; 257.175; 259.24; 260.111; 260.241; 260.242; 260C.101; 260C.317; 260C.325; 393.07*

**History:** *L 1984 c 654 art 5 s 58; 15 SR 2533; L 1999 c 139 art 4 s 2*

#### **9560.0460 DISPOSITION OF SOCIAL WELFARE FUND.**

The local agency in the county of financial responsibility may accept gifts, contributions, pensions, benefits and inheritance on behalf of a child under state guardianship. The money received by the local agency may be applied to the maintenance and support of the child. The unspent portion of the money must be held in trust and invested through the social welfare fund under Minnesota Statutes, sections 256.88 to 256.91.

When a ward is legally adopted, is discharged from guardianship, or dies, the remaining funds in the social welfare fund must be paid as provided in Minnesota Statutes, section 256.91.

**Statutory Authority:** *MS s 256.01; 256.91; 256E.05; 257.175; 259.24; 260.111; 260.241; 260.242; 260C.101; 260C.317; 260C.325; 393.07*

**History:** *15 SR 2533; L 1999 c 139 art 4 s 2*

#### **9560.0470 STATE GUARDIANSHIP ASSISTANCE UP TO AGE 21.**

The local agency in the child's county of residence shall provide a child who has reached the age of 16 years with social services and access to financial assistance to help the child develop independent living skills. An individual who is under state guardianship at age 18 continues to be eligible for social services and access to financial

assistance up to age 21 if the individual is incapable of self-sustaining employment or is in need of continuing education or training beyond high school.

For the purposes of this part, social services include counseling, training in independent living skills, and access to community resources.

Six months before a child under state guardianship reaches age 18, the local agency in the child's county of residence shall inform the child, in writing, of the child's right to request the continuation of social services and access to financial assistance beyond age 18.

**Statutory Authority:** *MS s 256.01; 256.91; 256E.05; 257.175; 259.24; 260.111; 260.241; 260.242; 260.40; 260C.101; 260C.317; 260C.325; 260C.451; 393.07*

**History:** *15 SR 2533; L 1999 c 139 art 4 s 2*

## **9560.0475 ADMINISTRATIVE REVIEWS AND DISPOSITIONAL HEARINGS.**

The local agency in the child's county of residence shall conduct administrative reviews of the child's social service plan under Minnesota Statutes, section 260C.212, subdivision 7, at least every six months while the child is under state guardianship, in foster care, or in an adoptive placement. A court of competent jurisdiction shall, upon its own motion or that of the child's guardian, conduct a dispositional hearing under Minnesota Statutes, section 260C.325, subdivision 4, paragraph (d), within 18 months after the child is placed in foster care and once every two years thereafter to determine the future status of the child. When the child is placed in an adoptive home, a dispositional hearing shall be sought if the child is removed from the adoptive home or is not legally adopted within two years of the adoptive placement. The local agency in the child's county of residence shall notify an Indian child's tribe of any administrative review or dispositional hearing.

**Statutory Authority:** *MS s 260.242; 260C.325; 393.07*

**History:** *15 SR 2533; L 1999 c 139 art 4 s 2*

## **9560.0480 GUARDIANSHIP RECORDS.**

Subpart 1. **Content.** The local agency shall maintain a record on each child for whom it is responsible. The record must contain:

A. copies of all court findings and orders affecting custody, termination of parental rights, and assignment of guardianship to the commissioner;

B. data on the background and health history of the child and the child's birth family;

C. data on the background of the child's adoptive family if a previous adoption has occurred;

D. copies of notices to an Indian child's tribe whenever the child is placed in a home of a relative, a residential program or an adoptive home, as well as when there is an administrative review or court disposition;

E. documentation of the child's eligibility for benefits and services under title IV-E of the Social Security Act and other provisions of state and federal law, unless the child is no longer a ward or is at least age 21; and

F. all other information required by Minnesota Statutes, section 257.01.

Subp. 2. **Retention.** The record required under subpart 1 must be retained on a permanent basis using a record system that ensures privacy and lasting preservation.

Subp. 3. **Use of information.** Unless state law requires a different classification, all information on a child must be maintained by the local agency in the child's county of residence as private data and disseminated according to the Minnesota Government Data Practices Act, Minnesota Statutes, chapter 13. Unless state law requires a different classification, all information on a child who is subsequently adopted must be maintained as confidential data under Minnesota Statutes, section 259.79, subdivision 1.

**Statutory Authority:** *MS s 260.242; 260C.325; 393.07*

**History:** *15 SR 2533; L 1994 C 631 s 31; L 1999 c 139 art 4 s 2*

**9560.0485 POSTGUARDIANSHIP SERVICES.**

Subpart 1. **Postguardianship assistance.** Upon a written request, the local agency or, when appropriate, the former supervising agency, shall provide postguardianship services to former wards of the commissioner. Postguardianship services include:

A. dissemination of information from the agency record on a former ward's background, health and placement history;

B. search assistance in locating and establishing contact with a former ward's relatives; and

C. counseling on issues related to guardianship or referral to appropriate counseling services.

Subp. 2. **Documentation of postguardianship services.** The local agency shall document in the agency's guardianship record the postguardianship services provided.

Subp. 3. **Reimbursement.** The local agency may require the former ward to provide a reasonable expense reimbursement based on a former ward's ability to pay for providing postguardianship services.

**Statutory Authority:** *MS s 260.242; 260C.325; 393.07*

**History:** *15 SR 2533; L 1999 c 139 art 4 s 2*

**FOSTER CARE FOR CHILDREN****9560.0500 SCOPE.**

Parts 9560.0500 to 9560.0670 govern the administration and provision of foster care to children and their families by the local agency that has placement and supervisory responsibilities.

**Statutory Authority:** *MS s 256.01; 256.82; 256E.05; 257.071; 257.072; 257.175; 260.40; 260C.212; 260C.215; 260C.451; 393.07*

**History:** *20 SR 2778; L 1999 c 139 art 4 s 2*

**9560.0510 PURPOSE OF FOSTER CARE SERVICES.**

The purpose of foster care is to provide substitute family or group care for a child while an intensive effort is made to correct or improve the conditions causing placement and to reunite the family or, if the child cannot be returned home, to provide some other permanent plan.

Foster care may be provided only after services to prevent the need for placement of a child in foster care have been considered, provided, or refused by the child's family.

**Statutory Authority:** *MS s 256.01; 256.82; 256E.05; 257.071; 257.072; 257.175; 260.40; 260C.212; 260C.215; 260C.451; 393.07*

**History:** *20 SR 2778; L 1999 c 139 art 4 s 2*

**9560.0520 [Repealed, 20 SR 2778]****9560.0521 DEFINITIONS.**

Subpart 1. **Scope.** The terms used in parts 9560.0500 to 9560.0670 have the meanings given them in this part.

Subp. 2. **Administrative review.** "Administrative review" means a review open to participation of the parents or guardian and conducted by a panel of appropriate persons, at least one of whom is not responsible for the case management of or the delivery of services to the child, parents, or guardian.

Subp. 3. **Child.** "Child" means a person under the age of 18.

Subp. 4. **Commissioner.** "Commissioner" means the commissioner of human services or the commissioner's designated representative.

Subp. 5. **Custodian.** "Custodian" means a person who is under a legal obligation to provide care and support for a child or who is in fact providing care and support for a child. For an Indian child, custodian means any Indian person who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control have been transferred by the parent of the child, as provided in Minnesota Statutes, section 260.755, subdivision 10.

Subp. 6. **Department.** "Department" means the Minnesota Department of Human Services.

Subp. 7. **Difficulty of care payment.** "Difficulty of care payment" means a supplemental maintenance payment determined by the local agency and based upon an assessment of the child's special needs due to existing physical, mental, or emotional handicaps. A difficulty of care payment does not include payment for services rendered by a licensed foster parent.

