

NUMBER

#20-68-25

DATE

July 31, 2020

OF INTEREST TO

County Directors

Social Services Supervisors and
Staff

ACTION/DUE DATE

Please read information and
prepare for implementation

EXPIRATION DATE

July 31, 2022

Overview of 2020 child welfare legislation

TOPIC

Overview of 2020 child welfare legislation.

PURPOSE

Provide a summary of 2020 legislative actions affecting delivery of child welfare services impacting children and families.

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SIGNED

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TERMINOLOGY NOTICE

The terminology used to describe people we serve has changed over time. The Minnesota Department of Human Services (DHS) supports the use of "People First" language.

I. Reorganization of the Maltreatment of Minors Act

Effective August 1, 2020, Minnesota Statutes, sections 626.556, 626.558, 626.559, 626.5591 and 626.561, are reorganized and combined into Minnesota Statutes, Chapter 260E. No substantive changes were made in the reorganization. [2020, 1st Spec. Sess., chapter 2, article 7; conforming changes are in 2020, 1st Spec. Sess., chapter 2, article 8]

See [Minnesota Statutes](#) for a comparison between the previous chapters and Chapter 260E.

II. Implementation of Family First Prevention Services Act requirements for residential services for children in foster care

A. New and amended definitions in Minnesota Statutes, Chapter 260C

The following new definition is effective August 1, 2020:

- Residential treatment facilities [Minnesota Statutes, section 260C.007, subdivision 27b]: New definition for residential settings for children. Definition excludes family foster homes and psychiatric residential treatment facilities. [2020, 1st Spec. Sess., chapter 2, article 5, section 73]

The following new amended definitions are effective September 30, 2021:

- Family and permanency teams [Minnesota Statutes, section 260C.007, subdivision 16a]: New definition identifies the composition of a team must be consistent with a child's best interest. [2020, 1st Spec. Sess., chapter 2, article 5, section 67]
- Family foster homes [Minnesota Statutes, section 260C.007, subdivision 16b]: New definition identifies a setting as the home of an individual or family, excluding foster residence settings. [2020, 1st Spec. Sess., chapter 2, article 5, section 68]
- Legal authority to place a child [Minnesota Statutes, section 260C.007, subdivision 21a]: Amended to include court-ordered placements. [2020, 1st Spec. Sess., chapter 2, article 5, section 69]
- Permanency plans [Minnesota Statutes, section 260C.007, subdivision 25a]: New definition identifies four possible permanency goals for children, including reunification with child's parent or legal guardian, placement with relatives, adoption, and establishment of new legal guardianship. [2020, 1st Spec. Sess., chapter 2, article 5, section 70]
- Qualified individuals [Minnesota Statutes, section 260C.007, subdivision 26c]: New definition identifies a trained culturally competent professional or licensed clinician. [2020, 1st Spec. Sess., chapter 2, article 5, section 71]
- Qualified residential treatment programs (QRTP) ([Minnesota Statutes, section 60C.007, subdivision 26d]: New definition of a residential setting for children. Settings must be licensed under Minn. Stat. §

245A or approved by a tribe, and must be approved by the department to receive foster care maintenance payments under Minn. Stat. § 256.82. Settings must meet specific program and service delivery requirements. [2020, 1st Spec. Sess., chapter 2, article 5, section 72]

B. Changes to payment arrangements for foster residence settings

Effective September 30, 2021, Northstar foster care maintenance payments may not be paid to foster residence settings. Due to the change in the federal definition of family foster home, foster residence settings are not considered family foster homes for Title IV-E reimbursement purposes.

Foster residence settings are eligible for foster care maintenance payments as child care institutions consistent with Minnesota Statutes, section 260C.4412, effective September 30, 2021. The Minnesota Department of Human Services (department) must approve child care institutions for Title IV-E reimbursement eligibility.

The department's commissioner will determine Title IV-E administrative procedures for residential programs, licensed residential substance use disorder treatment programs, and supervised settings for foster children older than age 18. [2020, 1st Spec. Sess., chapter 2, article 5, sections 35, 36, 60, 61, 62, 63 and 82]

C. Juvenile treatment screening team requirements

A juvenile treatment screening team is the established process to screen a child in need of residential placement. Effective September 30, 2021, the responsible social service agency must establish a juvenile treatment screening team to determine if placement in a qualified residential treatment program is necessary and appropriate.. Department staff is working with internal and external stakeholders to develop policy and guidance pertaining to:

- Composition of a juvenile treatment screening team and who is responsible for assembling a team
- Format and documentation of screenings (developed by the department's commissioner)
- Process for relative search
- Assessment by qualified individual
- Documentation requirements if screening team determines placement in qualified residential treatment program is not required.

