

# Minnesota Foster/Adoption Placement Decisions Policies and Procedures

## Making a Foster/Adoption Placement

For a child who is the subject of a CHIPS order, where the court has transferred legal custody to the county social services agency, the county agency is responsible to make a foster care placement [*Minnesota Statutes, section 260C.201, subdivision 1(a)(2)(ii)*]. For a child who is under guardianship of the commissioner of the Minnesota Department of Human Services, the county social services agency supervises the child and acts as agent of the commissioner in the placement of the child in foster and/or adoptive homes [*Minnesota Statutes, section 393.07, subdivision 2*]. In both foster care and adoption, placement decisions must be based on the best interest of the child. To ensure a child's best interests are met, the law requires an *individualized* determination of the needs of the child based on eight best interest factors outlined in statute and an assessment of how the selected placement will serve the needs of the child being placed. For both foster and adoptive placements, the county social service agency must consider placement, consistent with the child's best interests and in the following order, with (1) a person related to the child through blood, marriage, or adoption, or (2) an important friend with whom the child has resided or had significant contact. Placement of a child for foster care or adoption cannot be delayed or denied based on race, color or national origin of the parent or the child.

See *Minnesota Statutes, section 259.29, subdivisions 1 and 2; Minnesota Statutes, section 259.57, subdivision 2; Minnesota Statutes, section 260C.193, subdivision 3, and Minnesota Statutes, section 260C.212, subdivision 2*

## Individualized Determination of a Child's Needs Based on Eight Best Interest Factors

The **first step** in making a placement decision is to **identify** the individual needs of a child under each of the eight factors outlined in statute:

1. The child's current functioning and behaviors.
2. The medical, educational, and developmental needs of the child.
3. The child's history and past experience.
4. The child's religious and cultural needs.
5. The child's connection with a community, school, and church.
6. The child's interests and talents.
7. The child's relationships to current caretakers, parents, siblings, and relatives.
8. The reasonable preference of the child, if the court deems the child to be of sufficient age to express preferences.

To document a child's needs, describe how each of the eight factors relates to the specific child. Be as descriptive as possible. This description is of the child's needs, and is therefore not dependent on a particular care provider. The individualized determination of a child's needs must be completed as soon as a child enters care and will be updated as required depending on changes to the child's age and other specific circumstances. Over the course of a case, there may be few changes in this information or a child's needs could change significantly over weeks, months or years. The county's placement documentation is statutorily required to contain information regarding the individualized determination of a child's needs as identified in this first step.

### **Assessment of Prospective Care Provider**

The **second step** in making a placement decision is to use the determination of the child's needs from step one and information known about a prospective care provider [most frequently through a home study] **to assess** how a prospective care provider is able or not able to meet the child's needs. The information in the second step is about the care provider, but is dependent on information about the child, specifically whether or not the prospective care provider is able to meet the child's needs. The information in this step will change for each prospective parent based on how the identified qualities of the prospective foster and/or adoptive parent enable the parent to meet the child's needs.

### **Documentation of the Foster/Adoption Placement**

The **third step** in making a placement decision is **to document** the individualized determination of a child's needs based on the eight best interest factors and the assessment of how the **selected** placement meets the child's needs. The county social services agency must document in the child's county case file the reason for each child placement decision, both foster care and adoption [*Minnesota Statutes, section 259.31 Minnesota Statutes, section 260C.212, subdivision 1(c)(1)*]. The Out-of-Home Placement Plan (OHPP) (SSIS document 83), which must be submitted to the court for approval at every court hearing, contains a section to document the placement decision. The county social services agency should clearly document the child's needs pursuant to the eight best interest factors. However, the county's placement documentation is required to contain information regarding how the **selected** placement only meets the needs of the child. The placement decision should be documented in the child's OHPP within 30 days of the child's placement. The OHPP must be updated every six months and every time the child moves to a new placement.