Subp. 8. **Dispositional hearing.** "Dispositional hearing" means a hearing held by a family or juvenile court, a tribal court, or another court of competent jurisdiction, or by an administrative body appointed or approved by the court, to determine the future status of the child, including whether the child should be placed for adoption or kept in foster care temporarily or on a long-term basis.

Subp. 9. **Foster care.** "Foster care" means the 24-hour-a-day care of a child following placement by the commissioner or a licensed child-placing agency with legal placement responsibility pursuant to a court order or voluntary placement agreement, in any facility that regularly provides one or more children, when unaccompanied by a parent or guardian, with a substitute for the care, food, lodging, training, education, supervision, or treatment they need which for any reason cannot be furnished by a parent or guardian in the child's home.

Subp. 10. **Foster care maintenance payments.** "Foster care maintenance payments" means payments to cover the cost of a child's food, clothing, shelter, daily supervision, school supplies, and personal incidentals, and reasonable travel to the child's home for visitation. In the case of institutional care, the term includes the reasonable costs of administration and operation of the institution.

Subp. 11. **Foster care provider.** "Foster care provider" means a person or entity licensed to provide foster care.

Subp. 12. **Foster family home.** "Foster family home" means a family licensed under parts 9545.0010 to 9545.0260 to provide foster care in their home for children.

Subp. 13. **Guardian or legal guardian.** "Guardian" or "legal guardian" means a person appointed by a parent's will or by the court to have the powers and responsibilities of a parent, except that the guardian is not legally obligated to provide support for the ward out of the guardian's own funds.

Subp. 14. **Indian child.** "Indian child" means an unmarried person under the age of 18 who is either a member of or eligible for membership in an Indian tribe.

Subp. 15. **Legal custody.** "Legal custody" means the right to the care, custody, and control of a child as defined in Minnesota Statutes, section 260B.007, subdivision 8, or 260C.007, subdivision 22.

Subp. 16. **Local agency.** "Local agency" means the social services agency authorized by the county board to provide social services and financial assistance under Minnesota Statutes, section 393.07.

Subp. 17. **Parent.** "Parent" means a child's parent by birth or adoption. For an Indian child, parent includes any Indian person who has adopted a child by tribal law or custom, as provided in Minnesota Statutes, section 260.755, subdivision 14.

Subp. 18. **Placement plan.** "Placement plan" means the written plan as specified in part 9560.0603 for a child in placement.

Subp. 19. **Relative.** "Relative" means an individual who is related to the child and also includes members of the child's extended family and important friends as noted in Minnesota Statutes, section 260C.193, subdivision 3.

Subp. 20. **Residential facility.** “Residential facility” means any group home, family foster home, or other publicly supported out-of-home residential facility, including any out-of-home residential facility licensed by the state, county, or other political subdivision, or any agency thereof, to provide foster care.

Subp. 21. **Voluntary placement.** “Voluntary placement” means an out-of-home placement of a child by or with participation of the local agency, after the child’s parent or guardian has requested the assistance of the agency and signed a voluntary placement agreement.

Subp. 22. **Voluntary placement agreement.** “Voluntary placement agreement” means a written agreement between the local agency and the parent or guardian of a child, which specifies the legal status of the child and the rights and obligations of the parent or guardian, the child, and the local agency.

**Statutory Authority:** *MS s 257.071; 257.072; 260C.212; 260C.215*

**History:** *20 SR 2778; L 1999 c 139 art 4 s 2; L 2001 c 178 art 1 s 44*

## 9560.0523 AUTHORITY FOR CHILD’S PLACEMENT BY LOCAL AGENCY.

A local agency obtains authority to place a child in foster care:

- A. through a voluntary placement agreement; or
- B. by a court order granting legal custody.

**Statutory Authority:** *MS s 257.071; 257.072; 260C.212; 260C.215*

**History:** *20 SR 2778; L 1999 c 139 art 4 s 2*

## 9560.0525 LOCAL AGENCY GIVEN LEGAL CUSTODY BY COURT.

When a court has given legal custody of a child to a local agency, the local agency must:

- A. place the child according to the court order;
- B. before expiration of the court order, send written reports to the court giving information, evaluations, and recommendations to help the court make decisions about the child and the child’s family;
- C. notify the court and the child’s parent or guardian if the child is placed out of the jurisdiction of the court;
- D. inform the foster care providers of court hearings that pertain to any foster child in their care by sending advance written notice by mail to the foster care providers of the date, time, location, and purpose of any court hearing. The notice shall contain a statement that receipt of the notice does not confer standing on the foster care provider to participate at the hearing;
- E. request the court’s permission for any special treatment and care if the child’s parent or guardian fails to provide it;
- F. obtain the consent of the court before terminating foster care and returning the child to the family; and
- G. obtain the written consent of the child’s parent or guardian and the court if a child is to be placed in foster care outside the state. If the child’s parent or guardian refuses consent, the court’s written consent is sufficient authorization for placement outside the state.

**Statutory Authority:** *MS s 257.071; 257.072; 260C.212; 260C.215*

**History:** *20 SR 2778; L 1999 c 139 art 4 s 2*

## 9560.0527 LOCAL AGENCY PLACING CHILD UNDER VOLUNTARY AGREEMENT.

When a local agency places a child in foster care under a voluntary placement agreement, the local agency must:



A. before placement, obtain the written consent of both parents, or the legal guardian, unless placement is in the child's best interest and the other parent's signature is unobtainable;

B. if only one parent signs the agreement, the agency must document why the other parent did not sign the agreement;

C. in addition, in the case of an Indian child, advise the parent or custodian that the child is to be returned upon demand in a written and dated statement complying with the requirements of Minnesota Statutes, section 260.755, subdivision 5, and notify the Indian child's tribe within seven working days of placement;

D. obtain the agreement of the non-Indian child's parent or guardian to notify the local agency in a written and dated statement if the parent or guardian wishes the child returned from placement before the date specified in the voluntary placement agreement; and

E. return the child to the child's parent or guardian as soon as possible and no later than 24 hours after receiving a written and dated demand for return of the child unless a longer response time is specified in the demand for any child, or in the voluntary placement agreement for a non-Indian child; for Indian children, the demand must be a written and dated statement complying with the requirements of Minnesota Statutes, section 260.755, subdivision 5.

**Statutory Authority:** *MS s 257.071; 257.072; 260C.212; 260C.215*

**History:** *20 SR 2778; L 1999 c 139 art 4 s 2*

#### **9560.0529 PLACEMENT IN LICENSED FACILITY.**

A local agency authorized to place a child in foster care must place the child in a licensed residential facility, in the home of a relative who is undergoing or who will later undergo evaluation for an emergency license, under Minnesota Statutes, section 245A.03, subdivision 2a, or in some other facility as permitted by the licensing statute, Minnesota Statutes, chapter 245A.

**Statutory Authority:** *MS s 257.071; 257.072; 260C.212; 260C.215*

**History:** *20 SR 2778; L 1999 c 139 art 4 s 2*

#### **9560.0530 [Repealed, 20 SR 2778]**

#### **9560.0532 REMOVAL OF CHILDREN.**

An agency seeking to remove a child from the child's home must do so pursuant to procedures specified in parts 9560.0210 to 9560.0485 and Minnesota Statutes, sections 260B.007 or 260C.007, 260B.175 or 260C.175, and 260B.193 or 260C.193.

**Statutory Authority:** *MS s 257.071; 257.072; 260C.212; 260C.215*

**History:** *20 SR 2778; L 1999 c 139 art 4 s 2*

#### **9560.0535 LOCAL AGENCY SEARCH FOR RELATIVES.**

Subpart 1. **Search for relatives required.** The local agency must search for relatives with whom to place a child, unless the child's parent specifically objects.

