

# MINNESOTA RULES 1985

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SOCIAL SERVICES FOR CHILDREN 9560.0015

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### ADOPTION

#### 9560.0010 PURPOSE OF STATE ADOPTION PROGRAM.

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

**Statutory Authority:** *MS s 245.783 subd 1; 245.802 subd 1; 257.05; 257.175; 259.29; 259.40 subds 2,10; 259.45 subd 9; 259.48*

**History:** 9 SR 909

#### 9560.0015 SCOPE OF DEFINITIONS.

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

**Statutory Authority:** *MS s 257.05; 259.40 subds 2,10; 259.45 subd 9; 259.48*

**History:** 9 SR 909

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### 9560.0020 DEFINITIONS.

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

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

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

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

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

Subp. 5. **Genetic parent.** "Genetic parent" means an individual who is referred to as the child's birth 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 parent or unlicensed third party with persons not related to the child within the third degree.

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

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

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

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

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

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

Subp. 12. **Postadoption services.** "Postadoption services" means social services provided after legal adoption to the adoptive parents, 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 Human Services' adoption unit for use by authorized child-placing agencies.

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

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

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

**Statutory Authority:** *MS s 245.783 subd 1; 245.802 subd 1; 257.05; 257.175; 259.27; 259.40 subds 2,10; 259.45 subd 9; 259.48*

**History:** 9 SR 909

## 9560.0030 LEGALLY FREEING A CHILD FOR ADOPTION.

Subpart 1. **Legal or voluntary termination.** Before a valid agency adoptive placement may occur, court termination of the parent's rights under Minnesota Statutes, sections 260.221 to 260.241 or an agreement under Minnesota Statutes, section 259.25 which confers authority to place a child for adoption with the commissioner or a licensed child-placing agency must be obtained from any individual recognized by state law as having parental rights.

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

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

(1) The genetic parent shall sign an affidavit to be filed in the agency record attesting that the genetic parent has been informed of statutory conditions that affect the agency release or nonrelease of identifying information, such as the genetic parent's name, last known address, birth date, and birthplace, to the adopted person after that person reaches adult age as defined in Minnesota Statutes, sections 259.47 to 259.49.

(2) The genetic parent may subsequently choose to file or not file in the agency adoption record an affidavit objecting to the agency release of any or all of the identifying information to the adopted person upon that person reaching adult age as specified in Minnesota Statutes, sections 259.47 to 259.49.

(3) The genetic parent may file an affidavit at any time with the state registrar of vital statistics consenting to or refusing to consent to disclosure of the original birth certificate information to the adopted person after that person reaches adult age as specified in Minnesota Statutes, sections 259.47 to 259.49.

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

Subp. 3. **Execution of consents.** All agreements with an agency to place a child and consents to adoption by the child's parent or legal guardian, must be executed before two competent witnesses and an agency representative. Consents to an adoption by the child's parent when that parent is either a copetitioner in the adoption proceedings or does not have custody of the child must be executed before two competent witnesses, but need not be executed before an agency representative. All consents by a parent must contain a notice

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to the parent of the right to revoke the consent for any reason within ten working days of its execution. Consents obtained in another state may be executed according to either Minnesota law or applicable consent laws of the other state.

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

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

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

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

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

**Statutory Authority:** *MS s 245.783 subd 1; 245.802 subd 1; 257.05; 257.175; 259.27; 259.40 subds 2,10; 259.45 subd 9; 259.48*

**History:** 9 SR 909

## 9560.0040 STATE PHOTOGRAPHIC ADOPTION EXCHANGE.

Subpart 1. **Child placement.** 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 authorized child-placing agencies in accordance with procedures under Minnesota Statutes, section 259.45 and the commissioner.

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

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

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

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

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

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

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

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

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

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A. The placing agency shall follow the order of placement preference and exception guidelines under Minnesota Statutes, section 259.255, when placing a child of minority race or minority ethnic heritage.

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

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

**Subp. 3. Recruitment.** As required in Minnesota Statutes, section 259.455, an agency shall make special efforts to recruit adoptive families from among the child's relatives, if feasible, and families of the same minority racial or minority ethnic heritage. The agency may work with various community and religious organizations, as well as the media, and may accept offers of service and monetary contributions to successfully recruit families for adoption.

