

CHAPTER 9560
DEPARTMENT OF PUBLIC WELFARE
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 integration into the new family.

Statutory Authority: *MS s 245.783 subd 1; 245.802 subd 1; 257.175; 259.29*

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.

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

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. **Genetic parent.** "Genetic parent" means an individual who is referred to as the child's natural parent, who is named in the child's original birth certificate 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 natural 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 fifteen 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 county welfare board or human service board responsible for arranging and providing social services to individuals.

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 responsibility for a ward of the commissioner of public welfare. The placing agency retains adoptive planning responsibility for the child even though another agency is supervising.

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, genetic 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 Public Welfare's adoption unit for use by authorized child-placing agencies.

Subp. 15. **State agency.** "State agency" means the commissioner of public welfare or the Minnesota Department of Public Welfare.

Subp. 16. **Subsidized adoption.** "Subsidized adoption" means an adoption in which an agreement provides that financial payments shall be made to the adoptive parent(s), 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 245.783 subd 1; 245.802 subd 1; 257.175; 259.27*

9560.0030 LEGALLY FREEING THE CHILD FOR ADOPTION.

Subpart 1. **Legal or voluntary termination.** The child shall be legally freed for adoption by either a termination of parental rights pursuant to the Juvenile Court Act, or by a voluntary surrender to the commissioner or to a licensed child-placing agency pursuant to statute.

Before a valid agency adoptive placement may occur, court termination of the parent's rights or a voluntary relinquishment to a child-placing agency must be obtained from any individual recognized by state law as having parental rights.

Subp. 2. **Written consents.** All written consents to adoption, executed in a manner prescribed by law, shall be filed with the court prior to the hearing on the adoption petition.

Subp. 3. **Execution of consents.** All surrenders and consents to adoption (except those given by the commissioner, his agent, or a licensed child-placing agency) shall be executed before two competent witnesses and an agency representative, and shall be filed in court prior to the date of the hearing. However, 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 need not be executed before an agency representative, but only before two competent witnesses. Consents obtained in another state may be executed according to either Minnesota law or applicable laws of the other state.

Both the consensor's and the agency representative's signature must each be duly notarized.

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

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

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

Statutory Authority: *MS s 245.783 subd 1; 245.802 subd 1; 257.175; 259.27*

9560.0040 STATE ADOPTION EXCHANGE.

To ensure each child's placement in an adoptive home preferably away from his area of prior residence, the state adoption exchange shall be used by all local social service agencies in accordance with prevailing procedures established by the commissioner. This provision shall not apply to the licensed child-placing agencies, Hennepin, Ramsey, or Saint Louis counties, whose use of the exchange is optional.

The local social service agency shall, without undue delay, seek an adoptive home which will meet the child's special needs. Special needs include sibling ties, racial or religious heritages, and health, social, and educational needs.

The local social service agency shall make reasonable efforts to provide and preserve the child's heritage by placing the child in an adoptive home of similar background, or in an adoptive home which is knowledgeable and appreciative of the child's heritage.

Statutory Authority: *MS s 245.783 subd 1; 245.802 subd 1; 257.175; 259.27*

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, at least one of the following criteria shall apply:

A. the child has special needs (physical and mental health, education, or social) which the foster family will be able to adequately meet;

B. 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;

C. the foster family will be able to accept the child and his background and help the child understand his adoption; and

D. 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 Saint 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 shall be made. The decision shall be based 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 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 245.783 subd 1; 245.802 subd 1; 257.175; 259.27*

9560.0060 CHILD PLACEMENT.

Subpart 1. **In general.** The following policies shall govern the local social service agency's child-placing activities.

Subp. 2. **Preplacement activities.** The social worker assigned to the adoptive home shall, prior to the child being placed in the adoptive home, visit the child in his foster home. This preplacement visit may only be waived if the child is under six months of age and is without special needs.

The child's social worker shall provide the adoptive parents with a written genetic 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.

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.

Statutory Authority: *MS s 245.783 subd 1; 245.802 subd 1; 257.175; 259.27*

9560.0070 SUBSIDIZED ADOPTIONS.

Subpart 1. **In general.** This part provides standards for determining a child's eligibility for subsidy and the criteria for establishing the terms of the subsidy agreement. Subsidized adoption is based upon the needs of the child who is certified as eligible for subsidy and is available through the commissioner of public welfare for a child under legal guardianship of the commissioner or licensed child placing agency. The commissioner may review and verify the facts upon which the child's eligibility is based.

Subp. 2. **Documentation of eligibility.** The placing agency shall document in the child's case record all facts upon which the agency certifies the child as eligible for subsidy.

Subp. 3. **Determination of need for subsidy.** The placing agency may determine that subsidy is needed for children placed as sibling groups, children who are entitled to placement with a family of similar ethnic background (i.e., American Indian, Black, Hispanic, Asian), and children with special needs, for whom adoptive homes are not readily available. Special needs include medical, dental, and surgical expenses, psychiatric and psychological expenses, maintenance costs, and other costs necessary for the child's care and well being.

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Subp. 4. Criteria. The placing agency shall certify the child as eligible for subsidy when the following criteria are met:

A. The child is a Minnesota resident and a ward of the commissioner or licensed child placing agency.

B. The agency shall make an early determination on the availability of a home without subsidy, preferably within two months of the child's becoming legally available for adoption.

C. A child shall be eligible for subsidized adoption by his/her foster parents if the following criteria are met and documented:

(1) the child's foster parents desire to adopt the child; and

(2) the agency determines the adoption is in the best interest of the child, according to the criteria established in part 9560.0050; and

(3) the child's circumstances or characteristics make it difficult for the agency to provide the child a home without a subsidy.

D. The placing agency has made reasonable efforts without success to place the child without subsidy. Such efforts include the following:

(1) The agency shall register the child on the state adoption exchange to obtain adoptive home referrals.

(2) The agency shall contact Hennepin, Ramsey, Saint Louis counties, and Minnesota-based licensed child placing agencies to seek potential adoptive homes.

(3) The agency may use photo listing services, adoption exchange services, newsletters, or other special efforts to secure a home.

E. When the child is placed into a prospective adoptive home without a subsidy but the need for subsidy becomes evident prior to legal adoption, the placing agency shall apply the criteria in subpart 4, items A and C to determine the child's eligibility for subsidy.

F. The placing agency shall certify to the commissioner, in writing under its director's or designee's signature, the child's eligibility for subsidy. The statement shall include the conditions or circumstances upon which the child's eligibility is based.

Subp. 5. Determining amount of subsidy. When determining the amount of subsidy, the placing agency shall consider the financial resources, social security and veterans benefits, health insurance coverage, medical assistance programs, and other resources available or which may be available to the child.

A. Maintenance payments shall be provided as necessary to ensure the adoption of a child. The placing agency shall refer to parts 9500.0010 to 9500.0370, to determine the amount of a child's monthly maintenance needs for food, clothing, allowances, supplies, and transportation. The total monthly maintenance payments may be less than, equal to, or more than the basic rate. Amounts greater than the basic rate shall be set according to the difficulty of care standards and the need for the greater amount shall be documented.

B. The placing agency shall determine the medical, dental, surgical, psychiatric, and psychological expenses, and other related costs necessary for the child's care and well-being. In determining the costs, the placing agency shall identify the child's circumstances or conditions that require subsidy. The placing agency shall:

(1) document the kind and amount of health insurance or other medical financial resources available to meet the needs of the child;

(2) document the actual or estimated expenses for medical, dental, surgical, psychiatric, psychological, or other related needs of the child which are not covered by health insurance and/or other alternative financial or medical resources.