Subp. 2. **Parental objection to relative search.** If a child's parent specifically objects to the search for relatives, the local agency must, without contacting relatives, evaluate and address the parent's concerns by considering:

A. the child's and the parent's or guardian's preferences about relatives and the reasons for those preferences;

B. if there are specific relatives the parent does not want contacted, whether there are other relatives who may be contacted;

C. whether any relatives have offered to care for the child;

D. whether placement with relatives would interfere with the parent's ability to follow a placement plan; and

E. in the case of an Indian child, the tribe's position on contacting the relatives.

If a parent still objects to the relative search, the agency must notify the juvenile court of the parent's reasons for objecting. The agency must send each parent a copy of the notification to the court. The local agency may not contact the child's relatives unless ordered to do so by the court.

In the case of an Indian child, the agency must seek a relative placement unless the court has determined that there is good cause under the Indian Child Welfare Act, United States Code, title 25, chapter 21, subchapter I, section 1915, not to do so. The preference of the Indian child, parent, or custodian must be considered in accordance with the Indian Child Welfare Act.

**Subp. 3. Initiation of search for relatives.** For six months following the child's first placement, the agency must search for the child's relatives, even if the first placement is with a relative. The agency is permitted to continue the search thereafter only if it determines it is in the best interests of the child or if the court orders it to do so. The agency must thoroughly document the search efforts. If a subsequent placement becomes necessary and other relatives might be available as foster care providers, the local agency must renew the search for those relatives. Pursuant to Minnesota Statutes, section 260C.201, subdivision 10, the court will review the agency's efforts to search for relatives and may order the agency to continue recruitment of relatives if the agency has not performed the search properly.

**Subp. 4. Special efforts for relative search.** As required by Minnesota Statutes, section 260C.215, subdivision 1, a local agency must make special efforts to recruit a relative custodian or foster care provider. To make special efforts, the local agency must:

A. question the child, the child's parents or guardians, and the child's guardian ad litem, if any, about the child's relatives and preferences about the relatives;

B. in the case of an Indian child, request the child's tribe to provide the names of the child's extended family in accordance with the Indian Child Welfare Act, United States Code, title 25, chapter 21, subchapter I, section 1915. The local agency must defer to tribal judgment as to suitability of a relative's home when the tribe has intervened pursuant to the Indian Child Welfare Act;

C. contact relatives and divulge only that information necessary for them to consider possible placement, and request names of other relatives if necessary; and

D. with the written consent of the parent or guardian for release of information about the child, or by order of the court, consult with:

(1) persons, other than those in the local agency, providing services to the child or the child's family; and

(2) other persons who know the child's family.

**Subp. 5. Other sources of information.** With the written consent of the parent or guardian for release of information about the child, the agency may contact the Office of the Ombudsperson for Families, the state ethnic council related to the child's ethnicity, and other potential sources of information about the child's relatives.

**Statutory Authority:** *MS s 257.071; 257.072; 260C.212; 260C.215*

**History:** *20 SR 2778; L 1999 c 139 art 4 s 2*

**9560.0540** [Repealed, 20 SR 2778]

#### **9560.0542 CONSIDERATION OF THE CHILD'S HERITAGE.**

For an Indian child, the Indian Child Welfare Act controls the placement. In all other cases, an agency may consider the cultural, ethnic, or racial background of the child and the capacity of the prospective foster care provider to meet the needs of the child as one of a number of factors used to determine the best interests of the child.

The agency must not delay placement of the child solely to search for a same-race family.

A. In selecting the foster care provider most suitable for the child, the agency may consider the child's:

- (1) current functioning and behavior;
- (2) medical, educational, and developmental needs;
- (3) history and past experience;
- (4) cultural and racial identity needs;
- (5) interests and talents; and
- (6) other needs and characteristics.

B. The agency may also consider a foster care provider's ability to:

- (1) form a relationship with the child;
- (2) help the child integrate with the family;
- (3) accept the child's background and help the child cope with the child's past;
- (4) accept the behavior and personality of the child;
- (5) validate the child's cultural, racial, and ethnic background;
- (6) meet the child's educational, developmental, or psychological needs; and
- (7) meet any other needs of the child.

**Statutory Authority:** *MS s 257.071; 257.072; 260C.212; 260C.215*

**History:** *20 SR 2778; L 1999 c 139 art 4 s 2*

#### 9560.0545 DOCUMENTATION OF PLACEMENT EFFORTS.

Subpart 1. **General requirements.** The local agency must document in the child's case record:

- A. the date the agency began its search for relatives;
- B. the effort made to place the child with a relative and the results of the effort;
- C. the effort to place the child in the least restrictive or most family-like setting, as required under title IV-E of the Social Security Act, United States Code, title 42, sections 470 to 476;
- D. all the factors used in making the placement decision, including race, color, or national origin if it has been determined under part 9560.0542 that consideration of such factors is in the best interests of the child; an Indian child's heritage must always be considered; and
- E. in the case of an Indian child, the identity of the child's tribe and the actions taken to conduct a diligent search pursuant to the Indian Child Welfare Act, United States Code, title 25, chapter 21, subchapter I, section 1915.

Subp. 2. **Requirements for court-ordered placement.** For court-ordered placements, the local agency must place in the child's record copies of the court's findings, decisions, disposition of the case, and any other information that may aid the local agency in providing services to the child.

**Statutory Authority:** *MS s 257.071; 257.072; 260C.212; 260C.215*

**History:** *20 SR 2778; L 1999 c 139 art 4 s 2*

**9560.0550** [Repealed, 20 SR 2778]

#### 9560.0552 DECISIONS ABOUT CHILD IN FOSTER CARE.

Subpart 1. **Written agreement.** The placement plan or the voluntary placement agreement must specify the decisions that the local agency will make and the decisions that require consent of the court, parent, or guardian.

Subp. 2. **Request to court for authorization.** If the child's parent or guardian refuses to consent to decisions essential to the child's well-being, the local agency must seek a court order authorizing the local agency to act for the child. If there is a question about whether a decision requires parental or judicial consent, the agency must consult the court.

**Statutory Authority:** *MS s 257.071; 257.072; 260C.212; 260C.215*

**History:** *20 SR 2778; L 1999 c 139 art 4 s 2*

#### **9560.0560 RELATIONSHIP TO SCHOOLS AND OTHER AGENCIES.**

Subpart 1. [Repealed, 20 SR 2778]

Subp. 2. **Contact with the child's schools.** The local agency must notify the present school of a child in foster care of any change in the child's address and custodian and the date on which the change occurred or will occur. The local agency must notify the present school and the school the child may attend if there is to be a change in the child's enrollment.

Subp. 3. **Contact with the local agency of another county.** A local agency that wants to place a child in another county must request the approval of that county's local agency before making the placement. If the local agency receiving the request agrees to the placement, both local agencies must agree in writing about the responsibilities for services to be delivered to the child, progress reports, procedures for handling foster care payments, and other matters they deem important.

**Statutory Authority:** *MS s 256.01; 256.82; 256E.05; 257.071; 257.072; 257.175; 260.40; 260C.212; 260C.215; 260C.451; 393.07*

**History:** *17 SR 1279; 20 SR 2778; L 1999 c 139 art 4 s 2*

**9560.0570** [Repealed, 20 SR 2778]

#### **9560.0580 SERVICE REQUIREMENTS.**

A local agency that places a child in foster care must:

A. provide at least one preplacement visit for the child unless the child is placed because of an emergency or is under six months old;

B. provide social services to the child as necessary to meet the child's needs;

C. provide social services to the child's family as necessary to:

(1) remedy the conditions that caused placement; and

(2) prepare for the child's return home or, if return home is not possible, involve the family in making an alternative plan;

D. assist the foster care providers in meeting the needs of the child; and

E. provide follow-up services to the family and child if the child returns home.

**Statutory Authority:** *MS s 256.01; 256.82; 256E.05; 257.071; 257.072; 257.175; 260.40; 260C.212; 260C.215; 260C.451; 393.07*

**History:** *17 SR 1279; 20 SR 2778; L 1999 c 139 art 4 s 2*

#### **9560.0590 WAIVER.**

The local agency may disregard those requirements listed under part 9560.0580 that are not applicable for children under state guardianship or for placements of children in emergency facilities. The agency may also disregard those requirements under part 9560.0580 which may be contrary to the child's best interests but must document the rationale behind such waivers.