**Statutory Authority:** *MS s 245.783 subd 1; 245.802 subd 1; 257.05; 257.175; 259.27; 259.40 subds 2,10; 259.45 subd 9; 259.48*

**History:** 9 SR 909

## 9560.0050 CHILD'S FOSTER HOME.

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

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

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

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

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

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

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

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

**Subp. 3. Local agency approval required.** Where a licensed child-placing agency which is supervising a child under state guardianship wishes to consider the foster home 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; 257.05; 257.175; 259.27; 259.40 subds 2,10; 259.45 subd 9; 259.48*

**History:** 9 SR 909

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### 9560.0060 CHILD PLACEMENT.

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

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

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

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

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

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

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

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

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

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

**Statutory Authority:** *MS s 245.783 subd 1; 245.802 subd 1; 257.05; 257.175; 259.27; 259.40 subds 2,10; 259.45 subd 9; 259.48*

**History:** *9 SR 909*

### 9560.0070 SUBSIDIZED ADOPTIONS.

Subpart 1. **In general.** Subparts 2 to 13 and parts 9560.0080 and 9560.0090 provide standards for determining a child's eligibility for subsidy and the criteria for establishing the terms of the subsidy agreement subject to the commissioner's approval. Subsidized adoption is based upon the needs of the child who is certified as eligible for subsidy and is available through the commissioner for a child under legal guardianship of the commissioner or a 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,

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dental, and surgical expenses, psychiatric and psychological expenses, maintenance costs, and other costs necessary for the child's care and well being.

Subp. 4. **Criteria.** The placing agency shall certify the child as eligible for subsidy. The certification must be in writing and signed by the director of the placing agency or the director's designee. The certification must include the conditions and circumstances upon which the child's eligibility is based, and must be sent to the commissioner. A child is eligible for a subsidy when the child's situation meets the criteria in items A to E. When a child is placed into a prospective adoptive home without a subsidy but the need for subsidy becomes evident prior to legal adoption, the child-placing agency shall apply only the criteria in items A, C, and E to determine the child's eligibility.

A. To be eligible, a child must be a Minnesota resident and a ward of the commissioner or a 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 time the child becomes legally available for adoption.

C. A child is eligible for subsidized adoption by the child's foster parents if the following criteria are met and documented:

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

(2) the agency determines that adoption by the child's foster parents is in the best interest of the child, according to the criteria in part 9560.0050; and

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

D. The placing agency has made reasonable efforts without success, including the efforts in subitems (1) to (3), to place the child without subsidy.

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

(2) The agency shall contact Hennepin, Ramsey, and St. 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. The agency shall determine the child's eligibility for adoption assistance under Title IV-E of the Social Security Act, United States Code, title I, section 101, as amended through December 31, 1982.

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

A. The placing agency shall document the amount of the child's maintenance needs for food, clothing, and shelter which cannot be met by adoptive parent and other financial resources. The monthly maintenance subsidy payment may be less than or equal to the following maintenance standards:

Age	Monthly Maintenance Subsidy
0 - 5	\$200
6 - 11	230
12 - 14	260
15 - 18	290

The state agency shall annually review and adjust the maintenance rate schedule.

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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 document:

(1) The kind and amount of health insurance or other medical financial resources including eligibility for medical assistance available to meet the needs of the child.

(2) The actual or estimated expenses for medical, dental, surgical, psychiatric, psychological, or other related needs of the child when these are not covered by health insurance, medical assistance, or other alternative financial or medical resources.

C. The placing agency shall determine whether the child has additional expenses or other costs not included in items A and B which are necessary for the child's care and well-being, including the purchase of services, items, or equipment not provided by other community resources. The placing agency shall specify and document the child's special cost needs which are in excess of items A and B according to the criteria level in subitem (1), (2), (3), or (4).

(1) The child is self-motivated, but due to physical, mental, emotional, or behavior conditions, has one or more of the following needs:

(a) requires assistance and training in dressing, eating, hygiene, or moving from place to place;

(b) requires an undue amount of attention that disrupts the family's daily structure;

(c) must have a regimented daily routine;

(d) requires consistent bimonthly or more frequent contact with specialized community programs and facilities or professional resources;

(e) causes damage or destruction of the environment because of behavior or use of special equipment; or

(f) exhibits dependency needs in an inability to bond or relate to others, withdrawal, passive aggressive behavior, or delayed maturation.

The monthly rate under the criteria in subitem (1) shall be \$150.

