



Bulletin

NUMBER

#14-68-08

DATE

May 30, 2014

OF INTEREST TO

County Directors

Social Services Supervisors
and Staff

Tribal Directors

Tribal Social Services
Supervisors and Staff

County Attorneys

Tribal Attorneys

ACTION/DUE DATE

Please read information and
prepare for implementation

EXPIRATION DATE

May 30, 2016

Relative Notice Requirements for Children in Foster Care

TOPIC

The Fostering Connections to Success and Increasing Adoptions Act of 2008 requires relative search and notice consistent with Title IV- E requirements.

PURPOSE

Explains agency requirement to identify and notify relatives when a child is removed from their parents in accordance with the Fostering Connections to Success and Increasing Adoptions Act of 2008 and Minnesota Statutes, section 260C.221.

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SIGNED

ERIN SULLIVAN SUTTON
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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.

Background

The Fostering Connections to Success and Increasing Adoptions Act of 2008 [Public Law 110-351] amended section 471 (a) (29) of the Social Security Act, requiring child welfare agencies to identify and notify all adult grandparents and other adult relatives of a child removed from their parents within 30 days of the removal. Minnesota Statutes, sections 260.012 and 260C.221, were amended in 2012 to be consistent with the federal requirement.

These notice requirements apply to relatives as defined in Minnesota Statutes, section 260C.007, subdivision. 27.

This bulletin summarizes and clarifies efforts required by Minnesota child welfare agencies to identify and notify relatives.

The law

Child welfare agencies that have responsibility for placement and care of foster children must have a process in place to identify relatives, and notify adult relatives of a child within 30 days of a child's removal. The notice must:

- Specify that a child has been or is being removed from the custody of their parent(s)
- Explain the options a relative has under federal and state law
- Explain relative's options to participate in the care and placement of a child
- Describe requirements to become a foster home
- Describe the services and supports available for children in foster homes
- Specify the availability of kinship assistance
- Explain the options that may be lost by failing to respond to the notice.

The law permits exceptions to relative notice in cases of domestic and family violence that may endanger a child or another family member. It permits flexibility to determine what constitutes effective efforts and when exceptions are required.

Minnesota Statutes, section 260C.221, requires child welfare agencies to conduct comprehensive relative searches, and notify adult relatives prior to or within 30 days of placement.

Permitted exceptions for relative search

The federal Department of Health and Human Services, Administration on Children, Youth and Families, permits states to define exceptions to relative search requirements in [Program Instructions 10-11](#).

Minnesota child welfare agencies can make exceptions to relative search and notice requirements for placement of a child for the purpose of treatment under Minnesota Statutes, Chapter 260D, in a residential treatment facility consistent with Minnesota

Statutes, section 245.487, subdivision 32; or determination of institutional level of care, home and community-based waiver under Minnesota Statutes, section 256B.092.

When a parent makes a request that a specific relative not be contacted or considered for placement due to safety reasons, including past family or domestic violence, agency staff shall bring the parent's request to the attention of the court to determine whether the request is consistent with the best interest of a child. Agency staff shall not contact a relative when the juvenile court finds that contacting the relative would endanger the parent, guardian, child, sibling or any family member.

In cases where agency staff is aware of a child's relative who has an order for protection or past domestic child abuse findings, an agency shall hold the notice until the parent (s) are consulted and the matter is brought to court.

In voluntary placement cases for the purpose of treatment under Minnesota Statutes,, Chapter 260D, a relative search is not required when a child is placed in a residential treatment facility due to a level of care determination under Minnesota Statutes, sections 245.4885 or 256B.092.