**Statutory Authority:** *MS s 256.01; 256.82; 256E.05; 257.071; 257.072; 257.175; 260.40; 260C.212; 260C.215; 260C.451; 393.07*

**History:** *20 SR 2778; L 1999 c 139 art 4 s 2*

**9560.0600 PROVISION FOR MEETING HEALTH NEEDS.**

The local agency must meet the health and dental needs of every child by:

A. assuring that each child has had a health examination in the 12 months before initial placement or has an examination within 30 days after placement;

B. assuring that a child's ongoing health and dental needs are met and that the child has at least one health examination per year while in placement;

C. assuring that a Child and Teen Checkup is offered or provided pursuant to parts 9505.1693 to 9505.1748 to a child eligible for the medical assistance program;

D. giving the foster care provider information about the child's immunizations and other pertinent health data with instructions for the record to be kept up to date; and

E. giving the foster care provider a written authorization for obtaining routine health care for the child with clear instructions as to which health care provider is to treat the child and who is responsible for payment.

**Statutory Authority:** *MS s 256.01; 256.82; 256E.05; 257.071; 257.072; 257.175; 260.40; 260C.212; 260C.215; 260C.451; 393.07*

**History:** *20 SR 2778; L 1999 c 139 art 4 s 2*

**9560.0603 PLACEMENT PLAN.**

Subpart 1. **Placement plan required.** A local agency must prepare a written placement plan for the child within 30 days of placement.

Subp. 2. **Preparation of plan.** Placement plans must comply with Minnesota Statutes, section 260C.212, subdivision 1. Plans for court-ordered placements must also comply with Minnesota Statutes, section 260C.201, subdivision 6.

Subp. 3. **Signing of plan.** The plan must be signed by the agency, the parents, the foster care provider, and, if able to understand the meaning of the agreement, the child.

Subp. 4. **Components of placement plan; general.** A child's placement plan must set forth:

A. the reasons for placement of the child, including a description of the problems or conditions in the home that caused placement of the child, and services provided to prevent placement;

B. placement options that were considered, the reasons the specific foster care provider was chosen for the child, with documentation of the search for the child's relatives. If the child was placed in another county or state, the plan must address why the child was not placed in the child's local county;

C. the specific actions to be taken by the child, the child's parent or guardian, or foster care provider to correct the problems or conditions identified in item A and the period in which the actions are to be taken;

D. the financial responsibilities and obligations, if any, of the parent or guardian for the support of the child in placement;

E. the need of the child and the child's family for care, treatment, or rehabilitation;

F. the services requested or needed by the child, the child's parent or guardian, and foster care provider, the services to be provided and who will provide them, or the reasons for denying the services;

G. the visitation rights and obligations of the parents, guardians, and other relatives if the visitation is consistent with the best interest of the child;

H. the specific efforts the local agency will make to reunite the family;

I. the decisions about the child that the local agency will make and the decisions requiring consent of the parents or guardian;

J. the authority and responsibility of the foster care provider to arrange for the education of the child and to meet with teachers regarding the child's progress;

K. the notice required under subpart 7; and

L. the date on which the child is expected to return home.

**Subp. 5. Information to foster care provider.** The local agency must fully inform the foster care provider of the provisions in the plan.

**Subp. 6. Assistance from social services, legal counsel, or guardian ad litem.** The local agency must advise the child, the parent or guardian, and any grandparent with the right to participate under Minnesota Statutes, section 260B.163, subdivision 2, or 260C.163, subdivision 2, that they may consult any person or agency in preparation of the placement plan; that the parent and child each has the right to legal counsel in the preparation of the placement plan; and that the child has the right to a guardian ad litem as set forth in Minnesota Statutes, section 260B.163, subdivision 6, or 260C.163, subdivision 5.

**Subp. 7. Notice to parents.** The local agency must inform the child's parent or guardian:

A. about the conditions that must be corrected to assure the child's return home;

B. that the inability or unwillingness of the parent, guardian, or child to correct the conditions leading to the child's placement may result in a petition to the court to terminate parental or custodial rights;

C. the right of the parents or guardians to receive notice if the local agency petitions the court for a termination of parental rights in accordance with Minnesota Statutes, sections 260C.301 to 260C.317. In this event, the local agency must document in the child's case record that it gave the required notice to the child and the child's parents or guardians.

**Subp. 8. Notice to child.** The local agency must explain the placement plan and any subsequent changes in the plan to the child in a manner appropriate to the child's age.

**Statutory Authority:** *MS s 257.071; 257.072; 260C.212; 260C.215*

**History:** *20 SR 2778; L 1999 c 139 art 4 s 2*

#### **9560.0606 AGENCY REVIEW.**

**Subpart 1. Change in placement.** The local agency must not change a child's placement unless it determines that another placement is in the best interest of the child. For Indian children, best interests must be determined in accordance with placement preferences in the Indian Child Welfare Act. If the local agency changes the placement, it must notify the child's parent or guardian and document the reasons for the change. If placement with a specific foster care provider was ordered by the court, the local agency must obtain the court's permission before changing that placement, except in emergencies. In emergency changes of court-ordered placement, the agency must, as soon as possible, notify the court of the change and bring the matter before the court for its approval of the change.

**Subp. 2. Administrative review.** All cases must be reviewed by an administrative panel at least once every six months. The review must be open to the parent or guardian, the child, and the foster care provider. The review must determine:

A. whether the placement remains necessary and appropriate;

B. the extent of compliance with the placement plan;

C. the extent of progress which has been made toward mitigating the causes for placement in foster care; and

D. the date by which the child may be returned to the home or a permanent placement may be made.

As an alternative, the local agency may bring a petition for review of a voluntary placement pursuant to Minnesota Statutes, section 260B.141 or 260C.141. A dispositional hearing may substitute for the administrative review as long as administrative

review requirements are met, but an administrative review cannot substitute for a dispositional hearing.

**Statutory Authority:** *MS s 257.071; 257.072; 260C.212; 260C.215*

**History:** *20 SR 2778; L 1999 c 139 art 4 s 2*

#### **9560.0609 COURT REVIEW OF VOLUNTARY PLACEMENTS.**

**Subpart 1. Definitions.** For purposes of this part, “developmentally disabled” and “emotional handicap” have the meanings given them in Minnesota Statutes, section 260C.212, subdivision 9.

**Subp. 2. Initial court review of voluntary placements.** If a child has been in voluntary placement for 18 months because of a developmental disability or for six months because of an emotional handicap, the local agency must either return the child home or petition the court under Minnesota Statutes, section 260B.141 or 260C.141, for review of the placement. For all other voluntary placements, the local agency must return the child home or file a petition for review within six months of the child’s placement pursuant to either Minnesota Statutes, section 260B.141 or 260C.141, or a petition to terminate parental rights under Minnesota Statutes, section 260B.141 or 260C.141.

**Subp. 3. Subsequent reviews.** If the court approves the voluntary placement of a child because of either a developmental disability or emotional handicap, the local agency must petition the court under Minnesota Statutes, section 260B.141 or 260C.141, for one further review within two years of the initial review and for additional further reviews within every two years thereafter. In all other voluntary placements which the court has approved, the local agency must request that the court conduct further review six months after the preceding review if the child continues in placement.