(2) The child's chronic physical, mental, or emotional condition requires one or more of the following:

(a) ongoing daily care and assistance due to profound mental retardation or multiple handicaps;

(b) continuing training and mastery of a specialized communication technique with family members learning the skill;

(c) communication skill is mastered but is time consuming;

(d) weekly or more frequent in-home therapy toward managing physical, emotional, or behavioral difficulties; or

(e) weekly or more frequent use of community health, special educational, and rehabilitation resource.

The monthly rate under the criteria in subitem (2) shall be \$275.

(3) The child's acute or chronic physical, mental, emotional, or behavioral condition is severe and requires one or more of the following:

(a) controlling the child's interaction within the family and in the community;

(b) restructuring of the home to physically accommodate the child;

(c) monitoring the child's condition daily to anticipate emergency medical distress;

(d) hourly management of the child's behavior; or



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(e) diagnoses of an acute condition has been completed and psychological intervention has begun.

The monthly rate under the criteria in subitem (3) shall be \$400.

(4) The child's only alternative is institutionalization or professional care due to chronic or acute physical, mental, or emotional condition. The child requires all of the following:

(a) total 24-hour care and supervision by a trained caregiver;

(b) monitoring of child's condition, medication, or equipment on a 24-hour basis;

(c) use of multiple specialized community programs, facilities, and professional resources to maintain the child in the home; and

(d) requirement of institutional or paramedical skilled care at the time of family respite care.

The monthly rate under the criteria in subitem (4) shall be \$500.

The placing agency shall include appropriate medical, psychological, or psychiatric evaluations that document the level of the child's special needs.

The state agency shall annually review and adjust the rate schedule for special needs.

D. The agency record and the subsidy agreement must include all relevant facts upon which subsidy payments are based and the amount and frequency of payments. If the amount and frequency of payments are unknown, estimates and the basis for estimates must 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 parents, or in the event of their death or inability to function as parents, the subsequent guardian or conservator, shall agree to:

(1) Submit to the commissioner an annual affidavit within 30 days of the anniversary date of the approved agreement which certifies whether the child remains under their care and the need for subsidy continues to exist. The information in the affidavit may be verified by the commissioner.

(2) Notify the commissioner in writing within 30 days in the event of a change in the child's status caused by one of the events in units (a) to (d) and its effect on the expenses covered by the subsidy:

(a) marriage of the child or a 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 the child or a 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, medical assistance, and financial programs available for the child.

(6) Notify the commissioner in writing at least 30 days before a planned medical or special expense covered in the agreement 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.

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(8) Submit expense statements to the commissioner to receive subsidy payments for costs incurred according to the agreement other than the agreed-upon monthly payments.

B. The placing agency shall agree to:

(1) Specify in the agreement the terms and duration of the subsidy as defined in subpart 5, and the effective date of the agreement, which is 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 parents, 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 the payments in subitems (1) to (3) to the adoptive parents, subsequent guardian, or conservator:

(1) payments for adoptive placement or legal decree of adoption, regardless of the domicile or residence of the adoptive parents, subsequent guardian, or conservator at or after the time of application;

(2) monthly payments for the agreed upon maintenance costs and other regular costs;

(3) payments based upon the expense statements received from the adoptive parents, subsequent guardian, or conservator for the child's medical or special expenses according to the agreement.

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 parents 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 the commissioner's approval, copies of the agreement shall be distributed to the adoptive parents and the placing agency. The state agency shall establish an account to reimburse the adoptive parents, 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 parents, 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 parents, subsequent guardian, or conservator may request modification or termination of the 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 must be initiated by a written request to the commissioner within 30 days after receiving written notice of the action or

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decision from the commissioner or within 90 days if the parents 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 do not affect eligibility for any other financial payments. These other financial payments include 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; 257.05; 257.175; 259.27; 259.40 subds 2,10; 259.45 subd 9; 259.48*

**History:** 9 SR 909

### 9560.0080 REIMBURSEMENT FOR PLACING AGENCY.

The placing agency shall receive a reimbursement from the commissioner to the extent appropriations are available up 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;

C. the placing agency has determined that either the 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 the proposed purchase of service agreements to the commissioner for approval and for review of anticipated expenses when a purchase of service is used;

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 to the extent appropriations are available up to 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; 257.05; 257.175; 259.27; 259.40 subds 2,10; 259.45 subd 9; 259.48*