Juvenile treatment screening team requirements are excluded for children placed in:

- Residential facilities specializing in prenatal, postpartum, or parenting support
- Facilities specializing in high-quality residential care and supportive services for children and youth who are sex trafficking victims, or at risk of becoming sex trafficking victims
- Supervised settings for youth age 18 or older living independently
- Licensed residential family-based treatment facilities for substance abuse. [2020, 1st Spec. Sess., chapter 2, article 5, sections 74 and 79]

D. Children's Mental Health Act compliance

- Effective September 30, 2021, the Children's Mental Health Act is amended to comply with Title IV-E reimbursement requirements for residential treatment. When a responsible social service agency has placement responsibility and a child is placed in a residential treatment facility, the agency must follow processes outlined in Minnesota Statutes, section 260C.157 (juvenile treatment screening team requirements). The level of care determination shall inform the juvenile treatment screening team and made available to them. The responsible agency must engage parents in case planning, unless otherwise determined by court order. [2020, 1st Spec. Sess., chapter 2, article 5, sections 1 and 2]

E. Out-of-home placement plan update requirements

Effective September 30, 2021, within 30 days of placing a child in foster care, agencies must file initial out-of-home placement plans with the court. After filing the initial out-of-home placement plan, it must be updated and filed with the court as follows:

- When an agency moves a child to a different foster care setting, or a court-ordered trial home visit, agencies shall inform the court within 30 days, and file an updated out-of-home placement plan at the next required review hearing
- Agencies must update and file out-of-home placement plans with the court at reviews required under Minnesota Statutes, sections 260C.227 and 260C.521. [2020, 1st Spec. Sess., chapter 2, article 5, section 78]

F. Requirements for placement in qualified residential treatment programs (QRTP)

Effective September 30, 2021, to be eligible for Title IV-E reimbursement, placement in a QRTP must comply with new requirements outlined in Minnesota Statutes, sections 260C.70-260C.714. Additional information regarding implementation of these new requirements is forthcoming. Department staff is working with internal and external stakeholders to develop policy and guidance regarding each of these placement components. [2020, 1st Spec. Sess., chapter 2, article 5, sections 81, 84 and 85]

Assessment

Prior to or within 30 days of placement in a QRTP, a qualified individual must complete an assessment of child. The qualified individual must be a culturally competent professional. Child's parents, when appropriate, may request a specific culturally competent qualified individual to complete child's assessment. Assessments may not be delayed for a specific qualified individual to complete it.

Assessments must be in a format and use a functional tool approved by the department. Assessments must also determine if it is necessary and appropriate to place a child in a QRTP.

Qualified individuals must produce a written determination following specific content provisions. If qualified individual does not approve of QRTP placement, the child must be moved within 30 days. [2020, 1st Spec. Sess., chapter 2, article 5, section 86]

Family and permanency team

Within 10 days of a juvenile treatment screening team recommending placement in a QRTP, the responsible social service agency must assemble a family and permanency team for the child. When reunification is the permanency plan, the family and permanency team shall support the parent-child relationship by recognizing parents' legal authority, consulting with them regarding ongoing planning for their child, and assisting with visiting and contacting their child.

Specific provisions for teams include composition, meeting requirements, and permanency planning activities. Relevant and appropriate private data may be shared with relatives for the purpose of participating in care and planning for child. If child is Native American, the responsible agency must include child's tribal representative or designate input.

Agencies must invite family and permanency teams to participate in case planning, and must also give teams notice of court reviews until child is reunited with their parents, or foster care placement ends and child is in a permanent placement. [2020, 1st Spec. Sess., chapter 2, article 5, section 87]

Out-of-home placement plan revisions

In addition to case plan requirements in Minnesota Statutes, section 260C.212, when a child is placed in a QRTP, out-of-home placement plans must include several new provisions, including:

- Reasonable and good faith efforts of an agency to identify and include all individuals required to be on a child's family and permanency team
- All contact information for members of child's family and permanency team, and for other relatives who are not part of the team
- Evidence that an agency scheduled meetings for the family and permanency team, including the meeting related to child's assessment, at a time and place convenient for families
- The qualified individual's recommendation for placement
- Permanency goal specific provisions.

Department staff is currently working with internal and external stakeholders to redesign the out-of-home placement plan to include all new components. [2020, 1st Spec. Sess., chapter 2, article 5, sections 77 and 88]

Effective September 30, 2021, when an agency places a child in a QRTP, it must update the out-of-home placement plan within 60 days, and file plans with the court as part of the 60-day hearing. Following the 60-day hearing, agencies must update plans to document the court's approval or disapproval of child's placement in a QRTP. [2020, 1st Spec. Sess., chapter 2, article 5, section 78]

Court approval of placements, ongoing reviews and permanency hearings

Within 60 days of the beginning of each placement in a QRTP, the court must consider qualified individual's assessment and determination, and either approve or disapprove of child's placement.

For as long as a child remains in a QRTP placement, the agency must submit evidence to the court that child's placement in a QRTP is the most effective and appropriate level of care for them in the least restrictive environment. The evidence submission requirements include specific content provisions. Agencies must submit

the evidence at each administrative review, court review, and permanency hearing, for as long as a child remains in a QRTP placement. [2020, 1st Spec. Sess., chapter 2, article 5, sections 75, 76, 89 and 90]

Review of extended QRTP placements

Placement in a QRTP for extended periods of time are subject to additional oversight and administrative review by the responsible social services agency. Agencies must submit signed approval by the county social services director, and evidence supporting extended placement.