**Subp. 4. Update of child’s placement plan.** The local agency must update the child’s placement plan and prepare a specific plan for permanency when filing a petition for review.

**Statutory Authority:** *MS s 257.071; 257.072; 260C.212; 260C.215*

**History:** *20 SR 2778; L 1999 c 139 art 4 s 2*

#### **9560.0610 [Repealed, 20 SR 2778]**

#### **9560.0613 COURT REVIEW OF COURT-ORDERED PLACEMENTS.**

**Subpart 1. Request for court review of court-ordered placement.** For a child in court-ordered placement, the local agency must request the court for review six months after the initial placement. The agency must ensure that further reviews take place within each six-month period thereafter during the continuation of placement to determine whether continued out-of-home placement is necessary or whether the child should be returned home.

**Subp. 2. Filing for permanent placement determination by court.** The local agency must request the county attorney to file pleadings to establish the basis for a permanent placement determination in a manner that allows for court review no later than 12 months after a child is placed in a residential facility by court order. Alternatively, the agency may request filing of pleadings recommending a delay in the permanent placement determination because of a circumstance specified in Minnesota Statutes, section 260C.201, subdivision 11, paragraph (a). Pleadings to establish a basis for permanent placement determination must contain the following information:

A. the local agency’s recommendations about the child’s permanent placement and the reasons for those recommendations;

B. the local agency’s efforts to reunify the family and prevent placement or, in the case of an Indian child, active efforts to reunite the child with the child’s parent or custodian;

C. whether there is a substantial probability of the child being able to return home in the next six months;

D. a recommendation for a permanent plan; and

E. a recommendation whether to delay the permanent placement determination for six months because of a circumstance specified in Minnesota Statutes, section 260C.201, subdivision 11, paragraph (a).

A permanent placement determination is not required if a child is returned home or if a termination of parental rights petition is filed before the permanency planning determination.

**Subp. 3. Dispositional hearing required; child in long-term foster care.** When a child is placed in long-term foster care through a dispositional hearing and the order specifically states the name of the foster parent or parents, no further dispositional hearings are required unless the placement is terminated. Administrative reviews pursuant to Minnesota Statutes, section 260C.212, subdivision 7, must continue while the child remains in the specific placement named in the court order.

**Subp. 4. Dispositional hearing required; child under guardianship.** Except as set forth in subpart 5, dispositional hearings for a child under the guardianship of the commissioner or a licensed child-placing agency must occur every two years following the establishment of the guardianship. The dispositional hearing shall meet the requirements of Minnesota Statutes, section 260C.325, subdivision 4, paragraph (d).

**Subp. 5. Dispositional hearing not required.** A dispositional hearing is not required for a child under the guardianship of the commissioner or a licensed child-placing agency and in court-ordered long-term foster care or in an adoptive placement during the continuation of that specific long-term foster care or adoptive placement. The court order establishing long-term foster care must state the name of the long-term foster parent or parents.

**Subp. 6. Administrative review required.** Administrative review pursuant to United States Code, title 42, section 675(5)(B), and Minnesota Statutes, section 260C.212, subdivision 7, must continue in the case of a child placed in court-ordered long-term foster care or a child under the guardianship of the commissioner or licensed child-placing agency. Additionally, administrative review must continue for a child in an adoptive placement until the court grants a decree of adoption. Court review may substitute for an administrative review as long as the administrative review requirements are met.

**Statutory Authority:** *MS s 257.071; 257.072; 260C.212; 260C.215*

**History:** *20 SR 2778; L 1999 c 139 art 4 s 2*

## **9560.0615 CRITERIA FOR RETURN OF CHILD TO HOME.**

### **Subpart 1. Return or release of non-Indian child.**

A. For a child removed from the home of a parent or guardian and placed in foster care pursuant to court order, the local agency must seek a court order to end its custody and return the child to the parent or guardian under the following circumstances:

(1) if the child was removed because of an emergency as described in part 9560.0221, subpart 2, item A, and the conditions that resulted in the need for foster care have been corrected sufficiently to ensure the child's safety with the parent or guardian; or

(2) if the child was removed because of a nonemergency situation as described in part 9560.0221, subpart 2, item B, and the conditions that led to the out-of-home placement have been mitigated.

B. For a child in foster care pursuant to a voluntary placement agreement, the local agency must return the child to the parent or guardian as soon as possible and no later than 24 hours after receipt of a written and dated request from the parent or



guardian unless, because of child protection concerns, the local agency secures legal authority to continue placement outside the home of the parent or guardian.

C. A local agency may seek a court order to end its custody of a child so that the child can be released into the care of a relative if the child could be safely maintained in the relative's home without formal legal authority and the relative is willing to care for the child without formal legal authority. Before releasing the child into the relative's care, the local agency must give the relative information orally and in writing about the rights and responsibilities of a relative and child in various formal and informal relationships.

**Subp. 2. Return of Indian child.**

A. An Indian child in foster care who was removed because of an emergency must be returned to the parent or custodian when the placement is no longer necessary to prevent imminent physical damage or harm.

B. An Indian child who was removed because of a nonemergency circumstance must be returned to the parent or custodian when the agency determines that restoring custody to the parent or custodian is not likely to result in serious emotional or physical harm to the child.

C. An Indian child in voluntary placement must be returned to the parent or custodian as soon as possible and no later than 24 hours after the agency receives a written and dated statement complying with the requirements of Minnesota Statutes, section 260.755, subdivision 5.

**Statutory Authority:** *MS s 257.071; 257.072; 260C.212; 260C.215*

**History:** *20 SR 2778; L 1999 c 139 art 4 s 2*

**9560.0620 CHILD'S OR FOSTER CARE PROVIDER'S ABSENCE FROM RESIDENTIAL FACILITY.**

The local agency's permission must be obtained any time the foster care provider or child is to be away from the residential facility for more than three nights or, if the child leaves the state, for any period of time. The local agency may give specifically defined blanket permission for departures from the state if a provider or child regularly leaves the state for an identified routine purpose.

**Statutory Authority:** *MS s 256.01; 256.82; 256E.05; 257.071; 257.072; 257.175; 260.40; 260C.212; 260C.215; 260C.451; 393.07*

**History:** *20 SR 2778; L 1999 c 139 art 4 s 2*

**9560.0630 [Repealed, 20 SR 2778]**

**9560.0640 FINANCIAL ARRANGEMENTS AND FUNDING CONSIDERATIONS.**

The local agency and the parent(s) shall evaluate the various resources available to meet the costs of care.

Parent(s) shall pay for the cost of care in a manner consistent with their ability to do so and with any applicable state laws or rules.

If the local agency establishes that the parent(s) are able to meet some or all of the costs of care, but are unwilling to do so, the following courses of action are indicated:

A. For a child under legal custody, the local agency shall make a written report to the court for determination by the judge of the parents' responsibility to reimburse the agency.

B. For a child placed by voluntary agreement, the local agency shall file a dependency or neglect petition with the court and ask the court to establish the parents' responsibility to reimburse the agency.

The local agency shall make the payments directly to foster parents and other providers of care.

**Statutory Authority:** *MS s 256.01; 256.82; 256E.05; 257.071; 257.175; 260.40; 260C.212; 260C.451; 393.07*

**History:** *20 SR 2778; L 1999 c 139 art 4 s 2*

#### **9560.0650 MAINTENANCE STANDARDS.**

Subpart 1. **Payments.** The local agency shall make payments based on the following maintenance standards:

Age	Monthly Maintenance Standard	Initial Clothing
0-11	\$212 (\$244 effective January 1984)	up to \$146 (up to \$168 effective January 1984)
12-14	\$293	up to \$288
15-18	\$320	up to \$348

The initial clothing allowance shall be available based on the child's needs during the first 60 days of the initial placement. The state agency shall annually review and revise the maintenance standard based on "USDA Estimates of the Cost of Raising a Child," issued by the United States Department of Agriculture, Agricultural Resources Service, Publication 1411 (October, 1982).