At the required permanency hearing, or annual review hearing, the responsible child welfare agency may conduct a relative search and notify relatives as part of the assessment to determine if continued voluntary placement for treatment is the most appropriate legal arrangement to meet a child's safety, health and best interest. Also, this is to determine whether there is another permanency disposition order under Minnesota Statutes, Chapter 260C that would better serve a child's need for a stable and permanent home. [Minnesota Statutes, sections 260D.07 and 260D.08]

Relative search and American Indian children

For American Indian children, responsible agencies are required to engage in active efforts to prevent the breakup of the Indian family, and consider placement preferences under the Indian Child Welfare Act (ICWA). Minnesota Statutes, section 260.761, subdivision 7, requires local social service agencies considering placement of an Indian child to make active efforts to identify and locate extended family members.

Active efforts under ICWA requires responsible agencies to notify designated tribal representatives of a child's tribe to seek guidance and advice in case planning, determine available family and tribal resources, and work with a child's tribe and family to develop an alternative placement.

This relative search notice does not alter or supersede in any way the notice provisions of the Indian Child Welfare Act of 1978.

Noncustodial parent

When a child is removed from a parent's care and placed in the care of a noncustodial parent, a child is not in foster care, and relative search is not required. [Minnesota Statutes, sections 260C.007, subdivision 18, and 260C.201.]

Trial home visit

A relative search and notice is required when a child is placed in a trial home visit. The responsible social service agency has custody of children during trial home visits, and the time counts towards permanency. It is encouraged that a relative search and notice be focused to include the relatives in case planning and supporting reunification, rather than focusing on foster care placement. The sample letter (Attachment A) may be edited for that purpose.

Definition of relative

Relative search required under Minnesota Statutes, section 260C.221, is broad. Thus, definitions of a relative include, but are not limited to:

- Paternal relatives
- Maternal relatives
- If age appropriate, asking a child who they consider as family members
- Individuals a child resided with in the past
- Individuals who have significant contact with a child
- Tribal members.

It is permissible for a relative search to include relatives of a parent who is not adjudicated. The agency must also follow the legal steps required to identify parents in Minnesota Statutes, section 260C.150.

Agency efforts to identify relatives

Agencies are required to make diligent efforts to identify relatives. For ICWA cases, the agency effort must meet active effort requirements. In order to identify relatives, agencies shall:

- Ask parents for the names and contact information of relatives
- Use internet and other reasonable means to locate relatives; all agencies should have access to LexisNexis through a state grant
- Ask a child who they consider to be family members and friends
- Identify individuals a child has significant contact with and has resided with in the past
- Consider relative placement whenever a child must move from, or return to, foster care
- Continue to involve relatives who have responded to the notice of need for foster care, as appropriate.

At any time during juvenile protection proceedings, the court may order an agency to reopen its relative search when in a child's best interest.

Best practice encourages agencies to ask parents to identify relatives when an agency first becomes involved with children at risk of removal to support family preservation. Ideally, agencies will develop practice guidelines for caseworkers to ensure that a comprehensive relative search and notice is completed at the time of placement.

Notice letters

A sample relative notice letter was developed and available in Social Services Information System external documents. [Attachment A] The content of the sample letter is consistent with federal and state requirements, and addresses the following:

1. Child's need for a foster home, the option to become a placement resource for a child, and the possible need for a permanent placement. In the case of a trial home visit, this area may note that a foster home placement is not currently needed because the child is placed in the care of the parent, with agency supports.
2. Relative's responsibility to keep the agency and the court informed of their current address in order to receive permanency progress review hearing notices.
3. Relatives may ask to participate in the care and planning for a child. Participation in the care and planning includes, but is not limited to:
 - Participating in case planning for the parent and child.
 - Identifying the strengths and needs of the parent and child.
 - Supervising visits between the parents and child.
 - Providing respite and vacation visits for a child.
 - Providing transportation to appointments.
 - Suggesting other relatives who might be able to help support the out-of-home placement plan.
 - Helping maintain a child's regular activities and contact with relatives and friends, to the extent possible.
4. Child foster care licensing requirements, including how to complete an application, and how to request a variance from licensing standards and supports.
5. Relative's right to be notified of any court proceedings regarding a child, to attend the hearings, and opportunity to be heard by the court.
6. Relative's responsibility to provide a current address to the responsible agency, and relative forfeiting the rights to receive notice of permanency progress hearings when a current address is not provided.
7. A relative's decision not to be identified as a potential permanent placement or participate in case planning for a child at the beginning will not affect consideration for placement later.