C. The placing agency shall determine whether other costs not included in items A and B are necessary for the child's care and well-being.

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The placing agency shall specify the child's needs and document the actual or estimated expenses required to meet that need.

D. The agency record and the subsidy agreement shall include all relevant facts upon which subsidy payments are based, the amount and frequency of payments. If the amount and frequency of payments are unknown, estimates and the basis for them shall be included.

Subp. 6. **Subsidized adoption agreement.** The placing agency shall prepare in writing the subsidized adoption agreement clearly setting forth the responsibilities of all the parties and the terms and duration of the agreement. The agreement shall state the responsibilities of the parties as follows:

A. The adoptive parent(s), or in the event of their death or inability to function as parent(s), the subsequent guardian or conservator, shall agree to:

(1) Submit to the commissioner a written statement each year within 30 days of the anniversary date of the approved agreement to certify whether the child remains under their care and the need for subsidy continues to exist.

(2) Notify the commissioner in writing within 30 days in the event of change in status and its effect on the expenses covered by the subsidy:

(a) marriage of child or parent;

(b) the child's absence from the home by court action or for any reason for a period of more than 30 days;

(c) death of child or parent; or

(d) legal emancipation of the child.

(3) Notify the commissioner in writing within 30 days of any change which may affect the duration or amount of the subsidy needed.

(4) Notify the commissioner in writing within 30 days of a change in address to ensure proper mailing of payments.

(5) Participate in and use health insurance and financial programs available for the child.

(6) Notify the commissioner in writing at least 30 days before a planned medical or special expense is incurred to ensure prompt payment after expense statements are submitted to the commissioner.

(7) Notify the commissioner in writing soon after an emergency of the anticipated cost so that the commissioner may begin to budget for that expense.

(8) Submit expense statements to the commissioner to receive subsidy payments for incurred costs over and above agreed upon monthly payments, but within the parameters of the agreement.

B. The placing agency shall agree to:

(1) Specify in the agreement the terms and duration of the subsidy as defined in part 9560.0070, subpart 5, and the effective date of the agreement which shall be the date of legal adoption. When the child's needs cannot be met by state and federal programs or other available resources prior to legal adoption, the commissioner shall establish an earlier effective date between the child's placement in the adoptive home and legal adoption.

(2) Assist the adoptive parent(s), subsequent guardian, or conservator in the review or modification of the agreement.

(3) Assist the commissioner in the review or modification of the agreement.

C. The commissioner shall agree to make financial payments to the adoptive parent(s), subsequent guardian, or conservator, as follows:

(1) Payments regardless of the domicile or residence of the adoptive parent(s), subsequent guardian, or conservator at the time of application for adoptive placement, legal decree of adoption, or thereafter.

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(2) Monthly payments for the agreed upon maintenance costs and other regular costs as specified in the agreement.

(3) Payments based upon the expense statements received from the adoptive parent(s), subsequent guardian, or conservator for the child's medical or special expenses which are within the parameters of the agreement.

(4) Payments may be terminated at the written request of the adoptive parents, subsequent guardian, or conservator.

Subp. 7. Processing the written agreement. When the terms and duration of the subsidy are agreed upon by the parties, the placing agency shall:

A. prepare six written copies of the agreement;

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

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

Subp. 8. Distribution of copies and establishment of account. Upon commissioner's approval, copies of the agreement shall be distributed to the adoptive parent(s) and placing agency. The state agency shall establish an account to reimburse the adoptive parent(s), subsequent guardian, or conservator upon the effective date of the agreement or, in instances when monthly payments are made, the month beginning closest to the effective date.

Subp. 9. Duration of subsidy agreement. The subsidy agreement shall continue in accordance with its terms as long as the need for subsidy continues and the child remains the legal dependent of the adoptive parent(s), subsequent guardian, or conservator.

Subp. 10. Review of agreement terms. The terms of the agreement shall be reviewed and appropriately modified when significant changes in the child's status occur.

Subp. 11. Modification or termination of agreement. The adoptive parent(s), subsequent guardian, or conservator may request modification or termination of agreement at any time by a written contact with the placing agency or the commissioner.

Subp. 12. Right to appeal. The adoptive parents, subsequent guardian, or conservator have the right to appeal to the commissioner pursuant to Minnesota Statutes, section 256.045, when the commissioner denies, discontinues, or modifies the agreement. The appeal shall be initiated by a written request to the commissioner within 30 days after receiving written notice of the action or decision from the commissioner or within 90 days if the parent(s) show good cause why the request was not submitted within the 30-day time limit.

Subp. 13. Effect of subsidy payments. Subsidy payments received according to the terms of the agreement shall not affect eligibility for any other financial payments (i.e., social security, veterans, or other benefits) to which a person may otherwise be entitled.

Statutory Authority: *MS s 245.783 subd 1; 245.802 subd 1; 257.175; 259.27*

9560.0080 REIMBURSEMENT FOR PLACING AGENCY.

The placing agency shall receive a reimbursement from the commissioner equal to 100 percent of the reasonable and appropriate cost of providing or purchasing adoption services for a child certified as eligible for a subsidy, including when necessary adoptive family recruitment, counseling, special training, and legal fees for finalization. The criteria for reimbursement are:

A. the child meets the certification requirements of part 9560.0070, subpart 4;

B. the child has achieved either an adoptive placement or a legal adoption prior to the agency claim for reimbursement;

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C. the placing agency has determined that either partial or full cost of providing or purchasing the adoption services is not reimbursable under other state and federal financial programs;

D. the placing agency shall submit purchase of service agreements to the commissioner for approval and for review of anticipated expenses;

E. the placing agency shall notify the state adoption unit in writing when the agency anticipates that its expenses may exceed \$3,000 for adoption services on a child certified as eligible for subsidy; and

F. the placing agency shall submit an itemized statement of expenses to the state adoption unit for reimbursement prior to June 30 of each fiscal year.

The itemized expenses shall not exceed the prevailing costs for similar services to children under agency care.

The commissioner shall reimburse the placing agency for 100 percent of the expenses that are not reimbursable under other state and federal programs.

Statutory Authority: *MS s 245.783 subd 1; 245.802 subd 1; 257.175; 259.27*

9560.0090 AMERICAN INDIAN CHILDREN.

The commissioner shall work with American Indian child adoption organizations able to be licensed as child placing agencies. American Indian children, who are protected under the federal Indian Child Welfare Act of 1978, United States Code, title 25, section 19 et seq., and who are certified as eligible for subsidy shall, whenever possible, be served by the tribal governing body, tribal courts, or a licensed Indian child-placing agency.

Statutory Authority: *MS s 245.783 subd 1; 245.802 subd 1; 257.175; 259.27*

9560.0100 POSTPLACEMENT SERVICES.

The local social service agency which supervises the child in his adoptive placement is to provide postplacement services.

The local social service agency placing the child shall be responsible for arranging and obtaining written placement and postplacement notes from the agency supervising the adoptive placement.

Statutory Authority: *MS s 257.175; 259.27; 259.40 subd 2; 259.45 subd 9; 259.48*

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 when 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.

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Statutory Authority: *MS s 257.175; 259.27; 259.40 subd 2; 259.45 subd 9; 259.48*

9560.0120 SERVICES TO CHILDREN IN INDEPENDENT PLACEMENTS.

Subpart 1. Evaluation of identified family. When the local social service agency learns that a parent seeking to place the child desires to place the child with an identified family, the local social service agency shall provide services in evaluating this plan, unless the prospective parent is related to the child, or the natural parent is receiving services with a licensed child-placing agency.