Subp. 2. [Repealed, 13 SR 1448]

Subp. 3. **Agency contract care.** When foster care is provided for a child by a provider licensed under parts 9545.0010 to 9545.0260 through contract with a public or private agency, foster care maintenance payments and difficulty of care payments shall be determined according to the rate schedules in subpart 1 and parts 9560.0653 to 9560.0655. If the local agency is contracting for administrative or social services costs, the payments to the contracting agency shall be in addition to the rates established in subpart 1 and parts 9560.0653 to 9560.0655.

Subp. 4. **Fee conditions.** The local agency may pay a fee for services to foster parents based on the foster parents' skills, experience, or training. This fee is not a maintenance expense.

Subp. 5. **Local fund.** The local agency may, through action by the county welfare board, human service board, or board of county commissioners, establish a local fund of county money through which the agency may reimburse foster parents for the cost of repairing damage done to the foster home and contents by the foster child, and the additional car insurance premium cost of a foster child who possesses a permit or license to drive a car.

Subp. 6. **Reassessment.** The agency shall reassess a child:

- A. at the end of 12 months;
- B. at the request of a foster parent;
- C. when a child is placed in a different facility; or
- D. if a child's level of need changes.

**Statutory Authority:** *MS s 256.01; 256.82; 256E.05; 257.071; 257.175; 260.40; 260C.212; 260C.451; 393.07*

**History:** *8 SR 1537; 13 SR 1448; 20 SR 2778; L 1999 c 139 art 4 s 2*

#### **9560.0651 DIFFICULTY OF CARE ASSESSMENTS AND PAYMENTS.**

Parts 9560.0652 to 9560.0656 provide criteria for assessing the difficulty of care and the payment rate for a child in foster care.

**Statutory Authority:** *MS s 256.82 subds 3,4*

**History:** *13 SR 1448*

**9560.0652 DEFINITIONS.**

Subpart 1. **Scope.** The terms used in parts 9560.0653 to 9560.0656 have the meanings given them in this part.

Subp. 2. **Activities of daily living.** "Activities of daily living" means activities of basic self-care, including eating, dressing, grooming, hygiene, and toileting.

Subp. 3. **Mental retardation.** "Mental retardation" means the condition of a person with mental retardation as defined in part 9525.0016, subpart 2.

Subp. 4. **Mental illness.** "Mental illness" has the meaning given in Minnesota Statutes, section 245.462, subdivision 20.

**Statutory Authority:** *MS s 256.82; 256B.092*

**History:** *13 SR 1448; 18 SR 2244*

**9560.0653 DIFFICULTY OF CARE PAYMENTS.**

The local agency shall make payments in addition to the basic maintenance standards of part 9560.0650, subpart 1, for children with mental, physical, or emotional handicaps who require additional supervision or assistance in behavior management, activities of daily living, management of medical problems, or interaction with the birth parents and the community. The local agency shall assess each child under this part and the difficulty of care levels in part 9560.0654.

**Statutory Authority:** *MS s 256.82 subds 3,4*

**History:** *13 SR 1448; L 1994 c 631 s 31; 20 SR 2778*

**9560.0654 DIFFICULTY OF CARE ASSESSMENTS.**

Subpart 1. **General.** Within the highest appropriate level and the respective point range of subparts 2 to 7, a single point value shall be assigned based on the age of the child, the number of conditions requiring special care, and the degree of difficulty of caring for each condition.

Subp. 2. **Level A.** A child eligible for difficulty of care payments under part 9560.0653:

A. shall be assessed at level A if the child requires a moderate amount of additional supervision or assistance, including that required by:

- (1) dependency, passivity, or lack of responsiveness and ability to relate to others;
- (2) abnormal seeking of affection or attention;
- (3) problems with separation from the birth parents or attachment to the foster parents;
- (4) psychosomatic complaints;
- (5) night terrors;
- (6) stress reactions, such as minor destructiveness;
- (7) chemical abuse;
- (8) immaturity or poor social skills;
- (9) problems with authority figures;
- (10) chronic disorders with some physical incapacity;
- (11) a physical handicap, although the child is self sufficient;
- (12) presence of long-term infections;
- (13) delayed development;
- (14) need for help with hygiene, eating, toileting, and dressing beyond that normally required at the child's age level;
- (15) need for a special diet prescribed by a physician;

(16) need for weekly therapy for medical, physical, or emotional problems, truancy or behavior problems, in which the foster parent participates with the child;

(17) need for home tutoring provided by the foster parent if the child is learning disabled or requires remedial education;

(18) need for supervision of family visits;

(19) other conditions or behaviors that are equivalent to the requirement for additional supervision appropriate to subitems (1) to (18); and

B. within level A, shall be assigned no fewer than one and no more than 35 difficulty of care points.

Subp. 3. **Level B.** A child eligible for difficulty of care payments under part 9560.0653:

A. shall be assessed at level B if the child requires a significant amount of additional supervision or assistance, including that required by:

(1) need for a structured behavioral program;

(2) difficulty with peers;

(3) lack of verbal responsiveness;

(4) fear of or hostility to adults or authority figures;

(5) infrequent running away overnight;

(6) lying or stealing;

(7) chemical abuse;

(8) expression of suicidal thoughts or gestures;

(9) chronic medical disorders or developmental delay, including mental retardation, with significant incapacity and need for motivation or skill development;

(10) a program of physical therapy prescribed by a professional for up to one hour per day to be provided by a foster parent;

(11) speech and hearing problems, such as those that require a communication board or sign language;

(12) presence of infections, which present a risk to the family;

(13) need for help with eating, toileting, hygiene, and dressing significantly beyond that normally required of the child's age level;

(14) need for help with braces, prosthetics, or casts;

(15) truancy, school performance, or behavior problems requiring increased contact by the foster parents with the school, court, or other agencies;

(16) sexual acting out;

(17) need to assist the child in relating to the birth parents;

(18) need to supervise family visits in the foster home;

(19) attention deficit disorder;

(20) other conditions or behaviors that are equivalent to the requirement for additional supervision appropriate to subitems (1) to (19); and

B. within level B, shall be assigned no fewer than 36 and no more than 70 difficulty of care points.

Subp. 4. **Level C.** A child eligible for difficulty of care payments under part 9560.0653:

A. shall be assessed at level C if the child requires an extensive amount of additional supervision or assistance, including that required by:

(1) unsocialized or withdrawn behavior;

(2) self-destructive or self-defeating behavior with suicidal expressions and gestures;

(3) attention deficit disorder;

(4) frequent running away;

- (5) sexual or physical abuse inflicted upon the child;
- (6) destructive acting-out, either physically or sexually;
- (7) repeated violations of law concerning persons or property;
- (8) chemical abuse;
- (9) problems with authority figures;
- (10) chronic medical disorders or severe developmental delay including mental retardation, with incapacity which may require frequent hospitalizations;
- (11) a severe physical handicap, and the child is not ambulatory or is oppositional;
- (12) feeding problems, including swallowing or vomiting after meals;
- (13) a program of physical therapy prescribed by a professional for between one and two hours per day to be provided by a foster parent;
- (14) need for help in hygiene, eating, toileting, dressing, and diapering, beyond that normally required for the child's age;
- (15) need for therapy for medical, physical, or emotional problems, which the foster parent attends with the child at least twice weekly;
- (16) truancy, behavior, or school performance problems requiring extensive contact by the foster parents with the school, court, or other agencies;
- (17) need for parenting education for the birth parents by the foster parents during visitations;
- (18) need to protect child from threatening birth parents;
- (19) other conditions or behaviors that are equivalent to the requirement for additional supervision appropriate to subitems (1) to (18); and