Disclosing private data

An agency may disclose private data for the purpose of locating and assessing a suitable placement for a child. The agency shall disclose private data, if necessary, to facilitate relative placement, and to ensure that a relative is informed of the needs of a child so that

they can participate in case planning, and support services provided to a child and parent(s).

Agency staff should consult with county or tribal attorneys about specific data practices questions when disclosing information about relatives who have been identified as part of agency search efforts.

Engaging parent(s) in the relative search process

Relative search efforts should include talking with a child's parents about their extended family and kin, explaining that it is in a child's best interest to preserve family relationships and connections. This includes explaining to parent(s) that it must first consider relatives as a placement option, with the concurrent goal of supporting reunification and permanency with a relative, if a child cannot safely return to the parent's care.

Collaboration with relatives

Agencies have continued responsibility to involve identified relatives who respond to the notice. This involvement includes, but is not limited to, participating in the case plan, and maintaining contact with a child, including visitation.

Engagement with a child

Relative search efforts require agency staff to ask a child, in an age appropriate way, who they consider family members and important friends. This includes asking a child who they have lived with or had significant contact with.

Court review of relative search and notice

Minnesota Statutes, section 260C.221, requires the responsible agency to report on the status of the relative search and notice to the court.

At a regularly scheduled hearing, not more than three months after foster care placement, the following is reported to the court:

- Efforts to identify and engage maternal and paternal relatives, including an agency's efforts to talk with a child and their parents about relatives and kin, and use of internet or other electronic means of conducting a search
- Documentation that relatives have been provided notice
- Disclosure of the relatives identified, searched for and contacted that maintains the privacy of relatives
- Documentation of an agency's placement decision with a relative, using the child's best interest factors from Minnesota Statutes, section 260C.212, subdivision 2, if foster care placement is made with a relative
- Documentation of agency efforts to ask relatives to visit or maintain contact with a child to support family connections if foster care placement was made with a nonrelative.

The court may find that an agency has made reasonable efforts to conduct a relative search to identify and properly notify relatives. For American Indian children, the court must find that an agency has made active efforts to conduct a relative search and notify relatives.

If the court is not satisfied that an agency has exercised due diligence, it may order an agency to continue its search and notice efforts, and to report back to the court.

At any time during juvenile protection proceedings, the court may order an agency to reopen its relative search when it is in a child's best interest.

Permanency placement considerations

If an agency determines that permanency placement proceedings [Minnesota Statutes, section 260C.503] are necessary because there is likelihood that a child will not be reunified with their parents, agencies must send a written notice or ask the court to modify, or relieve the agency of the permanency notice requirement. [Minnesota Statutes, section 260C.221]

If an agency has a child placed in a home that has committed to adopting the child, or accepting permanent physical and legal custody, the permanency notice is not required. It is recommended that the court be notified that the relative notice is not being sent due to the commitment of current caregiver(s).

If the court does not address this requirement, or a child is not placed in a home that has made a permanent commitment to the child, a relative notice at the permanency proceedings must be sent to the following:

- Identified adult relatives
- Adults whom a child is currently living with, or has lived with for one year or longer in the past, and
- Any adults who have maintained a relationship with, or have exercised visitation.

The relative notice at permanency must state that a permanent home is being sought for the child and individuals receiving the notice may indicate to the agency their interest in providing a permanent home within 30 days of receiving the notice.

Additional resources

[Fostering Connections](#) to Success and Increasing Adoptions Act of 2008. Child Welfare Information Gateway.

Americans with Disabilities Act (ADA) Advisory

This information is available in accessible formats for people with disabilities by calling (651) 431-4670 (voice) (division's general information phone number) or toll free at (800) 627-3529 (include if available within the division) or by using your preferred relay service.

