

Bulletin

August 1, 2011

Minnesota Department of Human Services □ P.O. Box 64941 □ St. Paul, MN 55164-0941

OF INTEREST TO

- County Directors
- Social Services Supervisors and Staff
- Tribal Social Services Directors and Staff
- County Attorneys
- Tribal Attorneys
- Private Foster Care Agencies

ACTION/DUE DATE

For your review

Expiration Date

August 1, 2013

Procedures for Emergency Relative Placements

TOPIC

Emergency relative placement procedures.

PURPOSE

To guide county social services agencies that use emergency relative placement procedures, consistent with Minnesota Statutes to immediately place a child with an unlicensed relative. This bulletin updates bulletin 08-68-01.

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Unlicensed Emergency Relative Placement Procedures and Requirements

Under Minnesota Statutes, Chapter 245A, county social service agencies may not place a child in unlicensed foster care. An exception to this is for emergency relative placements. Minnesota Statutes, section 245A.035, provides a process for suitable relatives to immediately receive related children for emergency placement until they are licensed.

County social service agencies responsible for placement of children may make unlicensed emergency relative placements in the following circumstances:

1. When a child is on a law enforcement hold (assisting law enforcement regarding where to place a child);
2. When the agency has care and placement responsibility through a Voluntary Placement Agreement; or
3. When a child is in protective care under the legal responsibility of the agency pursuant to Minnesota Statutes, section 260C. 178, or the agency has legal custody of a child pursuant to Minnesota Statutes, section 260C.201;
4. When a child is under the jurisdiction of juvenile court regarding a probation violation or delinquency, and a child is taken into custody pursuant to Minnesota Statutes, section 260B.198, to address placement.

When the county social service agency has placement and care responsibility, an individualized determination must be made to select a foster care placement that best meets a child's needs under Minnesota Statutes, section 260C.193, subd. 3; section 260C.201, subd. 1; or section 260C.212, subd. 2. **For all foster care placements, relatives are to be given first consideration for placement.** Relatives include persons related by blood, marriage, adoption, or those with whom a child has previously lived or had a significant relationship. In addition, Minnesota Statutes, section 260C.007, subd. 27, requires that, for an Indian child, a relative includes members of a child's extended family as defined by their tribe.

When the county social service agency has child placement and care responsibility through a Voluntary Placement Agreement or court order, a child is considered to be in foster care. When a child is in foster care, all Minnesota foster care requirements apply, whether the home is licensed or is an emergency placement, even if the home will not accept payment for care. [45 CFR 1355.20 and Minnesota Statutes, section 260C.007, subdivision 18]

Tribal governments have the authority to license and approve family foster homes. When tribes have entered into a tribal state Title IV-E agreement, federal Title-IV requirements of the Social Security Act would apply. [25 CFR 1901 to 1963]

Prior to Placement: Making the Placement Decision

The county social service agency considering emergency placement of a child with a relative may obtain criminal history, and history of maltreatment of children or adults, from locally-

available sources to aid them in determining, in part and on a preliminary basis, whether a child will be safe in the home of the relative. The social service agency or county attorney may also request a name-based check of the National Criminal Records Repository. [Minnesota Statutes, section 260C.209] If the county agency chooses to access criminal records, they may:

- Use any source that is available to the public, such as records of criminal convictions in state/district court using the court's information system, and any public law enforcement data.
- Obtain signed consents from the relative to access criminal history data that is not available to the public.
- In cases where the county social service agency or county attorney has requested a name-based check of the National Criminal Records Repository, fingerprints of the individual checked must be forwarded to the Bureau of Criminal Apprehension for submission to the Federal Bureau of Investigation within 15 calendar days of the name-based check.

When criminal records are reviewed as part of an emergency placement process, the review will be done by the county social services agency. It does not take the place of an Adam Walsh background study that must be completed by the Minnesota Department of Human Services (DHS) prior to licensure. The preliminary review should be considered an initial screening for possible criminal or social service history that would be part of an immediate assessment of whether placing a child in the household would endanger their health, safety, or welfare, and to assess the suitability of the relative to care for a child. A preliminary screening by the county social services agency does not determine disqualification for licensure, but may be used for assessment purposes to determine placement decisions.