Subp. 2. Waiver of agency placement requirement. When the local social service agency learns 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; 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 natural parent and/or prospective parent desire to place 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 such a placement from occurring.

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 placement, the local social service agency shall advise the party or parties that such 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 is being arranged by an unlicensed intermediary even though a court of competent jurisdiction may waive the agency placement.

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

Statutory Authority: *MS s 257.175; 259.27; 259.40 subd 2; 259.45 subd 9; 259.48*

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, it shall carry out the duties of the commissioner and provide all appropriate child protection services prescribed in the Public Welfare Licensing Act, child-placing statutes, and the Juvenile Court Act.

Local social service agency actions may include, but are not limited to:

A. licensing current home or placing the child into a licensed foster home;

B. obtaining temporary legal custody;

C. providing services to natural parents in making appropriate permanent plans for the child; and

D. returning the child to a responsible agency in the state of origin when child was imported into Minnesota in violation of statutes.

Subp. 2. Investigative report. In addition, the local social service agency shall, within 30 days, 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 natural parents, child, and intended home;

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B. the names, addresses, dates, and activity on all individuals involved in the independent placement plan;

C. the circumstances surrounding the placement plan; and

D. any promise or actual payments of money, and amounts of such payments.

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 257.175; 259.27; 259.40 subd 2; 259.45 subd 9; 259.48*

9560.0140 SERVICES TO FAMILIES APPLYING FOR ADOPTION.

Subpart 1. **Intake policy.** Each local social service agency shall establish an intake policy 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, at the minimum, shall consider the following basic standards when determining the suitability of prospective adoptive homes:

A. The applicant must 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 must have the capacity to accept and incorporate into his family a child born to other parents and to assist the child in understanding his genetic background and adoption.

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 homes 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 Saint Louis counties social service agencies.

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

Prospective adoptive homes 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, and/or the state agency's adoption unit upon the written request of the applicant. Such review shall be 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

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section 256.045.

Statutory Authority: *MS s 257.175; 259.27; 259.40 subd 2; 259.45 subd 9; 259.48*

9560.0150 INTERSTATE AND INTERNATIONAL ADOPTIVE PLACEMENTS.

Subpart 1. Requirements. No child shall be brought into or sent out of the state 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 where the proposed placement plan is 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; or

B. an authorized child-placing agency in the sending state has custody of 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, his birth date, birthplace, and his 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 Saint Louis counties) shall route correspondence directed to out of state agencies through the state agency's adoption unit.

Statutory Authority: *MS s 257.175; 259.27; 259.40 subd 2; 259.45 subd 9; 259.48*

9560.0160 LEGALIZATION OF THE ADOPTIVE PLACEMENT.

The commissioner or authorized child-placing agency shall initiate the process of legalizing adoptive placements of agency-placed children by sending the petitioner, or his attorney, such 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 petition under investigation by the commissioner or authorized child-placing agency shall be made to the court within the 90-day time period. The commissioner or 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

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shall be filed with the state agency's adoption unit, the servicing agency, and the petitioner's attorney.

Statutory Authority: *MS s 257.175; 259.27; 259.40 subd 2; 259.45 subd 9; 259.48*

9560.0170 POSTADOPTION SERVICES.

Postadoption services shall be provided to adoptive families, adopted adults, and genetic parents at their request in a manner which strengthens the adoption contract and which is within the parameters of applicable state law and federal regulations on confidentiality and privacy of child welfare and adoption records.

General background information with the deletion of all identifying information such as names, specific dates, addresses, and locations shall be prepared to aid the adopted adult in understanding his genetic background and adoption.

Local social service agencies shall provide liaison and skilled counseling services through appropriately trained social workers to the adoptive parents, adopted adult, genetic parents, and/or siblings where there exists a mutual desire to arrange contact and there exist no known factors prohibiting such contact. Local social service agencies shall maintain a record of all such services provided in each individual's adoption record.

Statutory Authority: *MS s 257.175; 259.27; 259.40 subd 2; 259.45 subd 9; 259.48*

9560.0180 MAINTENANCE OF ADOPTION RECORDS.

Subpart 1. Content. Each child's adoption record shall contain copies of all relevant legal documents, responsibly collected genetic, medical, and social history, the child's placement record, copies of all pertinent agreements or contracts, copies of all reports and recommendations to the court, and copies of all pertinent correspondence.

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

Statutory Authority: *MS s 257.175; 259.27; 259.40 subd 2; 259.45 subd 9; 259.48*

PROTECTIVE SERVICES FOR CHILDREN

9560.0250 SCOPE.

Parts 9560.0250 to 9560.0300 govern the administration and provision of protective services to children through local social services agencies.

Statutory Authority: *MS s 256.01 subds 2,4; 256E.05 subd 1; 257.175*

9560.0260 PURPOSE.

The purpose of a child protective service system is to carry out community responsibility for safeguarding the rights and welfare of children whose parents/caretakers are unable or unwilling to do so, or whose parents'/caretakers' activity violates their children's rights or jeopardizes their welfare.

Statutory Authority: *MS s 256.01 subds 2,4; 256E.05 subd 1; 257.175*

9560.0270 DEFINITIONS.

Subpart 1. Local social service agency. "Local social service agency" means the local agency under the authority of the county welfare or human services board or county board of commissioners which is responsible for social services.

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Subp. 2. **State agency.** "State agency" means the Minnesota Department of Public Welfare.

Statutory Authority: *MS s 256.01 subds 2,4; 256E.05 subd 1; 257.175*

9560.0280 DELIVERY OF CHILD PROTECTIVE SERVICES.

Subpart 1. **Basic requirement.** Any child in Minnesota who is in need of protection is to receive such service in the county in which the child lives or is found, irrespective of family income and legal or poor relief settlement of the child or family.

Subp. 2. **Complaints of neglect or abuse.** The local social service agency must accept all complaints alleging that a child has been physically or sexually abused or neglected. Neglect includes conditions or actions which threaten either the child's physical health or the child's mental health. Upon receiving such complaints, the local social service agency shall immediately notify the local police or sheriff's department. The following procedures shall be followed:

A. All reports shall be assessed at the time they are received to determine the agency's initial response.

For complaints alleging that a child is abandoned, life threatened, or likely to experience physical injury due to abuse, an immediate on site contact with the family and/or child is required.

When a child is not in need of immediate care but is allegedly physically or sexually abused, the local social service agency shall contact the family within 24 hours.

When child is not in need of immediate care but is allegedly neglected, the local social service agency shall contact the family within 72 hours.

Reports for which no response is required include those which do not fall within the parameters of child maltreatment (although a referral to a more appropriate agency may be made); those which do not contain enough information to be investigated; or those which concern a complaint that has recently been investigated and determined to be unsubstantiated.

B. Where contacts with the family are required the child protection worker shall assess the validity of the complaint.

C. If upon the initial assessment there appears to be substance to the complaint, the child protection worker shall attempt to determine the following:

(1) the risk posed if the child or children involved remain in the home environment;

(2) the current physical and/or emotional condition of the child or children involved, as well as an assessment of prior injuries;

(3) the name, address, age, sex, and relationship of the alleged perpetrators to the involved child/children; and

(4) family composition, including the name, age, and sex of the child or children involved.