B. within level C, shall be assigned no fewer than 71 and no more than 105 difficulty of care points.

Subp. 5. **Level D.** A child eligible for difficulty of care payments under part 9560.0653:

A. shall be assessed at level D if the child requires an exceptional amount of additional supervision or assistance, including that required by:

- (1) phobic or compulsive behaviors;
- (2) inappropriate sexual aggressiveness, self-mutilation, or extreme vulnerability;
- (3) self-destructive or self-defeating behavior with suicidal expressions and gestures;
- (4) assaultive behavior;
- (5) antisocial personality disorder;
- (6) chemical abuse;
- (7) a recent suicidal attempt;
- (8) a severe disability with multiple handicaps;
- (9) developmental delay including mental retardation;
- (10) attention deficit disorder with hyperactivity;
- (11) need for frequent supervision of an appliance, such as a shunt or ilial conduit;
- (12) lack of bowel or bladder control, if child is over 12 years of age;
- (13) a program of physical therapy prescribed by a professional for between two and three hours per day to be provided by a foster parent;
- (14) uncontrollable seizures;
- (15) a tracheotomy with need for suctioning;
- (16) a gastrostomy;
- (17) heavy weight, needing lifting;

(18) disabilities requiring feeding and diapering or dressing and hygiene performed by a foster parent;

(19) need for therapeutic visits for physical, mental, or emotional problems, attended by a foster parent more often than twice weekly;

(20) need for relief of the foster parent by another adult;

(21) other conditions or behaviors that are equivalent to the requirement for additional supervision appropriate to subitems (1) and (20); and

B. within level D, shall be assigned no fewer than 106 and no more than 140 difficulty of care points.

Subp. 6. **Level E.** A child eligible for difficulty of care payments under part 9560.0653:

A. shall be assessed at level E if the child requires an extraordinary amount of supervision or assistance, including that required by:

(1) frequent and recent suicide attempts;

(2) frequent and recent arsonist behavior;

(3) high risk of danger to the child or others by the child;

(4) life threatening illness with a guarded prognosis or expectation of death, which may require frequent hospitalization;

(5) need for a heart monitor;

(6) need for tracheotomy suctioning;

(7) need for gavage feeding;

(8) need for intravenous feeding or intestinal massage;

(9) need for extensive burn care;

(10) a program of physical therapy prescribed by a professional for between three and four hours per day to be provided by a foster parent; or

(11) other conditions or behaviors that are consistent with the requirement for additional supervision appropriate to subitems (1) to (10); and

B. within level E, shall be assigned no fewer than 141 and no more than 175 difficulty of care points.

Subp. 7. **Level F.** A child eligible for difficulty of care payments under part 9560.0653:

A. shall be assessed at level F if the child requires supervision or assistance in excess of that of Level E under subpart 6; and

B. within level F, shall be assigned no fewer than 176 and no more than 225 difficulty of care points.

**Statutory Authority:** *MS s 256.82 subds 3,4*

**History:** *13 SR 1448; L 1994 c 631 s 31*

#### **9560.0655 DIFFICULTY OF CARE PAYMENT RATE.**

Subpart 1. **Payment rate.** Except as provided by subpart 2, the local agency shall make payments to the foster care provider at the rate of \$3.70 per month for each point assessed under part 9560.0654.

Subp. 2. **Existing placements.** In a placement for which a difficulty of care payment was established and was being made prior to January 1, 1989, and the payment is greater than the payment which would be made under subpart 1, the local agency shall continue to pay the greater amount until the child's difficulty of care changes or the placement terminates.

Subp. 3. **Annual revision of payment rate.** By November 1 of each year following January 1, 1989, the commissioner shall review and revise the difficulty of care payment rate in subpart 1 based on USDA Estimates of the Cost of Raising a Child, published by the United States Department of Agriculture, Agricultural Resources Service, Publication 1411. The revision shall be the average percentage by which costs increase

for the age ranges represented in the USDA Estimates of the Cost of Raising a Child. The USDA Estimates of the Cost of Raising a Child is subject to annual revision.

**Statutory Authority:** *MS s 256.82 subds 3,4*

**History:** *13 SR 1448; 20 SR 2788*

#### 9560.0656 DOCUMENTATION.

Subpart 1. **Assessment instrument.** The local agency shall document the assessment of the difficulty of care under parts 9560.0653 and 9560.0654 using a written assessment instrument consistent with parts 9560.0653 and 9560.0654. The case record shall include a description of each condition on which the assessment is based.

Subp. 2. **Approval of assessment instrument.** The assessment instrument required by subpart 1 must be approved by the commissioner.

**Statutory Authority:** *MS s 256.82*

**History:** *13 SR 1448; 20 SR 2778*

#### 9560.0657 EFFECTIVE DATE.

Parts 9560.0651 to 9560.0656 and the amendments to part 9560.0650, as adopted at 13 State Register, page 1448, on December 19, 1988, are effective January 1, 1989.

**Statutory Authority:** *MS s 256.82 subds 3,4*

**History:** *13 SR 1448*

#### 9560.0660 FOSTER CARE BENEFITS UP TO AGE 21.

Within the six months prior to a child's 18th birthday, the local agency shall advise the child, the child's parents or legal guardian, and the foster parents of the availability of benefits up to age 21 of the foster care program.

Upon the request of a person between the ages of 18 and 21 who is not under state guardianship as dependent/neglected and who had been receiving foster care benefits immediately prior to his or her 18th birthday and who is in foster care at the time of the request, or upon the request at any time between the ages of 18 and 21 of a person who had been under state guardianship as dependent/neglected, the local agency shall develop, in conjunction with the foster child and other appropriate parties, a specific plan related to that person's vocational, educational, social, or maturational needs and shall assure that any maintenance or counseling benefits are tied to that plan.

**Statutory Authority:** *MS s 256.01; 256.82; 256E.05; 257.071; 257.175; 260.40; 260C.212; 260C.451; 393.07*

**History:** *20 SR 2778; L 1999 c 139 art 4 s 2*

#### 9560.0665 NOTICE AND APPEAL PROCEDURES.

Subpart 1. **Request for foster care payments.** If a relative who is caring for a child contacts the county and requests foster care services or payments, the county must give the relative a written notice explaining:

A. that if the relative believes the child in the relative's care needs child protective services, the relative may contact the county to make a child protection report, how the contact can be made, and that the county will determine if child protective services are required and, if so, what those services shall be; and

B. that if the relative believes the county has placed the child in the relative's home pursuant to a court order or a voluntary placement agreement and the relative is not receiving foster care payments on the child's behalf, the relative may request payments. The county must enclose a "Request for Foster Care Payment Based on Placement" form for that purpose. The form must include a statement that the county will approve or deny the request within 30 days.

Subp. 2. **Response to request for foster care payments.** Within 30 days of receiving a request for foster care payments on the form provided under subpart 1, item B, the

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county must evaluate the request and provide a written notice to the relative. The notice must include:

- A. a statement of the county's decision of approval or denial and an explanation for the decision;
- B. a statement of the legal authority for the decision;
- C. a statement that the relative has a right to a fair hearing review by the department;
- D. the procedure for seeking review;
- E. a statement describing the scope of review; and
- F. a name and telephone number of a contact person at the county.

**Subp. 3. Review of claims of erroneous benefits.** Before or at the time of mailing the first foster care payment to a foster care provider, the county must give the foster care provider a written notice that includes:

- A. a statement of and explanation for the starting date of the payments;
- B. the amount of room and board;
- C. the amount of any difficulty-of-care payment, if any, and an explanation of the manner in which the difficulty-of-care payment was calculated;
- D. an explanation of any offset for public assistance paid;
- E. a statement of legal authority;
- F. a statement that the foster care provider has a right to a fair hearing review by the department;
- G. a statement describing the scope of review; and
- H. a name and telephone number of a contact person at the county.