**History:** 9 SR 909

### 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, sections 19 et seq., as amended through December 31, 1982, 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; 257.05; 257.175; 259.27; 259.40 subds 2,10; 259.45 subd 9; 259.48*

**History:** 9 SR 909

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## 9560.0110 SOCIAL SERVICES FOR CHILDREN

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9560.0100 [Repealed by amendment, 9 SR 909]

### 9560.0110 TERMINATION OF ADOPTIVE PLACEMENT.

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

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

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

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

**Statutory Authority:** *MS s 257.05; 257.175; 259.27; 259.40 subds 2,10; 259.45 subd 9; 259.48*

**History:** *9 SR 909*

### 9560.0120 SERVICES TO CHILDREN IN INDEPENDENT PLACEMENTS.

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

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

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

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

Subp. 3. **Unlicensed intermediary.** When the local social service agency learns that the child's parent or the prospective parent desires the adoptive placement of the child through the assistance of an unlicensed intermediary, the

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local social service agency shall take necessary steps, including legal actions, if necessary, to prohibit the placement.

Subp. 4. **Transportation of child.** When the local social service agency learns that the child's parent, legal guardian, prospective parents, or the unlicensed intermediary desire to transport the child into or out of Minnesota for adoptive placement, the local social service agency shall advise the party or parties that the transportation requires the prior approval and consent of the commissioner.

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

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

**Statutory Authority:** *MS s 257.05; 257.175; 259.27; 259.40 subds 2.10; 259.45 subd 9; 259.48*

**History:** *9 SR 909*

### 9560.0130 CHILDREN IN NONRELATIVE HOMES.

Subpart 1. **Requirement of services.** When the local social service agency learns that a child is residing in a nonrelative home for the purpose of adoption, it shall carry out the duties of the commissioner and provide all appropriate child protection services prescribed in the Public Welfare Licensing Act under Minnesota Statutes, sections 245.781 to 245.812 and 252.28, subdivision 2, child-placing under Minnesota Statutes, sections 257.03, 257.04, and 257.40, and the Juvenile Court Act under Minnesota Statutes, chapter 260.

Local social service agency actions include:

A. ensuring that the child is returned to a responsible person or agency in the state of origin when the child was imported into Minnesota in violation of statutes;

B. obtaining temporary legal custody;

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

D. providing services to the child's parents in making appropriate permanent plans for the child.

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

A. names and addresses of the child's parents, the child, and the intended home;

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

C. the circumstances surrounding the placement plan; and

D. any compensation, promise of payment, solicitation, receipt of payment by any person to any person for placing or assisting in the placement of the child.

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

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

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**Statutory Authority:** *MS s 257.05; 257.175; 259.27; 259.40 subds 2,10; 259.45 subd 9; 259.48*

**History:** *9 SR 909*

## 9560.0140 SERVICES TO FAMILIES APPLYING FOR ADOPTION.

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

A. performance of a suitability study upon the receipt of a properly filed adoption petition;

B. screening of applications received from potential adoptive parents for children under state guardianship and other adoptable children who have special needs;

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

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

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

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

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

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

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

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

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

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

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

**Statutory Authority:** *MS s 257.05; 257.175; 259.27; 259.40 subds 2,10; 259.45 subd 9; 259.48*

**History:** *9 SR 909*

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## 9560.0150 INTERSTATE AND INTERNATIONAL ADOPTIVE PLACEMENTS.

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

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

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

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

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

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

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

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

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

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

B. a document which identifies the child, 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 St. Louis counties, shall route correspondence directed to out-of-state agencies through the state agency's adoption unit.

**Statutory Authority:** *MS s 257.05; 257.175; 259.27; 259.40 subds 2,10; 259.45 subd 9; 259.48*

**History:** 9 SR 909

## 9560.0160 LEGALIZATION OF THE ADOPTIVE PLACEMENT.

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

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

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

The report and recommendation to the court on the form prescribed by the commissioner shall verify the allegations in the petition, determine whether the child is a proper subject for adoption, and ascertain the suitability of the proposed family and child to each other. When the child's placement was arranged through the agency, the report shall also include a statement on how

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the agency applied the order of placement preference in part 9560.0040, subpart 2 in selecting the adoptive family. On intercounty adoptions, the order of placement preference is deemed to have occurred when the appropriate authority in the child's country of birth approved the placement of the child abroad.