D. If the child protection worker determines that neither neglect nor abuse are present but that the family may be experiencing problems, the worker may:

(1) offer the family such services as may be appropriate; and

(2) inform the family of the agency's availability and willingness to work with the family upon request.

E. If the child protection worker determines that the child is in need of immediate care due to circumstances or surroundings that jeopardize the child's physical or mental health or welfare, the parents must be given the opportunity to voluntarily place the child or seek an alternative that, in the worker's judgment, assures the safety of the child.

F. If when given the opportunity, the parents are unwilling or unable to cooperate, the child protection worker shall petition the court for immediate

custody of the child or seek the assistance of a peace officer in taking the child into custody.

Subp. 3. Keeping the child in his home. Where the need for protective intervention has been established, the local social service agency shall, whenever possible, provide services that preserve the child within the family unit while at the same time assuring the child a safe environment. Such services may include, but are not limited to: family counseling, homemaking services, referral to parent support organizations to courses in parenting or child care such as may be available in the community.

Subp. 4. Court intervention. If services necessary to provide the child a safe environment are rejected, the child protection worker shall petition the court for authorization to intervene.

Subp. 5. Nonemergency removal from home. When the need for removal of a child from its home is considered necessary but not emergent, the local social service agency shall request permission of the juvenile court for sufficient time to place the child in an orderly fashion.

When a child is under legal custody and has been removed from its home, the local social service agency shall obtain the consent of the child's parents for major decisions affecting the child. If the parents fail to consent, and the decision is essential to the child's health and safety, a court order may be obtained.

The local social service agency shall obtain the written consent of the child's parents, and a court order, if a child under legal custody is to be placed in a facility outside the state. If the parents refuse or fail to give consent, a court order is sufficient.

The local social service agency shall provide the court written reports and recommendations at such times as the court may direct or prior to the expiration of any order giving it responsibility for a child. Such reports shall contain information sufficient to support the recommendation and to enable the court to make a decision in the child's best interest.

Subp. 6. Prostitution and obscenity. Local social service agency responsibility in accepting reports of acts of prostitution or involvement in the production of obscene material or performances by persons under 18 years of age.

Upon receiving a report of juvenile prostitution or juveniles involved in the production of obscene material or performances, the local social service agency shall:

A. assess the victim's circumstances to determine the need for protective services;

B. provide counseling and assistance to the victim in order to encourage and support her/him in discontinuing in prostitution; or involvement in the production of obscene acts or material;

C. offer the victim and the victim's family such services as may be needed to protect the victim, and preserve or reestablish family relationships; and

D. if such services are rejected, inform the victim and family of the agency's responsibility and authority to seek juvenile court intervention.

If immediate custody is necessary to protect the victim or to restrain the victim from engaging in prostitution, or involvement in the production of obscene acts or material, the protective service worker shall request a juvenile court order granting the agency temporary legal custody.

Subp. 7. Abuse in supervised or licensed facility. When child maltreatment is reported in a state supervised or licensed facility, including a foster home, the

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local social service agency shall immediately contact the facility to determine the validity of the report. Where such reports are valid, the local social service agency shall:

A. assess present risk to the child and assure steps are taken to protect the child;

B. as soon as possible, inform the child's parents or guardians of the incident;

C. when an incident involves a child placed out of his/her home county, inform the agency responsible for the child's placement; and

D. make an oral report to the state agency within 24 hours. Such reports shall include:

(1) the identity of facility in which the incident occurred, the name, age, and sex of the victim and the name and status of the alleged perpetrator if known; and

(2) the nature and extent of the child's injuries, measures taken to assure necessary treatment and protection, and the name of the protective services worker responsible for investigating the incident.

Subp. 8. Reports of abuse or neglect. Every incident of suspected physical or sexual abuse or neglect reported to the local social service agency shall be reported to the state agency on forms provided by the state agency. Such reports shall be sent to the state agency within 20 days of receipt of the report. Reports to the state agency are for statistical information only. The identity of the victim, the victim's family, and suspected perpetrator should not be included on the copy of the report sent to the state agency.

Statutory Authority: *MS s 256.01 subds 2,4; 256E.05 subd 1; 257.175*

9560.0290 OFFICIAL REPORTS.

Subpart 1. Agency duties. The local social service agency shall assess and classify and record all reports as either substantiated, unsubstantiated, or unable to substantiate within 90 days of receiving the initial report. At the conclusion of the assessment the subjects of the report shall be notified in writing of the agency's determination of the classification of the report. The subjects of the report shall also be informed of their right to review the report subject to applicable Minnesota law.

Subp. 2. Records relating to substantiated reports. Records relating to reports made pursuant to Minnesota Statutes, section 626.556 which are supported by evidence and information obtained during the assessment, and are determined by the agency to be substantiated, shall be destroyed seven years following the date of the final entry in the case record.

The name of the individual submitting a report which is determined to be substantiated shall be disclosed only upon court order, or with the knowledge and consent of the person making the report.

Subp. 3. Records relating to unsubstantiated reports. Records relating to unsubstantiated or false reports made pursuant to Minnesota Statutes, section 626.556 shall be destroyed immediately, upon determination that they are unsubstantiated and the name of the individual submitting the report shall be disclosed upon request of the subject of the report.

Subp. 4. Other reports. Records relating to reports which upon initial assessment cannot be substantiated to the satisfaction of the local social service agency may be kept for one year. Since there is substance to the reports, and they are, therefore, not unsubstantiated, the name of the individual making the report shall not be disclosed unless the report is later found to be unsubstantiated, or one year passes, or with the knowledge and consent of the person making the report.

Statutory Authority: *MS s 256.01 subds 2,4; 256E.05 subd 1; 257.175*

9560.0300 ADMINISTRATIVE REQUIREMENTS.

Subpart 1. **Emergency response.** The local social service agency must provide for the availability of protective services 24 hours per day, seven days a week, for response to emergencies.

Subp. 2. **Staff.** Every local social service agency shall designate a member of staff to be responsible for the protective services program.

Subp. 3. **Facility.** Each agency shall designate a licensed facility which can be available seven days a week for the emergency care of abused or neglected children. The local social service agency must designate a staff member to be responsible for placements in such facility under such conditions as it deems necessary. Emergency placements shall not exceed 30 days.

Subp. 4. **Coordination of activities.** Every local social service agency shall coordinate its child protection activities with other agencies involved with the child's family and may participate as a member of a team utilizing a multidisciplinary approach; and not assign its primary statutory responsibility to another agency.

Statutory Authority: *MS s 256.01 subds 2,4; 256E.05 subd 1; 257.175*

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*

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 Public Welfare.

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*

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.

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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*

DEPENDENT AND NEGLECTED CHILDREN UNDER STATE GUARDIANSHIP

9560.0410 SCOPE.

Parts 9560.0410 to 9560.0470 identify and govern the administration of local social service agency responsibilities for children under state guardianship as dependent or neglected pursuant to Minnesota Statutes, sections 260.11 et seq., and the delegation to local social service agencies of the authority to grant consents.

Statutory Authority: *MS s 256.01 subd 2; 256.91; 256E.05 subd 1; 257.175; 259.24; 260.11; 260.241; 260.242; 260.40; 393.07*

9560.0420 PURPOSE.

The purpose of state guardianship is to carry out the responsibility to act and care for a child committed to the guardianship of the commissioner of public welfare as dependent or neglected.

