

**CHAPTER 9560**  
**DEPARTMENT OF HUMAN SERVICES**  
**SOCIAL SERVICES FOR CHILDREN**

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**9560.0410 SCOPE.**

Parts 9560.0410 to 9560.0485 identify and govern the administration of local agency responsibilities for children under state guardianship in need of protection or services pursuant to Minnesota Statutes, sections 260.111 et seq., and the delegation to local agencies of the authority to grant consents.

**Statutory Authority:** *MS s 260.242; 393.07*

**History:** *15 SR 2533*

**9560.0420 PURPOSE.**

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

**Statutory Authority:** *MS s 260.242; 393.07*

**History:** *15 SR 2533*

**9560.0430 DEFINITIONS.**

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

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

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

A. in the home of a relative as defined in subpart 8;

B. in a residential program as defined in Minnesota Statutes, section 245A.02, subdivision 14; or

C. in an adoptive placement.

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

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

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

Subp. 7. **Licensed child-placing agency.** "Licensed child-placing agency" means an agency defined under Minnesota Statutes, sections 245A.02, subdivision 12; 257.351, subdivision 12; and 259.21, subdivision 6, and authorized by the commissioner to place children for foster care or adoption.

Subp. 8. **Relative.** "Relative" has the meaning given in Minnesota Statutes, section 260.015, subdivision 13.

**Statutory Authority:** *MS s 260.242; 393.07*

**History:** *15 SR 2533*

**9560.0440 GENERAL RESPONSIBILITIES.**

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

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

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

A. The child's social service plan under part 9550.0090 must be developed by the local agency and with the child if the child is seven years of age or older and capable of articulating his or her thoughts. The plan must be reviewed at least annually by the local agency. A child seven years of age or older at the time of the annual review and capable of articulating his or her thoughts shall participate in the review.

B. The plan must address the emotional, health, educational, vocational, and spiritual needs of the child, and preserve, where feasible, the racial and familial identity of the child. For an Indian child, the plan must include arrangement to apply for or obtain verification of tribal membership status under Minnesota Statutes, section 257.352, subdivision 1. For an Indian child or a child of minority race or minority ethnic heritage, the plan must also comply with the racial, ethnic, and religious placement preference requirements under Minnesota Statutes, sections 257.071, subdivision 1a; 259.255; 259.455; and 260.181, subdivision 3. If a child has at least one sibling, the plan must provide for preserving the sibling relationship, where feasible.

C. The aim of the plan must be to establish a permanent family relationship for the child through the selection of a family committed to providing a home until the child reaches majority. The plan must include the goal of adoption for a child under age 14, using the procedures required in Minnesota Statutes, section 259.45. However, if there is established a permanent family relationship between the child and the child's relative as defined in part 9560.0430, subpart 8, adoption must be encouraged but is not required as a condition of permanent placement.

For a child age 14 or older, the child shall be counseled regarding adoption and other available permanent placement options. If the child chooses not to be adopted, the local agency shall notify the commissioner by submitting a written report and a copy of the child's affidavit in the form prescribed by the commissioner.

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

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

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

The local agency in the child's new county of residence may approve or disapprove the plan. If the local agency disapproves the plan, it must notify the local

agency in the child's previous county of residence and the county of financial responsibility, if different from the county of residence. If, after 45 days, the local agency and the local agency in the child's previous county of residence continue to disagree as to the plan, the local agency may change the plan after receiving written approval of the change from the commissioner.

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

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

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

counsel.

**Statutory Authority:** *MS s 260.242, 393.07*

**History:** *15 SR 2533*

### 9560.0450 CONSENTS.

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

- A. autopsy;
- B. baptism or other similar religious rites;
- C. medical treatment, except for subpart 2, item H;
- D. mental health services, including treatment with psychotropic medications;
- E. application for marriage license;
- F. admission to a regional treatment center or other inpatient mental health facility to the extent permitted under law;
- G. giving the body or parts of the body to science after death;
- H. out-of-state or out-of-country travel for more than 30 days, but less than 90 days, including application for passports and visas necessary for travel;
- I. permanent placement agreement on a child over 14 years of age;
- J. application for driver's permit or driver's license;
- K. petition to transfer guardianship;
- L. petition for change of name;
- M. surgical treatment;
- N. publicity about the child;
- O. enlistment in the armed services, peace corps, or job corps; and
- P. request for tuition waiver under Minnesota Statutes, section 136.11, subdivision 1, or as allowed by Number 3.3.2.5 of the State Board of Technical College's System Policy Manual, approved May 10, 1988. This manual is incorporated by reference and is subject to frequent change. It is available at the Min-

Minnesota State Law Library, Minnesota Judicial Center, 25 Constitution Avenue, Saint Paul, Minnesota 55155.

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

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

**Statutory Authority:** *MS s 260.242; 393.07*

**History:** *15 SR 2533*

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

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

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

**Statutory Authority:** *MS s 260.242; 393.07*

**History:** *15 SR 2533*

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

The local agency in the child's county of residence shall provide a child who has reached the age of 16 years with social services and access to financial assistance to help the child develop independent living skills. An individual who is under state guardianship at age 18 continues to be eligible for social services and access to financial assistance up to age 21 if the individual is incapable of self-sustaining employment or is in need of continuing education or training beyond high school.

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

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

**Statutory Authority:** *MS s 260.242; 393.07*

**History:** *15 SR 2533*

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

The local agency in the child's county of residence shall conduct administrative reviews of the child's social service plan under Minnesota Statutes, section

257.071, subdivision 2, at least every six months while the child is under state guardianship, in foster care, or in an adoptive placement. A court of competent jurisdiction shall, upon its own motion or that of the child's guardian, conduct a dispositional hearing under Minnesota Statutes, section 260.242, subdivision 2, paragraph (d), within 18 months after the child is placed in foster care and once every two years thereafter to determine the future status of the child. When the child is placed in an adoptive home, a dispositional hearing shall be sought if the child is removed from the adoptive home or is not legally adopted within two years of the adoptive placement. The local agency in the child's county of residence shall notify an Indian child's tribe of any administrative review or dispositional hearing.

**Statutory Authority:** *MS s 260.242; 393.07*

**History:** *15 SR 2533*

#### **9560.0480 GUARDIANSHIP RECORDS.**

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

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

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

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

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

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

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

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

**Subp. 3. Use of information.** Unless state law requires a different classification, all information on a child must be maintained by the local agency in the child's county of residence as private data and disseminated according to the Minnesota Government Data Practices Act, Minnesota Statutes, chapter 13. Unless state law requires a different classification, all information on a child who is subsequently adopted must be maintained as confidential data under Minnesota Statutes, section 259.46, subdivision 1.

**Statutory Authority:** *MS s 260.242; 393.07*

**History:** *15 SR 2533*

#### **9560.0485 POSTGUARDIANSHIP SERVICES.**

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

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

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

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

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

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

**Statutory Authority:** *MS s 260.242; 393.07*

**History:** *15 SR 2533*