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

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

**Statutory Authority:** *MS s 257.05; 257.175; 259.27; 259.40 subds 2.10; 259.45 subd 9; 259.48*

**History:** *9 SR 909*

## 9560.0170 POSTADOPTION SERVICES.

Subpart 1. **Postadoption assistance.** Authorized child-placing agencies shall provide reasonable postadoption assistance and counseling services pursuant to Minnesota Statutes, sections 259.47 and 259.49 to adoptive parents, genetic parents, adult genetic siblings, and adopted persons who have reached the age of 19 at their request in a manner which strengthens the adoption contract and complies with Minnesota Statutes, sections 259.27, subdivision 3, 259.31, and 259.47, subdivision 4 and applicable federal regulations on confidentiality and privacy of child welfare and adoption records. The agency shall:

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

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

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

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

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

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

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

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

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

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

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



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

Subp. 3. **Notification of genetically related persons.** An authorized child-placing agency shall, as required by Minnesota Statutes, section 259.47, subdivision 1, make a diligent effort to locate and inform genetically related persons of the medical or genetic information the agency has received. If the genetically related person is an adopted minor, the agency shall relay the information to the adoptive parent, subsequent guardian, or conservator. The agency shall make a diligent effort to notify the genetic parents when the agency learns that the adopted person has died.

Subp. 4. **Locating genetic parent.** Adopted persons of adult age placed for adoption by an authorized agency on or after August 1, 1982, may, under Minnesota Statutes, section 259.47, subdivision 3, upon reaching adult age, request from the placing agency the name, last known address, birth date, and birthplace of the genetic parents who were identified on the adopted person's original birth certificate. The agency shall:

A. determine that the agency has on file the genetic parent's affidavit attesting to receipt of information in the provisions of Minnesota Statutes, section 259.47, subdivision 3;

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

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

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

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

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

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

**Statutory Authority:** *MS s 257.05; 257.175; 259.27; 259.40 subds 2,10; 259.45 subd 9; 259.48*

**History:** 9 SR 909

### 9560.0180 MAINTENANCE OF ADOPTION RECORDS.

Subpart 1. **Content.** The adoption records of authorized child-placing agencies shall contain copies of all relevant legal documents, responsibly collected genetic, medical, and social history, the child's placement record, documentation of the placement preference in part 9560.0040, subpart 2, copies of all pertinent agreements or contracts, copies of all reports and recommendations to the court, and copies of all pertinent correspondence and a summary of postadoption services. Nonidentifying information in the agency record may be disclosed to the parties it concerns according to the criteria in parts 9560.0060, subpart 2, item B and 9560.0170, subpart 1, item A. Identifying

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information may not be disclosed except under Minnesota Statutes, sections 259.31, 259.47, subdivision 3, and 259.49. The agency shall maintain a record of the postadoption services provided under part 9560.0170. Disclosure of identifying information within the standards of part 9560.0170, subpart 4 does not constitute disclosure of the agency's adoption record.

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

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

**Statutory Authority:** *MS s 257.05; 257.175; 259.27; 259.40 subds 2,10; 259.45 subd 9; 259.48*

**History:** *9 SR 909*

## 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.

Subp. 2. **State agency.** "State agency" means the Minnesota Department of Human Services.

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

**History:** *L 1984 c 654 art 5 s 58*

### 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.

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.

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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.

G. The local social service agency shall file a petition in juvenile court for an extension of time to hold a child in a shelter care facility longer than 72 hours excluding weekends or holidays when the agency determines that it is necessary to detain a child for his or her own protection.

H. When placing a child in a shelter care facility, the local social service agency shall determine whether disclosure of the location of the facility to the child's parent, guardian, or custodian may place the child in danger. The decision of whether or not to disclose the location shall then be contained in the written report to the court and to the facility supervisor.

**Subp. 3. Keeping the child in his house.** 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 or in-home services, and referral to parent support organizations to courses in parenting or child care such as may be available in the community.

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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. **Summary of agency's findings.** Following the assessment of a child abuse or neglect report, the local social service agency shall, when requested, provide the reporting party a summary of the agency's findings. The summary shall be limited to:

A. the agency's determination that the report was either substantiated, unsubstantiated, or presently inconclusive;

B. the agency's intention to provide, or not provide, or refer to, remedial services; and

C. the local social service agency may deny the request of the reporting party if it determines that disclosure of the information is detrimental to the child's best interests.

Subp. 6. **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. 7. **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.

