

Position Statement

2020

Create Exceptions to a Required Immediate Response When Safety Is Assured

Proposal

Issue: MN Stat. 626.556, subd. 10 (j), requires, “The face-to-face contact with the child and primary caregiver shall occur immediately if sexual abuse or substantial child endangerment is alleged and within five calendar days for all other reports.” This categorical approach to immediate response requires counties to prioritize immediate responses even when children are known to be safe, diverting investigative resources away from responding to the most urgent safety concerns first.

Implementation Strategy: The Association has worked with the Minnesota Department of Human Services regarding possible content and will seek legislative action to amend the current statute to reflect an alternative to immediate response when the alleged victim is not in danger or when diligent efforts, documented by the agency, have been unsuccessful at gaining access to the child and caregiver. This may be achieved by adding language in MN Stat. 626.556, subd. 10 (j), “The interview with the alleged offender may be postponed if it would jeopardize an active law enforcement investigation. Face-to-face contact with the child and caregiver may be postponed if law enforcement requests the delay to coordinate with a law enforcement investigation, if the child is residing in a location that is confirmed to restrict contact with the alleged offender as established in guidelines issued by the commissioner of human services, or if the local welfare agency is pursuing a court order for the child’s caregiver to produce the child for questioning per MN Stat. 626.556, subd. 10 (f), provided that any postponement does not exceed five days before contact occurs.” This will permit counties to prioritize investigative resources toward urgent safety concerns.

Systemic Priority Alignment (check all that apply and explain why)

Equity Service Integration Fiscal Framework

Comments: The proposed language facilitates commitments of shared service delivery with law enforcement by eliminating competing interests on reports where there are not concerns regarding children in imminent danger but either child protection is requesting an immediate availability of law enforcement to begin investigations based on categorical allegations, or else law enforcement is pursuing a criminal investigation and does not want a household aware that investigative efforts are underway. Child protection investigators have a greater ability to coordinate with other service resources in situations without imminent danger when able to work beyond a same-day response timeline. Additionally, by basing response on the safety needs of children and by allowing for the demonstration of diligent efforts that fail to locate a child and caregiver, counties are able to manage staff resources to need, rather than to mandate.

Operational Priority Alignment (check all that apply and explain why)

Behavioral Health Case Management Child Well Being Community Based Settings & Services

Health Care Housing & Transportation Modernization Self Sufficiency

Comments: This applies to child protection investigative response.

Rationale/Background:

County child protection regularly receives allegations of sexual abuse or substantial child endangerment in which the child is not in imminent danger. A youth is in a residential treatment setting discloses to a therapist sexual abuse by a relative years earlier; the hospital reports a serious non-accidental injury of a child now inpatient at the hospital with restricted visitors; parents report sexual abuse of their child by a relative that the child states occurred during a recent visit to the relative's home; a custodial parent reports significant physical abuse of a young child who has returned from a visit to the noncustodial parent whose next visit is scheduled for a week later. There are many situations in which a child or youth may have been seriously maltreated, but is not in imminent danger that necessitates a same-day response to provide safety. Yet these same circumstances may come with a significant burden in staff time and scheduling, most frequently in reports of sexual abuse being made to a mandated reporter in a residential setting away from the child's home like summer camp, residential treatment, or other juvenile facility or overnight program. The allegation is often old, the alleged offender often has no current uncontrolled access to the child, and the residential setting where the child disclosed the incident is often some distance from the county of residence, so that an investigator must travel immediately to the child to complete a face-to-face contact, typically attempting to partner with law enforcement on a short timeline without urgent concern. At the same time, counties regularly receive reports alleging maltreatment that may not be at the level of substantial child endangerment, but indicate imminent danger for a child. The proposed change creates greater latitude to prioritize the timing of face-to-face contacts based on investigators responding to the highest danger first.

Additionally, county child protection also faces situations where efforts to have face-to-face contact are unsuccessful. The most frequent example occurs when law enforcement requests that the contact be delayed in order to coordinate with their criminal investigation. Less frequently, parents/caregivers deny access to children and court-ordered access must be sought. The following factors influence these situations:

- Coordinating with law enforcement yields to the timeline of that agency. It is not unusual for law enforcement to insist that the child protection investigation move in tandem or a step behind a criminal investigation for the integrity of the criminal investigation, or for child protection to connect with a specific investigator for a response. Some of these circumstances are such that for child protection investigator safety, a law enforcement presence is advised. Law enforcement and the local welfare agency are mandated to cross-report allegations immediately, which would continue: this change is intended to acknowledge that child protection should not have to choose between coordinating with law enforcement to respect their criminal investigation and complying with the immediate face-to-face requirement.
- Parents are not required to allow child protection investigators to see their children unless the court has ordered the contact. When an alleged offender or someone responsible for a child's care prevents access to the child, the local welfare agency seeks a court order as described in MN Stat. 626.556, subd. 10 (f) to require a child to be presented for questioning. This process of seeking and receiving a court order in order to make a new contact precludes the immediate timeframe of 24 hours.

In all of the above circumstances, a failure to complete the required face-to-face contact within 24 hours of the report being received is reflected in county performance data. These data are reported and perceived by the public as reflecting children left in very serious danger without immediate intervention, when the data may more accurately reflect prioritizing based on child safety, coordination with law enforcement, and permissible parent refusal to allow contact. Changes to accommodate the realities of child protection investigative practice would have the effect of providing more accurate public assessment of this area of child protection work while allowing counties to allocate resources based on the safety of children.

Additional Information:



Submitted by: Jodi Heurung, Sherburne County Health and Human Services, and Joan Granger-Kopesky, Hennepin County Children and Family Services
Approved on: 12/05/2019