**Subp. 4. Notice of initial assessment of difficulty of care.** As soon as reasonably practicable following the initiation of foster care placement of a child, the county must perform the difficulty-of-care (DOC) assessment required under part 9560.0653. Upon completion of the assessment, the county must give the child's foster care provider a written notice that includes:

- A. a statement of the DOC rating assigned by the county and the dollar value of the rating assigned;
- B. the method of assessment; this requirement may be satisfied by giving the foster care provider a copy of the DOC assessment instrument completed for the child by the county;
- C. a statement of the legal authority for the rating;
- D. a statement of the circumstances under which the agency must reassess a child as required by part 9560.0650, subpart 6;
- E. the procedure for seeking a reassessment; and
- F. a statement that, following reassessment, a foster care provider has a right to a fair hearing review of the reassessment by the department.

**Subp. 5. Review of reassessment of difficulty-of-care (DOC) rating.** Upon reassessment of a child's difficulty-of-care (DOC) rating, the county must give written notice to the foster care provider. The notice must include:

- A. the prior DOC rating;
- B. the new DOC rating;
- C. the effective date of the rating; this date may precede the request for reassessment when supported by evidence;
- D. the reason for the new rating, a copy of the completed DOC assessment instrument will be sufficient;
- E. the reason for the effective date;
- F. a statement of the legal authority for the assessment;
- G. a statement that the foster care provider has the right to a fair hearing review by the department;



H. the procedure for seeking review;

I. a statement describing the scope of review; and

J. a statement that a foster care provider who requests review of the proposed change in the DOC rating within ten days of the date of the notice may also request that foster care payments continue at the provider's current level pending fair hearing review, but if the county's proposed action is sustained upon review, the agency may recover any overpayment paid.

**Subp. 6. Notice and review of reduction of days covered.** When the county reduces foster care payments or provides foster care payments for fewer days than the foster care provider requested, the county must provide a written notice to the provider. The notice must include:

A. a statement of the reduction in payment or of the number of days for which a check is being issued;

B. an explanation of the reason for the reduction or the number of days;

C. a statement of the legal authority for the decision;

D. a statement that the foster care provider has a right to a fair hearing review by the department;

E. the procedure for seeking review;

F. a statement describing the scope of review;

G. in the case of reduction in payment, a statement that a foster care provider who requests review of the proposed reduction in payment within ten days of the notice may request that foster care payments continue at the current level pending fair hearing review, but if the county's proposed action is sustained upon review, the agency may recover any overpayments; and

H. a name and telephone number of a contact person at the county.

**Subp. 7. Notice of termination.** When the county terminates foster care payments to a foster care provider, the county must send written notice to the foster care provider. The notice must be provided with the final voucher the county sends to the foster care provider if possible, but in all cases, at least ten days before the first month in which no payment will be made. The written notice must include:

A. the date after which foster care payments will not be made;

B. the reason the county will terminate payments, and the event on which the county bases its determination that the placement ended;

C. a statement of the legal authority for the decision;

D. a statement that the foster care provider has a right to a fair hearing review by the department;

E. the procedures for seeking review;

F. a statement describing the scope of the review;

G. a statement that:

(1) a foster care provider who requests a hearing within ten days of the date of the notice may request that the foster care payments on the child's behalf continue pending fair hearing review if the request indicates in writing that the child remains in the foster care provider's care;

(2) payments will continue only so long as the child remains in the foster care provider's care; and

(3) if the county's action to terminate the benefits is sustained upon review, the agency may recover from the foster care provider any amounts paid pending review; and

H. a name and telephone number of a contact person at the county.

**Subp. 8. Requesting a hearing.** After receiving notice under subparts 2 to 7, foster care providers or relative custodians who want a fair hearing review of a decision by the county must submit a written request for a hearing to the department within 30 days of receiving the notice, or within 90 days of receiving the notice if good cause can be

shown why the request was not made within 30 days. Foster care providers may also seek fair hearing review of a request for foster care payments or reassessment of DOC if they do not receive written notice of the county's decision on their request within a reasonable time.

**Subp. 9. Scope of review.** The scope of hearings involving claims to foster care payments shall be limited to the issue of whether the county is legally responsible for a child's placement under court order or voluntary placement agreement, and, if so, the correct amount of foster care payment to be made on the child's behalf. The hearing shall not include review of the propriety of the county's child protection determination or child placement decision.

**Statutory Authority:** *MS s 257.071; 257.072; 260C.212; 260C.215*

**History:** *20 SR 2778; L 1999 c 139 art 4 s 2*

#### **9560.0670 RECRUITMENT OF FOSTER CARE PROVIDERS.**

**Subpart 1. Recruitment; general.** The local agency must recruit and license family foster homes from as wide a variety of backgrounds as possible.

**Subp. 1a. Recruitment plan.** The local agency must develop and implement a plan for diligent recruitment of foster care providers who reflect the ethnic and racial diversity of children in the state for whom foster homes are needed. A local agency may develop the plan directly or through a contract with another county, tribe, or authorized child-placing agency.

**Subp. 1b. Outreach for recruitment.** The local agency must work diligently with community and religious organizations, Indian tribes, and other individuals and groups to recruit foster care providers who reflect the ethnic and racial diversity of children in Minnesota for whom foster care providers are needed. The agency may contact the Ombudsperson for Families and the state ethnic councils for assistance.

**Subp. 1c. Documentation of compliance with plan.** The local agency must keep a record of its actions to comply with the requirements of this part.

**Subp. 2. Assistance to foster care providers.** The local agency must train and assist foster care providers as necessary to assure the well-being of the child in foster care.

**Subp. 3. Foster care providers as advisers.** The local agency must consult with foster care providers in the development of policies and procedures pertaining to foster care.

**Subp. 4. Relicensure.** Before recommending relicensure, the local agency must evaluate with the foster care providers the services furnished by the foster care provider and the local agency. The local agency must give a copy of the evaluation to the foster care provider.

**Subp. 5. Racial bias.** The local agency must work to eliminate racial, ethnic, and national origin discrimination and bias in adoption and foster care recruitment, selection, and placement procedures. The local agency must assess the foster care applicant's or foster care provider's capacity for accepting children of diverse backgrounds. If the agency concludes that the applicant or provider has negative attitudes toward people of a particular race, religion, color, or national origin, the agency must refuse licensure or relicensure and not place additional children with that provider.

**Statutory Authority:** *MS s 256.01; 256.82; 256E.05; 257.071; 257.072; 257.175; 260.40; 260C.212; 260C.215; 260C.451; 393.07*

**History:** *20 SR 2778; L 1999 c 139 art 4 s 2*

**9560.0750** [Repealed, 22 SR 340]

**9560.0760** [Repealed, 22 SR 340]

**9560.0770** [Repealed, 22 SR 340]

**9560.0780** [Repealed, 22 SR 340]

9560.0790 [Repealed, 22 SR 340]

9560.0800 [Repealed, 22 SR 340]

9560.0810 [Repealed, 22 SR 340]

9560.0820 [Repealed, 22 SR 340]

**9560.0850 STATE GOAL FOR NUMBER OF CHILDREN IN FOSTER CARE.**

The Department of Human Services establishes the following goal: of the children who are receiving assistance under Title IV-E of the Social Security Act and for whom no judicial determination has been made that permanent foster care is the best plan, no more than 40 percent shall have begun their 25th month in placement during a given fiscal year. This goal applies to federal fiscal years beginning after September 30, 1983.

**Statutory Authority:** *MS s 256.01; 256E.05; 257.071; 257.175; 260C.212; 393.07; L 1982 c 553*

**History:** *L 1984 c 654 art 5 s 58; L 1999 c 139 art 4 s 2*