Statutory Authority: *MS s 256.01 subd 2; 256.91; 256E.05 subd 1; 257.175; 259.24; 260.11; 260.241; 260.242; 260.40; 393.07*

9560.0430 LOCAL SOCIAL SERVICE AGENCY; DEFINITION.

"Local social service agency" means the local agency under the authority of the county welfare board or human service board responsible for social services.

Statutory Authority: *MS s 256.01 subd 2; 256.91; 256E.05 subd 1; 257.175; 259.24; 260.11; 260.241; 260.242; 260.40; 393.07*

9560.0440 GENERAL RESPONSIBILITIES.

Subpart 1. **Financial assistance and social services.** The local social service agency having financial responsibility shall provide financial assistance and assure provision of social services, including protection, planning, and decision making, either directly or indirectly through other agencies.

Subp. 2. **Notice from agency to commissioner.** The local social service agency having financial responsibility shall notify the commissioner of public welfare within 30 days after commitment of a child to state guardianship.

Subp. 3. **Plan of care and supervision.** The local social service agency having financial responsibility shall prepare and carry out a plan for the care and supervision of the child through its own agency or an agency that agrees to supervise the child.

A. The client social service plan (parts 9550.0100 to 9550.2900) shall be developed with the child and reviewed with the child at least annually.

B. The plan shall meet the emotional, health, educational, vocational, and spiritual needs of the child, and preserve, where feasible, the racial and familial identity of the child.

C. The plan shall establish a permanent family relationship for the child through the selection of a family committed to providing a home until the child reaches majority.

D. Any plan which permits a child to assume responsibility to meet his own needs without agency guidance shall not preclude agency 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 private agencies shall be made only with the agreement of the local social service agency having financial responsibility.

Subp. 4. Movement of child from county of financial responsibility. When a child moves from the county of the local social service agency having financial responsibility, the local social service agency of the county where the child will reside shall be notified in writing with a request to supervise the child. The supervising local social service agency shall provide services, and issue consents on behalf of the child and provide reports requested by the local social service agency having financial responsibility.

The local social service agency having financial responsibility shall notify in writing, with a request to supervise, each succeeding local social service agency when the child moves from one geographical area of supervision to another.

Subp. 5. Appointment of guardian ad litem. The local social service agency having financial responsibility shall assure the appointment of a guardian ad litem in the appropriate court 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 subd 2; 256.91; 256E.05 subd 1; 257.175; 259.24; 260.11; 260.241; 260.242; 260.40; 393.07*

9560.0450 CONSENTS.

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

- A. Autopsy.
- B. Baptism.
- C. Petition for change of name.
- D. Publicity about the child.
- E. Application for driver's license.
- F. Enlistment in the armed services, peace corps, or job corps.
- G. Giving the body or parts of the body to science after death.
- H. Admission to a state hospital or other psychiatric treatment facility to the extent permitted under law.
- I. Application for marriage license.
- J. Medical treatment.
- K. Psychiatric treatment.
- L. Surgical treatment.
- M. Abortion. To extent required by law, the local social service agency may not withhold consent.
- N. Request for tuition waiver.
- O. Permanent placement agreement.
- P. Petition to transfer guardianship.

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

- A. adoption;
- B. exportation (out-of-state) for foster care or adoption;
- C. leaving the state or country for more than 90 days;
- D. giving a part of the body for therapeutic purposes for another person while the child is living;
- E. transfer from one state hospital to another state hospital;
- F. sterilization; and
- G. separation of siblings after date of appointment of commissioner of public welfare as guardian.

Statutory Authority: *MS s 256.01 subd 2; 256.91; 256E.05 subd 1; 257.175; 259.24; 260.11; 260.241; 260.242; 393.07*

9560.0460 DISPOSITION OF THE SOCIAL WELFARE FUND.

The local social service agency having financial responsibility may apply for and receive survivor benefits for an eligible child under state guardianship. The benefits may be applied to the maintenance and support of the child, and any excess amounts held in a social welfare fund, or the total benefits may be accumulated in the social welfare fund.

Upon reaching age 18, the accumulated balance in the social welfare fund is to be paid directly, at that time, to the person for whom the survivor benefits were received.

Statutory Authority: *MS s 256.01 subd 2; 256.91; 256E.05 subd 1; 257.175; 259.24; 260.11; 260.241; 260.242; 393.07*

9560.0470 STATE GUARDIANSHIP BENEFITS UP TO AGE 21.

An individual who is under state guardianship at age 18 continues to be eligible for guardianship benefits up to age 21 at the request of the individual.

Statutory Authority: *MS s 256.01 subd 2; 256.91; 256E.05 subd 1; 257.175; 259.24; 260.11; 260.241; 260.242; 260.40; 393.07*

FOSTER CARE FOR CHILDREN

9560.0500 SCOPE.

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

Statutory Authority: *MS s 256.01 subd 2; 256.82 subd 3; 256E.05 subd 1; 257.071; 257.175; 260.40; 393.07*

9560.0510 PURPOSE OF FOSTER CARE SERVICES.

The purpose of foster care services to children is to provide substitute family or group care for a child while an intensive effort is made to correct or improve the condition necessitating placement in order to reunite the family or, in the failure of this, to provide some other permanent plan.

Foster care services shall be provided only after services aimed at preventing 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 subd 2; 256.82 subd 3; 256E.05 subd 1; 257.071; 257.175; 260.40; 393.07*

9560.0520 DEFINITIONS.

Subpart 1. **Custodian.** "Custodian" means any person who is under a legal obligation to provide care and support for a child.

Subp. 2. **Foster care service.** "Foster care service" means the service which provides substitute 24-hour-a-day family or group home care for a planned period of time, provides experience and conditions which promote normal growth, and provides to the child, the child's family, and the foster parents casework services and other treatment or community services.

Subp. 3. **Foster family home.** "Foster family home" means a family licensed under parts 9545.0010 to 9545.0260 to provide 24-hour-a-day care in their home to children who are unrelated to the family.

Subp. 4. **Group home.** "Group home" means a facility licensed by the Minnesota Department of Public Welfare as a group family foster home under parts 9545.0010 to 9545.0260 or as a group home under parts 9545.1400 to 9545.1500 or certified by the Department of Corrections as a group foster home or licensed or approved by an Indian tribe with the authority to do so.

Subp. 5. **Legal custody.** "Legal custody" is defined by law as the right to care, custody, and control of a child and requires the removal of the child from his or her parent(s) or legal guardian for the child's welfare and/or safety. Legal custody is for a specified length of time, but not to exceed one year.

Subp. 6. **Local social service agency.** "Local social service agency" means the local agency under the authority of the county welfare board or human service board or board of county commissioners which is responsible for social services.

Subp. 7. **Relative.** "Relative" means any of the following persons related to the child by marriage, blood, or adoption: parent, grandparent, brother, sister, stepparent, stepsister, stepbrother, niece, nephew, uncle, or aunt.

Subp. 8. **State agency.** "State agency" means the Minnesota Department of Public Welfare.

Subp. 9. **Voluntary placement.** "Voluntary placement" means a placement in which the local social service agency assumes responsibility for the placement of a child after the agency has determined, in conjunction with the child's parent(s) or legal guardian and the child, if possible, that such placement is in the best interest of the child and his family.

Statutory Authority: *MS s 256.01 subd 2; 256.82 subd 3; 256E.05 subd 1; 257.071; 257.175; 260.40; 393.07*

9560.0530 PLACEMENT IN LICENSED FACILITY.

With the exception of placement in a relatives' home, the local social service agency shall place a child in a licensed foster family or group home except in emergencies when an unlicensed foster home may be selected. In these emergency cases, the agency shall assure that application for licensure is made within 30 days of the child's placement if the child is expected to remain in the home for 30 days or longer.

