



# Bulletin

**NUMBER**

#15-68-05

**DATE**

May 1, 2015

**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 1, 2017

## 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**

Re-issue policy guidance regarding 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.

This bulletin is re-issued to include information about Northstar Kinship Assistance, the Relative Guardianship Assistance Program.

**CONTACT**

Deborah Beske Brown, agency policy specialist  
Child Safety and Permanency Division  
651-431-4731, [Deborah.beske.brown@state.mn.us](mailto:Deborah.beske.brown@state.mn.us)

**SIGNED**

JAMES G. KOPPEL  
Assistant Commissioner

**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**

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 exercise due diligence to identify and notify all 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 due diligence efforts required for Minnesota child welfare agencies to identify and notify relatives. Including information on Northstar Kinship Assistance, the Relative Guardianship Assistance Program

## **Federal law**

The Fostering Connections to Success and Increasing Adoptions Act of 2008 directs child welfare agencies that have responsibility for placement and care of foster children to have a mechanism in place to identify relatives, and notify all 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, state and local 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 relative guardian assistance
- Explain the options that may be lost by failing to respond to the notice.

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

## **Permitted exceptions for relative search**

Minnesota Statutes, section 260C.221, requires child welfare agencies to conduct a comprehensive relative search, and notify adult relatives prior to or within 30 days of placement. The federal Department of Health and Human Services, Administration for Children, Youth and Families, permits states to define exceptions to relative search requirements in [Program Instructions 10-11](#).

Minnesota child welfare agencies can make the following exceptions to the relative search and notice requirements:

- Cases of domestic violence and family violence where safety is a concern
- Placement of a child for the purpose of treatment under Minnesota Statutes, Chapter 260D, in a residential treatment facility consistent with Minnesota Statutes, section 245.4885; or determination of institutional level of care, home and community-based waiver under Minnesota Statutes, section 256B.092.

When a parent makes an explicit 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 identified relative would endanger the parent, guardian, child, sibling or any family member.

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

In cases of voluntary placement 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 through 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 identified 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; and 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 breakup of an 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 it is not 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 the purpose of a relative search and notice be focused to include the relatives in case planning and supporting reunification rather than focus on foster care placement. The sample letter in attachment A may be edited for that purpose.

## **Definition of relative**

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

- Paternal relatives of a child
- Maternal relatives of a child
- 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 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, agency efforts must meet active effort requirements. To identify relatives, agency staff shall:

- Ask parents for the names and contact information of relatives
- Use internet and other reasonable means to locate relatives; currently, 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 had 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 responsibility to appropriately involve relatives who have responded to the notice of need for foster care.

At any time during the 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, an agency will develop practice protocols 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 has been developed, and is available in SSIS 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 their parent(s), 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(s) and child.
  - Identifying the strengths and needs of the parent (s) and child.
  - Supervising visits between parent(s) 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 available supports.
5. Relative's right to be notified of any court proceedings regarding a child, to attend hearings, and opportunity to be heard by the court.
6. Relative's responsibility to provide a current address to the responsible agency and the relative forfeiting the right to receive notice of permanency progress hearing when a current address is not provided.
7. A relative's decision not to be identified as a potential permanent placement resource or participate in case planning for a child at the beginning shall not affect whether they are considered for placement later.
8. Information about availability of Northstar Kinship Assistance and Northstar Adoption Assistance by including a copy of [Paths to Permanency](#). (DHS 7024A)

## 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 particular relatives who have been identified as part of agency search efforts.

## **Engaging parent(s) in the relative search process**

An agency's relative search efforts should include talking with a child's parents about their extended family and kin, explaining that it is in the child's best interest to preserve family relationships and connections. Explain to parent(s) that the agency 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 their parents' 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, maintaining contact with a child, and exercising visitation rights.

## **Engagement with child**

Relative search efforts require agency staff to ask a child, in an age appropriate manner, 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 the regularly scheduled hearing, not later than three months after foster care placement, an agency reports the following to the court:

- Efforts to identify and engage maternal and paternal relatives of a child, 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 individual relatives, and
- If foster care placement is made with a relative, 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, or

- If foster care placement was made with a nonrelative, documentation of agency efforts to ask relatives to visit or maintain contact with the child to support family connections.

If the court is satisfied that an agency has exercised due diligence, 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, the court may order an agency to continue its search and notice efforts, and to report back to the court.

At any time during the 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 consideration**

If an agency determines that the 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 permanency 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 prior to permanency proceedings must be sent to the following:

- Identified adult relatives
- Adults whom the 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 the child, or have exercised visitation.

The relative notice at permanency must:

- State that a permanent home is being sought for the child and the individuals receiving the notice may indicate to the agency their interest in providing a permanent home within 30 days of receiving the notice.
- Include information about the availability of Northstar Kinship Assistance and Northstar Adoption Assistance, by including a copy of [Paths to Permanency](#). [DHS 7024A)]

## **Northstar Adoption Assistance or Kinship Assistance**

Northstar Adoption Assistance or Kinship Assistance is available to support permanency for eligible children. For relatives who commit to permanency for children in their care additional services and financial benefits are available to support a child. Relatives should ask the county or tribal caseworker about eligibility, licensing, commitment and other requirements under Northstar Adoption Assistance or Kinship Assistance. The “Paths to Permanency” brochure has a description of the options and benefits for children and relatives choosing permanency.

## **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) or toll free at (800) 627-3529 or by using your preferred relay service. For other information on disability rights and protections, contact the agency’s ADA coordinator.

Social Service Information System, April 2015  
Relative search letter sample and form  
Attachment A

Date:

To: Name  
Address  
Any town, MN 5-----

From: Name  
Agency  
Address – line 1  
Any town, MN 5-----

RE: Child                      Child's date of birth:

Dear Mr. and Mrs.        :

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.

Agency staff is making plans to meet the best interests of this 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 a 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 agency staff about helping the child during foster care placement.

Consider whether you are willing to become the child's foster parent, and if so, ask agency staff to consider placing the child in your home.

To help the child and their parents, contact this agency as soon as possible, 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

Name  
Date  
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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 regular court reviews of 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.

### **Northstar Adoption Assistance or Kinship Assistance**

Northstar Adoption Assistance or Kinship Assistance is available to support permanency for eligible children. For relatives who commit to permanency for children in their care, additional services and financial benefits are available to support the child. Relatives should ask the county or tribal caseworker about eligibility, licensing, commitment and other requirements under Northstar Adoption Assistance or Kinship Assistance. The "Paths to Permanency" brochure has a description of the options and benefits for children and relatives choosing permanency.

### **More information**

More information is available on the Minnesota Department of Human Services' website about foster care for relatives and permanency planning as follows:

- 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
- Adoption and custody options for relatives and foster families are available in the ["Paths to Permanency"](#) brochure.

If you do not have access to a computer, contact the agency and it will provide a copy of "Family Matters" or "Paths to Permanency."

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

Name  
Address  
Any town, MN 5----

Sincerely,

\_\_\_\_\_, Director  
County Social Service Agency

**Social Service Information System Kinship Care Form**

Child's name: \_\_\_\_\_ Child's date of birth: \_\_\_\_\_  
 Name  
 Current address:  
 Phone number:  
 Email:  
 Relationship to child:

**Please answer yes or no, or fill in the answer below:**

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:  
 (Please check)

- 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:** \_\_\_\_\_