### **When to Provide Documentation of the Foster/Adoption Placement Decision**

The county social services agency must keep documentation of **every** foster/adoption placement decision in the child's county case file. The placement decision must be submitted to court for approval through the OHPP. For children under guardianship of the commissioner, the county generally only **notifies** the Department of Human Services (the department) of the **adoption** placement decision by submitting an *Adoption Placement Agreement for a Child Under State Guardianship* (DHS 0312 form). **Documentation** of the county's adoption placement decision must be submitted to the department only in **non-routinely** proceeding cases. The two most common non-routinely proceeding adoption cases are: (1) contested adoption matters; and (2) a prospective adoptive parent with a significant criminal history [including conviction for a barrier crime to Title IV-E Adoption Assistance] and/or substantiated child or adult maltreatment finding.

### **Routinely Proceeding Adoption Cases for Children Under Guardianship of the Commissioner**

Because the commissioner of Human Services is the guardian of the child, the department must issue the *Recommendation and Consent of Commissioner of Human Services*, allowing a child under guardianship of the commissioner to be adopted. The *Recommendation and Consent* is issued by the department only after all required paperwork [child's birth certificate; permanency court order and order transferring guardianship of the child to the commissioner; Adoption Placement Agreement; SSIS adoption data submissions; Adoption Assistance application; and filed adoption petition] has

been received, reviewed and processed by the department. Issuance of the *Recommendation and Consent* is the department's response to the petition, in this case, the guardian's consent to the adoption by the petitioner(s).

### **Contested Adoption Matters for Children Under Guardianship of the Commissioner**

There is a contested adoption matter when: (1) more than one petition is filed to adopt the same child, or (2) an adoption petition is filed by a person who is not supported by the county social services agency to adopt the child. In either of these cases, the county social services agency must provide the department documentation of the county's placement decision. As soon as the county social services agency learns of an impending contested adoption matter, the social worker should alert the department's adoption records program consultant assigned to that county. If the department learns of a contested adoption matter, the assigned adoption program consultant for adoption records will alert the county social worker. Like all routinely proceeding cases, the department must also respond to the court on the filed petition(s) in non-routinely proceeding cases. In order for the department to respond to the court, the department must review the county's placement decision to determine if the county *considered* applicable statute and rule in making the placement decision. The main statutes and rules that must be considered are related to: (1) relative searches and relative placement considerations; and (2) an individualized determination of a child's needs based on the eight best interest factors and an assessment of how the selected placement meets the child's needs. The department will provide the county a deadline by which the county must submit documentation of the placement decision to the department. The department will review the county's documentation and then issue the commissioner's recommendation regarding the adoption petition(s) to the court proceeding over the adoption matter.

### **Information Required to Document a Placement Decision**

The county's letter to the department outlining the placement decision must provide the following information/documentation:

- Identifying information for child(ren): full name; date of birth; DHS number; date of permanency court order and guardianship transfer order; ICWA status.
- Historical information: why child(ren) came into out-of-home placement; placement history; current placement details.
- Thorough documentation of the results of the relative search for both maternal and paternal relatives, as required by *Minnesota Statutes, section 260C.212, subdivision 5*, and/or family group decision making process.
- Individualized determination of the child(ren)'s needs based on the eight best interest factors.
- Assessment of how the selected placement meets the child(ren)'s individual needs.
- Documentation, if applicable, why the county does not support a petitioner to adopt.
- County's recommended adoption plan based on the best interests of the child.
- Team members involved in making the placement decision.
- Attachments of additional documentation regarding the placement decision, if applicable: affidavit from the tribe, if the child is ICWA eligible; letter from the child's guardian ad litem; letter from the child's therapist; letter from the child's attorney, if assigned.\*
- Social worker's name, agency, address, phone number and email address.

\* If a tribal representative, guardian ad litem, therapist, attorney or other party/collateral declines to submit an opinion letter to accompany the county's placement decision, the social worker may

instead provide documentation of the county's dated written notice to the party/collateral about the county's placement recommendation with a request for a response from the party/collateral within 10 days of notification.