Initial Inspection of the Relative's Home

The county social service agency responsible for the child's emergency placement must conduct an initial inspection of the relative's home. When possible, this inspection must occur prior to placing a child in the relative's home, but no later than three working days after a child is placed in the home.

During the initial home visit with the relative, the home safety checklist (DHS 0644) must be completed to ensure the health and safety of a child. In addition, the relative must be informed that the Application for Child Placement (DHS 4258a or SSIS 170), and other necessary paperwork, is to be completed within 10 calendar days of a child's emergency placement and sent to the county social service agency in the relative's county of residence, or a private foster care licensing agency.

Family Matters, (DHS-4672) is a brochure that provides information for relatives considering becoming foster parents. <https://edocs.dhs.state.mn.us/lfserver/Public/DHS-4672-ENG>

Relative Foster Care License Application

After the licensing agency receives the application from the relative, it must initiate a DHS background study through NETstudy, obtain fingerprint cards, and send these cards to DHS.

The relative would submit the following to the licensing agency to complete the application:

- Application for Child Placement (DHS 4258a)
- Initial background study information (see Minnesota Statutes, section 245C.05, subd. 1)
- Classifiable fingerprints on fingerprint cards provided by DHS
- Notice of privacy practices—county or private agency's form.

The notice of privacy practices relates to the use and sharing of data gathered during a licensing/background study, and outlines the right to appeal when a prospective license holder believes their privacy rights have been violated.

If the county social service agency responsible for placing a child in a relative's home and the county social service agency where the relative lives are different, the two counties should communicate and develop an agreement about which agency:

- Gives the notice of privacy practices and fingerprint cards to the relative
- Provides initial training and support to the relative,
- Ensures that a child's safety and well-being issues are addressed.

It is essential for a child's placement stability that when two different county social service agencies are involved, they each communicate to the relative foster parent their respective roles regarding placement, support, training and related licensing duties.

Title IV-E reimbursement is contingent on the relative's completing the foster care licensing process. When two different county agencies are involved it is vital that they connect and assist each other with this process to avoid the loss of title IV-E funds for eligible placements.

Supporting a Child's Safety and Placement Stability

The county social service agency responsible for a child's emergency placement in the relative's home should:

- Give the relative information about how to begin the licensing process, prior to placement, whenever possible. Beginning the process enabling a relative and members of their household to provide the information required for the background study, Minnesota Statutes, Chapter 245C. If anyone in the relative's household is disqualified, they can ask for the reconsideration, however, if the disqualification is one that cannot be set aside or subject to a variance; the emergency placement cannot be made.
- Support the relative with regular contact during the first 10 days of placement to ensure that the relative completes the foster care application, fingerprint cards, and returns them to the licensing agency.

- Share all information gathered at the initial emergency relative home inspection with the county social services agency in the relative's county of residence, or a private agency licensing the home, as soon as possible.
- Remove a child from the emergency relative placement if it is determined that the relative's home is not safe or if the relative fails to cooperate with the agency to complete the licensing process.

Completing the Foster Care License Application for a Relative Placement

The county social service agency in the relative's county of residence, or a private foster care agency, completes the foster care license application process with the relative, including:

- Minnesota Statutes, section 245C.03, requires a background study for all adults applying for a foster care license, and for individuals age 13 and over living in the home. Background studies must be conducted on other individuals listed in Minnesota Statutes, section 245C.03, when applicable. The county agency submits the information required to conduct a background study using NETStudy, the DHS on line background study submission system. NETStudy also provides county agencies the ability to track the status of background studies and receive results online. The licensing agency always submits background study requests and receives the results in writing and through NETStudy.
- The home study is completed according to the requirements of Minnesota Rules, part 2960.3060.
- The agency licensing the relative's home may also determine that additional inspections or information may be necessary to be consistent with requirements of Minnesota Statutes, Chapters 245A, 245C and Minnesota Rules, Chapter 2960.

