

# Position Statement

2021

## 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), “Face-to-face contact with the child and caregiver may be postponed 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 (highlight all that apply and explain why)

- Equity
- Integrated Services
- Fiscal Framework

From the GARE Toolkit (See [www.racialequityalliance.org](http://www.racialequityalliance.org)): What are the racial equity impacts of this particular decision? Who will benefit from or be burdened by it? Are there strategies to mitigate unintended consequences?

**Comments:** There are clear disparities with regard to race and income in the child welfare system. Changes to statute would allow a broadened integrated and collaborative approach to ensuring child safety. When other professionals in the system (hospital, residential treatment staff) can assist in ensuring child safety and when the alleged perpetrator is restricted from accessing the child. This increases partnerships and collaboration within the child welfare system and overall outcomes for children.

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.

### Relevant Committee (highlight all that apply and explain why)

- Adult Services
- Behavioral Health
- Children's Services
- Modernization
- Policy
- Self-Sufficiency

Why:

### Rationale/Background:

During the Peace Time Emergency, Governor Walz temporarily modified timelines and face-to-face requirements for certain child protection responses to alleged child maltreatment by allowing additional time and alternative means of contact by county or tribal workers under limited circumstances, and where child safety can still be assured. These temporary measures allowed for maximum flexibility to respond to the most urgent needs, and to attend to the safety and health of families.

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. Parents/caregivers deny access to children and court-ordered access must be sought. 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 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.