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Subp. 8. **Abuse in supervised or licensed facility.** When child maltreatment is reported in a state supervised or licensed facility, including a foster home, the 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;

D. notify the state agency responsible for licensing within 48 hours excluding holidays and weekends. The notification shall include the identity of the 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 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. 9. **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; 260.171; 626.556*

**History:** *8 SR 1079*

## 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. If a report is substantiated and a child protection case is opened, the subject's copy of the social service application shall constitute sufficient written notification of the classification.

Subp. 2. **Records relating to reports.** The name of the person making a child abuse or neglect report shall not be disclosed to the subject of the report while the report is under assessment. Upon completion of the assessment, the name of the reporting party shall be confidential and shall be disclosed only upon court order.

Records relating to reports 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.

If upon initial assessment, a report is determined to be unsubstantiated, the subject of the report shall be notified in writing of the report's classification, the agency's intent to destroy the records relating to the report, and the subject's right to have the records maintained as private data, except that the name of the reporting party shall remain confidential and shall be disclosed only upon court order. If no request to maintain the records is made by the subject within 30 days of the mailing of the notification, the records shall be destroyed.

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If upon assessment a report is classified as unable to substantiate by the local social service agency, the records relating to the report may be kept for one year. If, after one year, neither the local social service agency nor the law enforcement agency is able to substantiate the report, the subject shall be notified in writing of the report's classification, the agency's intent to destroy the records, and the subject's right to have the records maintained as private data, except that the name of the reporting party shall be disclosed only upon court order. If no request to maintain the records is made by the subject within 30 days of the mailing of the notification, the records shall be destroyed.

**Statutory Authority:** *MS s 256.01 subds 2,4; 256E.05 subd 1; 257.175; 260.171; 626.556*

**History:** *8 SR 1079*

### 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 Human Services.

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

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

**History:** *L 1984 c 654 art 5 s 58*

#### 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:

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

B. Those seeking to place a child must demonstrate:

(1) that they have legal authority to do so;

(2) that the move is in the best interest of the child; and

(3) that the move is necessary to provide the optimum placement opportunity for the child.

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

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

A. identifying information on the child and parents;

B. the name, address, and relationship of the individual in the receiving state responsible for the child's care;

C. the authority of the agency or individual to make such placements;  
and

D. written authorization for the out-of-state placement by the court of jurisdiction, or written authorization from the child's parent or guardian.

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

### 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 260.111 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; 260.111; 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 human services as dependent or neglected.

**Statutory Authority:** *MS s 256.01 subd 2; 256.91; 256E.05 subd 1; 257.175; 259.24; 260.111; 260.241; 260.242; 260.40; 393.07*

**History:** *L 1984 c 654 art 5 s 58*

#### 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; 260.111; 260.241; 260.242; 260.40; 393.07*

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### 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 human services 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; 260.111; 260.241; 260.242; 260.40; 393.07*

**History:** *L 1984 c 654 art 5 s 58*

### 9560.0450 CONSENTS.

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

A. Autopsy.

B. Baptism.



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- 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 human services. 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 human services as guardian.

**Statutory Authority:** *MS s 256.01 subd 2; 256.91; 256E.05 subd 1; 257.175; 259.24; 260.111; 260.241; 260.242; 393.07*

**History:** *L 1984 c 654 art 5 s 58*

### 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; 260.111; 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; 260.111; 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 Human Services 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 Human Services.

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.

Subp. 10. **Administrative review.** "Administrative review" is a review open to the participation of the parents of the child and conducted by a panel of appropriate persons, at least one of whom is not responsible for the case management of or the delivery of services to either the child or the parents.

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Subp. 11. **Difficulty of care payment.** "Difficulty of care payment" means a supplemental maintenance payment determined by the local social services agency and based upon an assessment of the child's special needs due to existing physical, mental, or emotional handicaps. A difficulty of care payment does not include payment for services rendered by a licensed foster parent.

Subp. 12. **Dispositional hearing.** A "dispositional hearing" is a hearing held by a family or juvenile court, or another court, including a tribal court, of competent jurisdiction, or by an administrative body appointed or approved by the court, to determine the future status of the child, including whether the child should be continued in foster care for a specified period, should be placed for adoption, or should be continued in foster care on a permanent or long-term basis.