Statutory Authority: *MS s 256.01 subd 2; 256.82 subd 3; 256E.05 subd 1; 257.071; 257.175; 260.40; 393.07*

9560.0540 LEGAL BASIS FOR PLACEMENT.

Subpart 1. **Authority for placement.** The local social service agency shall obtain the proper authority to place a child in foster care, either through written consent of the child's parent(s) or legal guardian (voluntary placement) or with an order of the court (legal custody).

Subp. 2. **Duties of local agency as custodian.** When legal custody is given to a local social service agency, that agency shall:

A. Avoid precipitous movement of the child without orderly preplacement planning and preparation. When removal of the child is not

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emergent, the agency shall request permission of the court for time to place the child in an orderly fashion and, upon being granted this request, shall proceed to effect the placement according to the requirements of rule and statute.

B. Provide information, evaluations, and recommendations to assist the court in arriving at appropriate decisions and actions with regard to the child and the child's family.

C. Provide the court written reports and recommendations prior to the expiration of any order giving the agency responsibility for the child.

D. Inform the foster parents of court hearings which pertain to any foster child in their care.

E. Report to the court the placement of a child out of the jurisdiction of the court. Copies of such notification shall be forwarded to the child's parent(s) or legal guardian.

F. Request the court to order any special treatment and care needed by the child if the child's parent or legal guardian fails to provide it.

G. Obtain for its record a copy of the court's findings, decisions, disposition of the case, and any other information which may aid the county in providing services to the child.

H. Obtain the permission of the court before terminating foster care and returning the child to his or her parent(s).

I. Obtain the written consent of the parent(s) or legal guardian and the court if a child under legal custody is to be placed in a facility outside of the state. If the parent(s) or legal guardian refuse or fail to give consent, the court's written consent is sufficient.

Subp. 3. **Agency duties under voluntary foster care agreement.** When a child is placed in foster care by voluntary agreement between the local social service agency and the parent(s) or legal guardian, the agency shall:

A. Obtain the parent(s)' or legal guardian's written consent prior to the placement; and

B. Require the parent(s) or legal guardian to agree to provide reasonable notice before seeking return of the child from placement so that the agency may prepare for the orderly return of the child in no more than 30 days.

Statutory Authority: *MS s 256.01 subd 2; 256.82 subd 3; 256E.05 subd 1; 257.071; 257.175; 260.40; 393.07*

9560.0550 MAJOR DECISIONS AFFECTING CHILD.

The local social service agency shall obtain the written consent of the child's parent(s) or legal guardian for major decisions affecting the child. If the parent(s) or legal guardian fail to give consent, and it is essential to the child's health or well-being, a court order shall be obtained which will provide the authority to secure whatever is needed for the child. Whenever there is a question as to what shall be regarded as a decision requiring parental or judicial consent, the agency shall consult the court.

Statutory Authority: *MS s 256.01 subd 2; 256.82 subd 3; 256E.05 subd 1; 257.071; 257.175; 260.40; 393.07*

9560.0560 RELATIONSHIP TO OTHER AGENCIES AND INSTITUTIONS.

Subpart 1. **Formal agreements.** The local social service agency shall establish formalized agreements with those agencies and institutions which, in conjunction with the local social service agency, are serving a particular child. The purpose of such agreements is to ensure optimum cooperative planning and provision of services.

Subp. 2. **Schools.** Prior to foster care placement, the local social service agency shall involve in the placement planning the child's present school and the one which he may attend in order to assure that the child's social, educational,

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and extracurricular needs will be met. The agency shall initiate contact with the schools. If a child is to remain in the same school, the local social service agency shall notify the school at such time as the child is to be placed in foster care or when the child is to be moved to another facility.

Subp. 3. **Other social service agencies.** The local social service agency shall not place a child in another county without the approval of the other county local social service agency. When a local social service agency requests services of another agency in effecting a placement, or receives such a request for service from another agency, there shall be a written agreement defining the responsibilities for services to be delivered, methods for evaluation and procedures for handling foster care payments.

Statutory Authority: *MS s 256.01 subd 2; 256.82 subd 3; 256E.05 subd 1; 257.071; 257.175; 260.40; 393.07*

9560.0570 GROUP HOMES.

The local social service agency shall provide for the utilization of group homes for children requiring such services. The choice of facility and length of stay shall be determined by the needs of the child for the specific services offered by the facility. The child's service plan shall state the rationale for placement of the child in a group facility. The local social service agency shall provide or arrange for services not available in the group facility.

Statutory Authority: *MS s 256.01 subd 2; 256.82 subd 3; 256E.05 subd 1; 257.071; 257.175; 260.40; 393.07*

9560.0580 SERVICE REQUIREMENTS.

All local social service agencies, in delivering foster care services, shall:

A. Provide at least one preplacement visit for the child to the foster or group home. This requirement is waived for newborn infants being placed from a hospital into a foster home.

B. Provide help to the child in his initial adjustment to the foster home through the placement worker's visit to the home within four days of the placement.

C. Plan with the parent(s) for a parent visit with the child within a week of the placement.

D. Provide casework to the child on a planned regular basis, at least twice a month for the first three months and as frequently as necessary thereafter.

E. Provide or arrange for casework and other indicated services to the child's family on a planned regular basis, and at least twice a month, to help them:

(1) fulfill their roles and responsibilities as parents to the placed child;

(2) remedy the conditions which necessitated placement;

(3) prepare for the child's return home or, if this return home is not possible, involve them in making an alternative plan; and

(4) develop and maintain a constructive relationship with their child through a carefully planned and executed program of communication and visitation.

F. Provide assistance to the foster parents or group home operators with their responsibilities of incorporating the child into their family or facility. The foster parents and group home operators shall be provided a telephone number and an additional backup number to call during the hours the agency is closed.

G. Provide follow-up services to the family and child when the child returns home to assist with the adjustment and to prevent recurrence of the circumstances which led to placement.

H. Evaluate, in conjunction with the foster parents or group home operators, the placement experience when a child leaves the facility to ascertain the facility's potential for future placements.

Statutory Authority: *MS s 256.01 subd 2; 256.82 subd 3; 256E.05 subd 1; 257.071; 257.175; 260.40; 393.07*

9560.0590 WAIVER.

Those requirements listed under part 9560.0580 which may not be applicable for children under state guardianship as dependent/neglected or for placements of children in emergency facilities in crisis situations may be waived. The agency may also waive 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 subd 2; 256.82 subd 3; 256E.05 subd 1; 257.071; 257.175; 260.40; 393.07*

9560.0600 PROVISION FOR MEETING HEALTH NEEDS.

The local social service agency shall meet the health and dental needs of every child by:

A. assuring that each child has a health examination prior to placement or, in emergency situations, within two weeks thereafter;

B. assuring that a child's ongoing health and dental needs are met;

C. assuring that the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services are offered and/or provided pursuant to parts 9505.1500 to 9505.1690 to all children eligible for the medical assistance program;

D. providing the foster or group home with information about the child's immunizations and other pertinent health data with instructions for the record to be kept up-to-date; and

E. providing to the foster or group home a written authorization for obtaining routine health care for the child with clear instructions as to who is to provide the care and how the billing is to be handled.