### **Prospective Adoptive Parent with a Significant Criminal History and/or Substantiated Child or Adult Maltreatment**

If a prospective adoptive parent has a significant criminal history, including conviction for a barrier crime to Title IV-E Adoption Assistance, and/or a substantiated child or adult maltreatment finding, the county social services agency must provide the department documentation of the county's placement decision. This documentation must be submitted with the *Adoption Placement Agreement* (DHS 0312), or as soon as possible after criminal or maltreatment history is discovered. In addition to the information listed in the proceeding section, **Information Required to Document a Placement Decision**, the documentation of the placement decision in this type of case must also contain:

- A description of the previous crime and/or substantiated child or adult maltreatment finding, including specific details of the incident, how long ago it happened, any extenuating circumstances that may exist and the outcome [e.g. incarceration, parole or probation, termination of parental rights, etc.].
- An explanation of the person's current status, including specific details of how the person has overcome the history.
- A detailed explanation why adoption by this person is in the child's best interests **in spite of** the person's criminal or maltreatment history. [**Note:** Be sure to consider the child's needs in the context of the eight best interest factors.]

After reviewing the county social services agency's placement documentation, the department will make a determination whether to approve or deny the adoption placement.

### **Barrier Crimes to Title IV-E Adoption Assistance**

Federal law identifies certain crimes which prohibit an adoptive parent from receiving Title IV-E Adoption Assistance on behalf of an otherwise eligible child. These barrier crimes are: a felony conviction for child abuse or neglect, for spousal abuse, for a crime against children [including child pornography] or for a crime involving violence, including rape, sexual assault or homicide, but not including other physical assault or battery, if a State finds that a court of competent jurisdiction has determined that the felony was committed at any time; or a felony conviction for physical assault, battery or a drug-related offense, if a State finds that a court of competent jurisdiction has determined that the felony was committed within the past five years.

If a barrier crime is identified for a prospective adoptive parent and the county, with approval from the department, chooses to utilize that parent as the identified adoptive resource for the child, the parent may **not** receive Title IV-E Adoption Assistance on behalf of the child. It may be possible for the adoptive parent to receive state-funded Adoption Assistance on behalf of the child.

### **Approval or Denial of Adoption Placement**

The commissioner of Human Services must be a signatory on the *Adoption Placement Agreement* for a Child Under State Guardianship (DHS 0312), pursuant to ***Minnesota Rule 9560.0060, Subpart 2(D)***. If the department approves the adoptive placement in spite of the prospective adoptive parent's significant criminal history and/or substantiated child or adult maltreatment finding, the

department designee will sign the *Adoption Placement Agreement* and return the signed form to the county social services agency according to routine procedure. If the department does **not** approve the adoptive placement, the department will send the county social service agency written notice.

**DHS Adoption Records Program Consultants for Adoption Placements**

There are two DHS Adoption Records program consultants who facilitate the department’s signing of the *Adoption Placement Agreement* and issuance of the *Recommendation and Consent of Commissioner of Human Services*. Their caseloads are divided by county and the distribution list is included as an attachment to these policies and procedures. For consultation on placement decisions regarding children under guardianship of the commissioner, please contact the DHS Adoption Records’ program consultant assigned to your county. If required to submit to DHS documentation of the county’s placement decision, you may send the information packet to your county’s assigned program consultant:

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**Attachment:  
DHS Adoption Records – Program Consultants Caseload Distribution by County**

<b>Janet Johnson</b>	<b>Kathy Rehbein</b>
Cook	Aitkin
Faribault	Anoka
Grant	Becker
Hennepin	Beltrami
Kittson	Benton
Lake of the Woods	Big Stone
Mahnomen	Blue Earth
Marshall	Brown
Martin	Carlton
McLeod	Carver
Meeker	Cass
Mille Lacs	Chippewa
Morrison	Chisago
Mower	Clay
Nicollet	Clearwater
Nobles	Cottonwood
Norman	Crow Wing
Otter Tail	Dakota
Pennington	Dodge
Pope	Douglas
Red Lake	Fillmore
Redwood	Freeborn
Renville	Goodhue
Rice	Houston
Rock	Hubbard
Roseau	Isanti
Sherburne	Itasca
St. Louis	Jackson
Stearns	Kanabec
Steele	Kandiyohi
Stevens	Koochiching
Todd	Lac Qui Parle
Traverse	Lake
Wabasha	Le Sueur
Wadena	Lincoln
Waseca	Lyon
Washington	Murray
Watonwan	Olmsted
Wilkin	Pine
Winona	Pipestone
	Polk
	Ramsey
	Scott
	Sibley
	Swift
	Wright
	Yellow Medicine