Extended placement is defined by age. For children under age 13, an extended placement is specified as placement for more than six consecutive or non-consecutive months. For all other children, extended placement is specified as placement for more than 12 consecutive months, or 18 non-consecutive months.

The department will specify procedures and requirements for agency's review and approval of child's extended QRTP placement. [2020, 1st Spec. Sess., chapter 2, article 5, section 91]

H. Instructions for the commissioner

The department's commissioner is instructed to confer with stakeholders regarding payment for cost of care for children placed in facilities no longer eligible for federal Title IV-E reimbursements paid to counties. The commissioner is also directed to make a recommendation to the legislature by January 15, 2021, regarding the cost of care that will no longer be eligible for Title IV-E reimbursement, and the impact of over-represented populations in the child protection and child welfare systems in Minnesota.

III. Fetal alcohol exposure screening for children in foster care

Effective August 1, 2020, all children who enter foster care must be screened for prenatal exposure to alcohol. Screening must be done by the responsible social service agency as soon as practical, but no later than 45 days after a child is removed from their home. Proof Alliance will be providing training and screening tools for all county agencies. More guidance to follow. [2020, Reg. Sess., chapter 2, article 1, section 17]

IV. Minors living separately from their parents may consent to homeless youth services and sexually exploited youth services

Effective August 1, 2020, minors living separately from their parents or legal guardians may give consent to receive homeless youth and sexually exploited youth services. A minor's consent to receive services does not affect parents' or legal guardian's custody of the minor.

Agencies providing homeless youth or sexually exploited youth services can offer these services to minors living separately from their parents without getting parental permission to provide services. However, parents' rights

are not affected and they are still responsible to provide care for their minor, even after giving consent to receive services. Agencies must make a report to child protective services. Even though a minor has given consent to receive services, a county child protection agency, upon receiving a report, must determine if a report is to be screened in or out, consistent with screening guidelines. [2020, 1st Spec. Sess., H.F. No. 11, article 5, section 59]

V. Expanded definition of monthly caseworker visits

Effective September 30, 2021, a responsible social services agency may designate “another person” to be responsible for monthly caseworker visits. “Another person” is defined as professional staff whom the responsible social services agency has assigned in the out-of-home placement plan or case plan. This person must be professionally trained to assess children's safety, permanency, well-being and case progress. Agencies may not designate a guardian ad litem, child foster care provider, residential facility staff, or a qualified individual as defined in Minnesota Statutes, section 260C.007, subdivision 26b, as another person. [2020, 1st Spec. Sess., chapter 2, article 5, section 80]

To meet federal requirements, every child in foster care or co-located with a parent while in the care and custody of a social services agency shall be visited by their caseworker or another person who has responsibility for managing a child’s placement on a monthly basis, with the majority of visits occurring in child's residence. [Minnesota Statutes, section 260C.212, subdivision 2, 4a (a)]

VI. Tribal-county agreements regarding American Indian children

Effective August 1, 2020, a tribe and county agency may enter into a written agreement transferring responsibility for screening and initial response to a child maltreatment report regarding an Indian child residing in the county where child's reservation is located, from the county to tribe. This agreement must include a provision clarifying whether the county agency or tribe is responsible for ongoing case management stemming from a child maltreatment report. [2020, 1st Spec. Sess., chapter 2, article 5, section 66]

VII. School enrollment for children in foster care

Effective August 1, 2020, a child placed in foster care must remain enrolled in their school. A child may not be removed from their school unless remaining is not in child’s best interests. If a child does not remain enrolled in their prior school, they must be enrolled in a new school within seven school days. The department’s annual report on children in out-of-home placement will now include this information. [2020, 1st Spec. Sess., chapter 2, article 1, sections 4 and 16]

VIII. Initial foster care phone call

Effective November 1, 2020, the responsible social services agency will be required to coordinate an Initial foster care phone call (also referred to as comfort call) between child's parents/legal guardian and foster parents/facility staff as soon as practicable after child arrives in a foster care placement, or moves to a new placement. Based on decisions made by the responsible social service agency, a call may be initiated by foster parent/facility staff or caseworker. The call shall be made no later than 72 hours after placement, but whenever possible, it should be made immediately at the time of placement. The responsible social service agency must authorize child's participation in the call. If a caseworker determines that placing the call poses a danger to the mental or physical health of a child or foster parents/facility staff, a caseworker may delay the call until it is safe to do so, and is in the best interest of child/ren. This call establishes a partnership between child's parent/legal guardian and foster parents/facility staff, and encourages ongoing information sharing that would facilitate child's adjustment to placement, minimize the impact of separation for children/youth and parent/s, or otherwise improve the quality of child's care. [2020, 1st Spec. Sess., chapter 2, article 5, section 17]

Americans with Disabilities Act (ADA) Advisory

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