Statutory Authority: *MS s 256.01 subd 2; 256.82 subd 3; 256E.05 subd 1; 257.071; 257.175; 260.40; 393.07*

9560.0610 SERVICE PLAN AND REVIEW.

Subpart 1. Requirements. For those children who are placed in foster family homes, group homes or relatives' homes (unless placement with the relative is planned to be permanent) and for whom the local social service agency has placement and/or supervisory responsibility, the agency shall comply with the following requirements.

Subp. 2. Service plan. The agency shall develop, in conjunction with the child's parent(s), or other custodian, the child's legal guardian, and if possible, the child, a service plan which includes:

A. the specific reasons for the placement of the child in a foster home, including a description of the problems or conditions in the home of the parent or parents which necessitated removal of the child from his home;

B. the specific actions to be taken by the parent or parents of the child to eliminate or correct the problems or conditions identified in clause (1), and the time period during which the actions are to be taken;

C. the financial responsibilities and obligations, if any, of the parents for the support of the child during the period the child is in the foster home;

D. the visitation rights and obligations of the parent or parents during the period the child is in the foster home;

E. the social and other supportive services to be provided to the parent or parents of the child, the child, and the foster parents during the period the child is in the foster home;

F. the date on which the child is expected to be returned to the home of his parent or parents;

G. the nature of the effort to be made by the social service agency responsible for the placement to reunite the family; and

H. the actions to be taken for meeting the special educational needs of the child including the responsibilities of the foster parents and the child's parents.

Subp. 3. Rights of parents. The agency shall advise the parents of their right to receive assistance from any person or social service agency and their right to legal counsel in the preparation of the service plan.

Subp. 4. Anticipating a change in placement. In those situations where the child's condition or behavior may require change before placement can be terminated, the service plan shall include actions to be taken or progress to be made by the child while in placement.

Subp. 5. Visitation plan. The visitation plan shall be detailed and shall include, but not be limited to, the date and conditions of the first visit, specific days of visits, specific hours for beginning and ending of visits, and special conditions of visitation.

Subp. 6. Possibility of losing rights. The agency shall explain to the parents that if the parents are unable to correct the conditions necessary for their child's return home, they could lose their parental rights.

Subp. 7. Noncompliance by agency. If the agency cannot comply with any service plan requirement, the agency shall document the reason in the record.

Subp. 8. Review of service plan. The local social service agency shall provide an administrative, supervisory, or conference review at least every six months for each child in placement to determine the appropriateness and adequacy of the service plan. The review shall include persons other than or in addition to the service worker responsible for the case. The administrative review may be waived if the court has reviewed the service plan within that six-month period.

Subp. 9. Review of service plan with parents and child. Within 180 days of the child's initial placement, if the child is still in foster care, the local social service agency shall review the service plan, including in the review all persons involved in the plan's preparation. The review may be waived if the court has reviewed the plan within the 180-day period.

Statutory Authority: *MS s 256.01 subd 2; 256.82 subd 3; 256E.05 subd 1; 257.071; 257.175; 260.40; 393.07*

9560.0620 CHILD'S OR FOSTER PARENTS' ABSENCE FROM FOSTER HOME.

The local social service agency's permission must be obtained any time the foster family and/or child are to be away from the licensed foster care facility within the state for a period exceeding three nights or, if the child leaves the state, for any period of time. However, the agency may provide specifically defined blanket permission for departures from the state where a family regularly departs the state for an identified routine purpose.

Statutory Authority: *MS s 256.01 subd 2; 256.82 subd 3; 256E.05 subd 1; 257.071; 257.175; 260.40; 393.07*

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9560.0630 PROTECTING THE CHILD'S HERITAGE.

The local social service agency shall provide for the preservation of the child's religious, racial, cultural, and ethnic heritage through:

A. placement if possible and indicated in a foster home of similar background;

B. education of the foster parents as to the importance of the heritage to the child;

C. education of the foster parents as to the customs and values of the particular group; and

D. assistance to the foster parents or group home operators, so that they will be better able to provide a home which is accepting and supportive of the child's cultural, religious, racial, or ethnic identity.

Statutory Authority: *MS s 256.01 subd 2; 256.82 subd 3; 256E.05 subd 1; 257.071; 257.175; 260.40; 393.07*

9560.0640 FINANCIAL ARRANGEMENTS AND FUNDING CONSIDERATIONS.

The local social service 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 social service 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 social service 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 social service 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 social service agency shall make the payments directly to foster parents and other providers of care.

Statutory Authority: *MS s 256.01 subd 2; 256.82 subd 3; 256E.05 subd 1; 257.071; 257.175; 260.40; 393.07*

9560.0650 RATES PAID TO FOSTER HOMES.

Rates paid for children in foster care shall be uniform regardless of funding source, and maintenance rates paid for children in foster care shall be established pursuant to parts 9500.0010 to 9500.0370. This requirement is waived when the local social service agency is being reimbursed pursuant to 12 MCAR S 2.030.

When foster care is provided for a child through contract with another public or private agency, maintenance payments to the cooperating agency's foster care facilities shall be determined according to parts 9500.0010 to 9500.0370. If the local social service agency is contracting for administrative or social service costs, payments to the cooperating agency shall be an amount which is additional to the maintenance rates established in parts 9500.0010 to 9500.0370.

Statutory Authority: *MS s 256.01 subd 2; 256.82 subd 3; 256E.05 subd 1; 257.071; 257.175; 260.40; 393.07*

NOTE: 12 MCAR section 2.030 has been repealed.

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9560.0660 FOSTER CARE BENEFITS UP TO AGE 21.

Within the six months prior to a child's 18th birthday, the local social service 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 social service 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 subd 2; 256.82 subd 3; 256E.05 subd 1; 257.071; 257.175; 260.40; 393.07*

9560.0670 FOSTER HOME RECRUITMENT AND DEVELOPMENT.

Subpart 1. **Recruitment.** The local social service agency shall attempt to recruit and license a sufficient number and variety of foster homes in order to be able to meet the particular needs of each child needing placement.

Subp. 2. **Development of foster parents.** The local social service agency shall provide for the development of foster parents by:

- A. provision of training on an ongoing basis;
- B. provision of opportunities to attend educational workshops and conferences; and
- C. provision of opportunities for recognition.

Subp. 3. **Foster parents as advisors.** The local social service agency shall involve the foster parents on an advisory basis in the development of policies and procedures pertaining to foster care.

Subp. 4. **Relicensure.** Before recommendation for relicensure, the local social service agency shall evaluate with the foster parents factors in the home pertinent to continued utilization of the home as a foster care resource. These factors shall include the services provided by both the foster family and the agency and an evaluation of the year's placement experiences. A copy of the evaluation shall be given to the foster family.

Subp. 5. **Racism.** The local social service agency shall assess the foster care applicant's or foster care provider's capacity for accepting children of another race, religion, color, or national origin. If the family's reason for refusing to accept such children is based upon racism or bigotry, that is, negative attitudes toward people of a particular race, religion, color, or national origin, the agency shall, in the case of a new applicant, refuse to recommend the home for licensure. If the agency ascertains the existence of racism or bigotry in a licensed foster family home, the agency shall, at time of relicensure, establish a plan for phasing the home out of the foster care program and no additional children shall be placed in the home.

Statutory Authority: *MS s 256.01 subd 2; 256.82 subd 3; 256E.05 subd 1; 257.071; 257.175; 260.40; 393.07*

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DAY CARE FOR CHILDREN

9560.0750 SCOPE.

Parts 9560.0750 to 9560.0820 govern the administration and provision of day care services by local social service agencies for children and their families when the local social service agency elects to provide day care service.