Subp. 13. **Foster care maintenance payments.** "Foster care maintenance payments" means payments to cover the cost of and the cost of providing a child's food, clothing, shelter, daily supervision, school supplies, and personal incidentals, and reasonable travel to the child's home for visitation. In the case of institutional care, the term includes the reasonable costs of administration and operation of the institutions which are necessary to provide the things listed in the preceding sentence.

Subp. 14. **Residential facility.** "Residential facility" means any group home, family foster home, or other publicly supported out-of-home residential facility, including any out-of-home residential facility under contract with the state, county, or other political subdivision, or any agency thereof, to provide those services.

Subp. 15. **Voluntary placement.** "Voluntary placement" is an out-of-home placement of a minor by or with participation of the social service agency, after the parents or guardian of the minor have requested the assistance of the agency and signed a voluntary placement agreement.

Subp. 16. **Voluntary placement agreement.** "Voluntary placement agreement" means a written agreement, binding on the parties to the agreement, between the social service agency and the parents or guardians of a minor child, which specifies the legal status of the child and the rights and obligations of the parents, the child, and the agency.

**Statutory Authority:** *MS s 256.01 subd 2; 256.82 subd 3; 256E.05 subd 1; 257.071; 257.175; 260.40; 393.07 subds 1.2.3*

**History:** *8 SR 1537; L 1984 c 654 art 5 s 58*

### **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.

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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 CASE PLACEMENT PLAN AND REVIEW.

Subpart 1. **Agency compliance 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 or supervisory responsibility, the agency shall comply with the requirements in subparts 2 to 5.

Subp. 2. **Case placement plan.** The agency shall prepare a written plan for each child who is placed in a foster home or residential facility. The plan must be prepared before the child is placed unless the child's situation requires immediate placement. If an emergency placement is necessary, the case plan must be prepared within 30 days after the initial placement.

The case placement plan must include the following components:

A. The agency's assessment of the family, including:

(1) a list of the presenting problems which brought the family to the agency, or a statement of why the agency intervened in the family situation;

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(2) a discussion of services that were provided to prevent the need for the removal of the child from the home, and why the services were not successful, or why the parents requested placement of their child;

(3) a discussion of alternative plans that were considered and why foster care was chosen; and

(4) a discussion of why the particular foster home or facility was selected, including a description of the facility that was selected and the reason it was chosen, the reason a foster home was not used if the child was placed in an institution, and the reason why the child was not placed in the local county if the child was placed in another county or state.

B. A signed agreement among the agency, the parents, and, if able to understand the meaning of this agreement, the child which includes:

(1) an assessment of the specific reasons for the placement of the child in a foster home or institution, including a description of the problems or conditions in the home which necessitated removal of the child from the home;

(2) the specific actions to be taken by the parents to eliminate or correct the problems or conditions which necessitated placement, and the time period during which the actions are to be taken;

(3) 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;

(4) the date on which the child is expected to be returned to the home of his parents;

(5) the specific action to be taken by the child, if appropriate, to change behavior which contributed to the need for placement;

(6) the social and other supportive services to be provided by the agency to assist the parents and the child during the period the child is in the foster home;

(7) the frequency of contacts of the agency with the parents and the child; and

(8) the visitation rights and obligations of the parents during the period the child is in the foster home.

C. An agreement signed by the agency, the parents, the foster parents, and if able to understand the meaning of this agreement, the child which includes:

(1) the authority and responsibility of the foster parents to arrange for medical and dental care for the child;

(2) the authority and responsibility of the foster parents to arrange for education for the child and to meet with teachers regarding the child's progress;

(3) the specific action and behavior of the child that the foster parents are to work with;

(4) the authority and responsibility of the foster parents for supervision of the child;

(5) the plan for the parents to visit the child, which includes the specific days for visits, the specific hours for the beginning and end of each visit, and any special conditions affecting visitation; and

(6) the social service to be provided by the agency to assist the foster parents, including the frequency of contacts and the person assigned to them.

D. 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 placement plan.

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E. 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.

F. If the agency cannot comply with any placement plan requirement, the agency shall document the reason in the record.

Subp. 3. **Administrative review.** All cases must be reviewed by an administrative panel periodically, but at least once every six months. The review must be open to the parents, the child, and the foster parents. The review must determine:

A. whether the placement remains necessary and appropriate;

B. the extent of compliance with the case plan;

C. the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care; and

D. the likely date by which the child may be returned to the home or placed for legal adoption or guardianship.

Subp. 4. **Petition for court review.** As an alternative to the administrative review for children placed in foster care by voluntary agreement, the local social service agency may petition the court pursuant to Minnesota Statutes, section 260.131, subdivision 1a, for review of the foster care to determine if placement is in the best interests of the child.