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For other information on disability rights and protections, contact the agency's ADA coordinator.

Relative search letter sample Attachment A

Date:

To: Name
 Address

From: Name
Agency: Agency Name
Address: Agency's Address

RE: Child: _____ Child's date of birth: _____
Parent: _____
Parent: _____

Dear Name:

You have been identified as a relative or kin of the child named above. This letter is to inform you that this child is in need of foster care.

This agency is currently planning for the child and needs help from extended family members and others who know the child. Minnesota law requires this agency to identify and notify maternal and paternal relatives before foster care placement, or within 30 days after the child's placement. This agency is required to first consider relatives for foster care placement, and help relatives participate in care and planning for the child. You can help your relative child and their parents by:

- Sharing information about the child's family, such as names of other relatives or significant people in the child's life
- Sharing family history, including medical history
- Asking the agency about helping the child during foster care placement
- Considering whether you are willing to become the child's foster parent, and if so, asking agency staff to consider placing the child in your home.

To help the child and their parents, please contact this agency as soon as possible. When you call the agency, staff will explore foster care placement and other options to participate in the care and planning for the child. If you want to respond in writing, a form for that purpose is enclosed.

Foster care placement

All foster parents, including relatives, must be licensed. To be a foster parent for the child, you must apply for a foster care license. You can ask agency staff for help with the licensing process. The agency may vary some licensing requirements for relatives. If a specific licensing requirement cannot be met in your home, and it does not pose a safety risk or affect the child's health, you may ask the licensing agency for a variance. All foster parents receive the same supports, including foster care payments and other services to help keep children in their care.

Court reviews and permanency planning

Foster care is temporary. State and federal laws limit the time a child can remain in foster care and requires the court to routinely review child foster care placements. A decision to not be a placement resource now shall not affect later consideration.

As the child's relative, you have the right to ask to be notified of court hearings regarding the child. Relatives may attend hearings and have the opportunity to be heard by the court. If the child cannot be safely returned to the care of their parent(s), this agency must seek a permanent home for the child. Future notices of court hearings and the need for a permanent home will be sent to relatives who respond to this notice, unless the court relieves the agency of the permanency notice requirements. To receive future notices about court hearings, contact the court administrator at (phone number). Include the court number for the child (MNCIS number) to ensure the court sends the correct notice to you. If your mailing address changes, let the agency and the court know as soon as possible. Without a current address, future notices may not be delivered.

More information

More information is available on the Minnesota Department of Human Services' website about foster care for relatives. The ways relatives may participate in the care and planning for a child, and foster care licensing standards, are included in the "[Family Matters](#)" brochure. If you do not have access to a computer, contact the agency and it will provide a copy of "Family Matters" or DHS-4672.

If you can help this child in any way, please contact me at phone number and email address. If you prefer to respond in writing, return the enclosed form to me. The agency address is:
Agency Address

Sincerely,

Name, Title

Kinship Reply

Child's name: _____ Child's date of birth: _____

Name _____

Current address: _____

Phone number: _____

Email: _____

Relationship to child:

I received your letter and am available to care for this child at this time: Yes No

I am interested in receiving a notice if a permanent home is needed in the future: Yes No

I am not able to care for the child at this time because

I would like to participate in planning for the child: Yes No

I am willing to stay involved in the child's life, including one or more of the activities listed below:

- Provide respite
- Provide child care
- Take the child to family reunions and celebrations
- Attend school activities
- Transport the child to appointments (this may require special training)
- Invite the child to cultural or spiritual events
- Invite the child to a movie or other activity
- Help the youth find a job, or other activities that develop independent living skills
- Share family history with the child
- Other

Information about other relatives:

| Relative's name | Relationship | Address | Phone |
|-----------------|--------------|---------|-------|
| | | | |
| | | | |
| | | | |

Signature of relative _____ Date _____