Statutory Authority: *MS s 256.01 subd 4; 256E.05*

9560.0760 STATUTORY AUTHORITY.

The authority for parts 9560.0750 to 9560.0820 and for the administration of day care services for children is found in Minnesota Statutes, sections 256E.02, 256E.03, and 256E.05.

Statutory Authority: *MS s 256.01 subd 4; 256E.05*

9560.0770 DEFINITIONS.

Subpart 1. **Child.** "Child" means a person 14 years of age or younger.

Subp. 2. **Child development training.** "Child development training" means training by an accredited institution or courses approved by the local social service agency designed to maintain or improve the quality of care for children.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of public welfare.

Subp. 4. **Day care resource.** "Day care resource" means any person or entity providing direct or indirect day care services.

Subp. 5. **Day care service.** "Day care service" means the less than 24-hour-a-day service which provides care for children as a substitute for or supplement to parental care for a planned period of time.

Subp. 6. **Direct day care service provider.** "Direct day care service provider" means a person or entity who provides care for one or more children for pay in a home or center as a substitute for the parent(s) of the children.

Subp. 7. **Indirect day care service provider.** "Indirect day care service provider" means a person or entity which provides support services to direct day care service providers, including training, planning and coordination, toy lending libraries, and health services which are intended to improve the quality of care for children.

Subp. 8. **Local social service agency.** "Local social service agency" means the County Board of Commissioners or other agency designated by the county board as responsible for social services.

Subp. 9. **State agency.** "State agency" means the Minnesota State Department of Public Welfare.

Statutory Authority: *MS s 256.01 subd 4; 256E.05*

9560.0780 RESOURCE DEVELOPMENT.

Subpart 1. **Recruitment.** The local social service agency shall recruit day care resources to meet the community's day care needs.

Subp. 2. **Diversity.** There shall be diversity in kinds of day care resources developed.

There shall be diversity in direct day care service providers. There shall be diversity in the type of direct day care service resource (in-home, family day care, group family day care, center); ages of children served (infants, toddlers, preschool, school-age); number of children to be served; and program that meets individual children's needs (e.g., enrichment, children with special needs). There shall be diversity in location of direct day care service provider resources including all major geographic areas where the service is needed so that the services are accessible to all parents and children who need it. There shall be diversity in programs to include day care provider resources that meet developmental, ethnic, cultural, and bilingual language needs.

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There shall be diversity in indirect day care resources to support and improve the quality of day care services. There shall be resources that directly support the day care service delivery such as: toy lending libraries; health and social services, program facilitators, substitute providers and periodic training programs. There shall be ongoing support service resources that provide professional expertise and training to all direct and indirect service providers.

Subp. 3. **Planning and coordination.** Each social service agency shall provide or purchase planning and coordination services to ensure a system of information and referral of direct day care service providers to parents, as well as other community services; consultation and technical assistance to providers seeking funding from existing resources; coordination between direct day care service providers, day care resources and community and governmental agencies, needs assessments, and planning for training activities.

Subp. 4. **Funds for development.** Potential day care providers shall be informed about funds available to them for meeting startup costs or licensure requirements.

Statutory Authority: *MS s 256.01 subd 4; 256E.05*

9560.0790 AGENCY SERVICES TO DAY CARE PROVIDERS.

The local social service agency shall provide the following services to individuals and groups that plan to be licensed as day care providers.

Statutory Authority: *MS s 256.01 subd 4; 256E.05*

9560.0800 LICENSING.

Subpart 1. **Group day care centers.** The local social service agency shall refer any inquiry on establishing a new group day care center to the Licensing Division of the Department of Public Welfare for licensure as defined in parts 9545.0510 to 9545.0670. The local social service agency shall refer all operating unlicensed day care centers to the Licensing Division of the Department of Public Welfare.

Subp. 2. **Family day care homes.** The local social service agency shall inform all inquirers regarding family day care licensure of the standards as defined in parts 9545.0310 to 9545.0450 and provide the necessary consultation and inspections pursuant to the requirements in the licensure standards. If the applicant meets the family day care licensing requirements, the local social service agency shall recommend the home to the state agency for state licensure.

Statutory Authority: *MS s 256.01 subd 4; 256E.05*

9560.0810 SERVICE DELIVERY.

Subpart 1. **Standards.** The local social service agency must meet the following standards in providing services to all social service clients where day care is a needed service.

Subp. 2. **Staff.** The local social service agency shall maintain a staff to fulfill the responsibilities described in parts 9560.0750 to 9560.0820.

Subp. 3. **Supportive services.** The local social service agency shall make available supportive services for children in direct day care resources to assure quality of care for children in the facility or home.

Subp. 4. **Resource file.** The local social service agency shall maintain an accurate resource file on all day care and child development services and resources in the geographic area to be served.

Subp. 5. **Assistance to parents.** The local social service agency shall make available services to assist parents in planning for the day care placement of their children to assure services that meet the children's individual needs.

The local social service agency shall inform the parent or parents about the eligibility requirements for financial assistance with the payment of day care services as described in the agency's social service plan.

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The local social service agency shall plan with the parent or parents to develop the child's service plan as a basis for selecting a licensed day care center or provider that has a program and environment that meets the child's individual developmental needs.

The following procedures shall be used to select the day care providers for children needing day care services:

A. The local social service agency shall recommend where possible two licensed resources or providers that meet the child's programmatic needs and the parents' transportation needs.

B. The parent or parents shall be given the opportunity for a preplacement visit with each day care provider recommended by the agency.

C. The parent or parents shall be given an opportunity to recommend to the local social service agency which day care he or she wishes to use for the care of the child or may recommend an alternative that meets licensing standards and more nearly fits the family and child's needs.

D. The local social service agency shall make available day care services in the day care resource (center, family day care home or in-home provider) selected and agreed upon by the agency, the parent(s) and provider, based on the assessed needs of the child as documented in the service plan for the child.

The local social service agency placement worker shall visit the child(ren) at least once annually to assure that the child is making progress toward the goals in his/her service plan.

The local social service agency shall assume responsibility for health and dental assessments for each child placed in day care as part of a casework plan, determine parental or agency responsibility for payment of the service, and assist parents of these children in making arrangements for treatment as recommended by the person(s) making the assessment(s).

Statutory Authority: *MS s 256.01 subd 4; 256E.05*

9560.0820 TRAINING.

Subpart 1. Provider training. The local social service agency shall assume responsibility for the maintenance and improvement of the quality of day care services provided by all family day care and in-home day care providers. The local social service agency shall make available a minimum of 24 hours of child development training annually. The training provided shall include courses such as: family life, human growth and development, child rearing, child nutrition, first aid, and child care program skills.

Subp. 2. Social service agency staff training. The local social service agency shall make available child development training for staff responsible for day care services. All new day care licensing staff shall complete six hours of training in the licensing process within six months of their employment on this assignment. Placement workers who work with families in planning day care services shall be given the opportunity to participate in the child development training.

Each day care licensor who wishes to improve his or her skills in assessing the competency of a family day care provider shall be given the opportunity to

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participate in a competency-based training program.

Statutory Authority: *MS s 256.01 subd 4; 256E.05*

9560.0850 STATE GOAL FOR NUMBER OF CHILDREN IN FOSTER CARE.

The Department of Public Welfare 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 subd 2; 256E.05 subd 1; 257.071 subd 5; 257.175; 393.07; Laws 1982, ch 553*