Subp. 5. **Dispositional hearing.** For each child in foster care under court order pursuant to Minnesota Statutes, section 260.191, subdivision 1, the local social services agency shall petition the court for a dispositional hearing pursuant to Minnesota Statutes, section 260.191, subdivision 2, no later than 12 months after the initial dispositional hearing and annually thereafter during the continuation of foster care. For each child in foster care whose parental rights have been terminated and the child made a ward of the commissioner of human services, the local social services agency shall petition the court pursuant to Minnesota Statutes, section 260.242, subdivision 2, paragraph (d) for a dispositional hearing. The dispositional hearing must be held in a juvenile court or a tribal court of competent jurisdiction, or by an administrative body appointed or approved by the court.

When the dates of the dispositional hearing and the periodic review coincide, the dispositional hearing may replace the periodic review. A periodic review cannot substitute for a dispositional hearing.

Children in permanent foster care, whose placement was approved by the court pursuant to Minnesota Statutes, section 260.242, subdivision 2, paragraph (d) are excluded from this requirement.

Subp. 6. **Eighteen-month review of voluntary placements.** If the child is not returned to his home within 18 months after his initial placement in a residential facility, the local social service agency shall either return the child to the home of his parents or file an appropriate petition with the court to review the foster care status of the child and make a decision as to the child's continued placement.

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

**History:** *8 SR 1537; L 1984 c 654 art 5 s 58*

## 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.



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

## 9560.0630 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 MAINTENANCE STANDARDS.

Subpart 1. **Payments.** The local social services agency shall make payments based on the following maintenance standards:

Age	Monthly Maintenance Standard	Initial Clothing
0-11	\$212 (\$244 effective January 1984)	up to \$146 (up to \$168 effective January 1984)
12-14	\$293	up to \$288
15-18	\$320	up to \$348

The initial clothing allowance shall be available based on the child's needs during the first 60 days of the initial placement. The state agency shall annually review and revise the maintenance standard based on "USDA Estimates of the Cost of Raising a Child," issued by the United States Department of Agriculture, Agricultural Resources Service, Publication 1411 (October, 1982).

Subp. 2. **Additional maintenance needs.** In addition to the basic maintenance standard, monthly payments for additional maintenance needs shall be made as determined by the local social services agency. The local county board shall establish difficulty of care payments for all children in foster care.

Subp. 3. **Agency contract care.** When foster care is provided for a child through contract with another public or private agency, foster care maintenance payments and difficulty of care payments shall be determined according to the rate schedule in subparts 1 and 2. If the local social service agency is contracting for administrative or social service costs, payments to the cooperating agency shall be in an amount which is additional to the maintenance rate established in subparts 1 and 2.

Subp. 4. **Fee conditions.** The local social service agency may pay a fee for services to foster parents based on the foster parents' skills, experience, or training. This fee is not a maintenance expense.

Subp. 5. **Local fund.** The local social service agency may, through action by the county welfare board, human service board, or board of county commissioners, establish a local fund of county money through which the agency may reimburse foster parents for the cost of repairing damage done to the foster home and contents by the foster child, and the additional car insurance premium cost of a foster child who possesses a permit or license to drive a car.

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

**History:** 8 SR 1537

#### **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.

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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*

### 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 human services.

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 Human Services.

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

**History:** *L 1984 c 654 art 5 s 58*

#### **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.

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 Human Services 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 Human Services.

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.

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

**History:** *L 1984 c 654 art 5 s 58*

### 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.

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*

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## 9560.0820 SOCIAL SERVICES FOR CHILDREN

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### 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 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 Human Services establishes the following goal: of the children who are receiving assistance under Title IV-E of the Social Security Act and for whom no judicial determination has been made that permanent foster care is the best plan, no more than 40 percent shall have begun their 25th month in placement during a given fiscal year. This goal applies to federal fiscal years beginning after September 30, 1983.

**Statutory Authority:** *MS s 256.01 subd 2; 256E.05 subd 1; 257.071 subd 5; 257.175; 393.07; Laws 1982, ch 553*

**History:** *L 1984 c 654 art 5 s 58*