The agency responsible for licensing the relative's home should communicate to the county social service agency responsible for a child's emergency placement the following licensing activities:

- Receipt of the foster care application, fingerprint cards, necessary paperwork, and initiation of NETstudy
- Completion of the relative's home study assessment and licensing recommendations, including information about correction orders or approved variances
- Verification that the home is licensed by sending a copy of the license and home study assessment.

Relatives accepting a child for foster care placement are required to cooperate with the licensing process. If the relative fails to cooperate and complete the licensing process, the agency cannot verify that a child is safe and is required to remove them from the home.

The DHS website includes a list of all county and private agency licensed foster homes in Minnesota. The county social service agency responsible for a child's emergency placement in a relative home can use the website to confirm licensure. The list is updated daily at:

<http://licensinglookup.dhs.state.mn.us/>

Minnesota Rules, part 2960.3070, requires that the relative foster parents receive orientation within 30 days of placement. The information provided to the relative foster parents includes:

- Emergency procedures
- Relevant laws and rules
- Understanding of cultural diversity
- Roles and responsibilities of a foster parent
- Requirements of the licensing agency.

Payment for Emergency Relative Placements

Relatives must receive foster care payments from the first day of foster care placement, whether licensed or an emergency relative placement. The placing agency would determine the foster care payment rate using maintenance standards and difficulty of care rates, according to Minnesota Rules, parts 9560.0650 to 9560.0656.

Minnesota Rules, part 9560.0665, provides notice to the foster parent of the rate determination, as well as the appeal procedures if a request for foster care payment is denied. The written notice provides information about how to request a fair hearing.

Minnesota Statutes, section 256.045, gives the right to a state administrative hearing to “any person whose claim for foster care payment according to a placement of a child resulting from a child protection assessment under Minnesota Statutes, section 626.556, is denied or not acted upon with reasonable promptness regardless of the funding source.”

Child Passenger Restraint Training

Child passenger restraint training is not required by statute prior to an unlicensed emergency relative placement.

Minnesota Statutes, section 245A.035 provides the requirements for an unlicensed emergency relative placement and requires that there is a pre-placement safety inspection conducted whenever possible. Minnesota Statutes, section 245A.18 requires child passenger restraint training to transport a child or children under age nine in a motor vehicle. This training is required prior to licensure therefore relatives complete the training as part of the foster care application process.

Variance from Foster Care Licensing Standards

Fostering Connections for Success and Increasing Adoption Act of 2008 [Public Law 110-351] requires relatives to be notified that a variance from foster care standards may be requested in circumstances that do not jeopardize the health or safety of a child. A licensing agency has the legal authority to issue most variances, however variances requesting a dual license for foster care and child care or adult foster care, child foster care for youth over age 18, and variances regarding background study disqualifications must be approved the commissioner of the Minnesota Department of Human Services.

Questions

For questions about emergency placement decisions, general policies, and need for obtaining a license, contact Deborah Beske-Brown at deborah.beske.brown@state.mn.us.

For questions about general foster care licensing requirements, contact Mary Kelsey at: mary.kelsey@state.mn.us.

For questions about background study policies, procedures, requirements, contact: DHS.AWbackgroundstudy@state.mn.us.

For questions about using the NETstudy for online submission of information, such as passwords, the system not accepting information, etc., go to: DHS.NETstudyAdmin@state.mn.us.

Americans with Disabilities Act (ADA) Advisory

This information is available in alternative formats to individuals with disabilities by calling (651) 431-4660 (voice) or toll free at (800) 627-3529. TTY users can call through Minnesota Relay at 711 or (800) 627-3529. For Speech-to-Speech, call (877) 627-3848. For additional assistance with legal rights and protections for equal access to human services programs, contact your agency's ADA coordinator.