

NUMBER

#19-68-09

DATE

April 18, 2019

OF INTEREST TO

County Social Services
Directors

Tribal Social Services
Directors

Social Services Supervisors and
Staff

County Attorneys

Tribal Attorneys

ACTION/DUE DATE

Please read information
and implement

EXPIRATION DATE

April 18, 2021

Relative Search, Notice and Consideration in Placement Cases

TOPIC

Minnesota Statutes, section 260C.221, requires relative search, notice, and consideration consistent with Title IV-E requirements. [42 United States Code 671(a) (19) and (29)]

PURPOSE

Update policy guidance in bulletin #16-68-08 regarding due diligence to search for, notify and consider placement with relatives when a child goes into foster care.

CONTACT

Child foster care: dhs.csp.fostercare@state.mn.us

Adoption and permanency: northstar.benefits@state.mn.us

Indian child welfare: DHS.ICWA.MIFPA@state.mn.us

SIGNED

NIKKI FARAGO
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.

I. Overview

Minnesota law recognizes the importance of relatives and their connections in children's lives. Relative placement and contact helps support the transmission of a child's cultural, ethnic and family identity and legacies, all vital components of children's psychological development and emotional integrity.

Statewide performance measures for relative care are calculated by the percentage of days foster children spend in the care of relative foster parents of all the days children were in family foster care settings. In 2014, 35 percent of days were spent with a relative, increasing to more than 48 percent in 2017. [[Foster Care Fact Sheet](#)] The [Child Welfare Data Dashboard](#) provides additional data on relative care measures.

This bulletin summarizes and clarifies due diligence efforts required for Minnesota child welfare agencies to search for, notify, and consider placement with relatives. Content of this bulletin includes:

- Minnesota law
- Indian Child Welfare Act (ICWA) requirements
- Diligent efforts to search for relatives
- Diligent efforts to notify relatives
- Diligent efforts to consider relatives
- New Social Service Information System (SSIS) screen to document relative search
- Court reviews of relative search efforts
- Permanency
- Exceptions to relative search.

II. Minnesota Law

Minnesota Statutes, section 260C.007, subdivision 27, defines relative as a person related to a child by blood, marriage, or adoption; the legal parent, guardian, or custodian of a child's siblings; or an individual who is an important friend with whom a child has resided or had significant contact.

Minnesota Statutes, section 260C.007, subdivision 32, defines sibling as one of two or more individuals who have one or both parents in common through blood, marriage or adoption. This includes siblings as defined by child's tribal code or custom. Sibling also includes an individual who would have been considered a sibling but for a termination of parental rights of one or both parents, suspension of parental rights under tribal code, or other disruption of parental rights such as the death of a parent.

When a child first enters foster care in Minnesota, child welfare agencies are required to consider placement with a relative without delay, based on the best interest of a child. The court must ensure that child welfare agencies use reasonable, or active efforts when an Indian child, to prevent out-of-home placement, to reunite families, and to finalize an alternative placement plan if reunification is not an option. Reasonable and active efforts must involve due diligence by a child welfare agency to conduct a relative search, identify and provide notice to adult relatives either prior to a child's placement or within 30 days after removed from parent(s).

[Minnesota Statutes, sections 260.012 (e) (3), and 260C.221 (a)]

Based on the above requirements, the following provisions apply:

- The definition of relative also includes maternal and paternal relatives, siblings' adoptive parents, custodial parents and relative custodians, and individuals with whom a child has resided or had significant contact
- Placement decisions must first consider individuals related to a child by blood, marriage or adoption
- Diligent search, notification, and consideration of fit and willing relatives without delay is a continuous process that applies whenever children must move from or be returned to foster care
- Relatives must receive notice whether they live in Minnesota or outside the state
- At any time during the course of juvenile protection proceedings, courts may order agencies to reopen relative searches when it is in a child's best interest to do so
- Throughout the life of a case, agencies must continue to involve relatives who respond to an agency's relative notice
- Courts will determine the adequacy of an agency's relative search, notification, and consideration process, and whether due diligence occurred involving relatives.

A. Due Diligence and Reasonable Efforts

Minnesota Statutes specifically use the term due diligence when describing agency efforts towards the relative search, notification and consideration process. Due diligence requires this process to be comprehensive in scope; agencies gather all necessary information so the best decision-making activities occur.

Due diligence requires that child welfare agencies be able to detail what has been done to:

- Identify adult maternal and paternal grandparents, aunts/uncles and other relatives
- Provide notice to those who have been identified, and
- Consider relatives who responded to an agency's relative notice.

The goal of due diligence is to ensure that as many family members as possible are identified, invited to participate in case planning, Family Group Decision Making conferences, and screened on safety issues to ultimately work together as a family to support the needs of a child throughout their lifetime. An agency must document its efforts and report this information to the court for a determination of diligent efforts. [Minnesota Statutes, section 260C.193, subdivision 3 (b)]

III. ICWA Relative Search Requirements for Indian Children

There are additional relative search, notification and consideration requirements if the local social services agency or private child-placing agency has reason to believe that a child is or may be an Indian child. Local

agencies must follow placement preferences which include seeking placement with extended relatives, unless there is an established placement preference requirement through tribal resolution by a child's tribe(s).

[25 Code of Federal Regulations, 23.130 and 23.131]

Minnesota law follows provisions of federal minimum standards of ICWA, supported through Minnesota Statutes, section 260C.168 (Minnesota Indian Family Preservation Act, or MIFPA). Minnesota Statutes were amended in 2015 to provide a new definition for relative of an Indian child to distinguish that a relative is unique for Indian children. This change clarifies that a child's tribe, in addition to their family, determines who is defined as a relative.

Any agency considering placement of an Indian child must make active efforts to identify and locate extended family members, and continuously consult with an Indian child's extended family members and tribe(s) about cultural connections, family structure, and provide support services.

[Minnesota Statutes, sections 260.761, subdivision 7, and 260.762, subdivision 3(4)]

For foster care pre-adoptive and adoptive placements, preference must be given to a member of an Indian child's extended family, unless there is good cause to the contrary. The order of preference may be changed if a tribe establishes a different order by resolution, and a placement is the least restrictive setting appropriate to meet the needs of a child.

Agencies are required to follow an established placement order and document efforts to follow these preferences. Each placement needs to be given consideration in descending order for foster care and pre-adoptive placement, as follows:

1. Tribal placement preference, if established through tribal resolution
2. A member of Indian child's extended family
3. A foster home licensed, approved, or specified by Indian child's tribe
4. An Indian foster home licensed or approved by an authorized non-Indian licensing authority
5. An institution for children approved by Indian tribe or operated by an Indian organization which has a program suitable to meet a child's needs.

Each placement needs to be given consideration in descending order for adoptive placement, as follows:

1. Tribal placement preferences, if established through tribal resolution
2. A member of Indian child's extended family
3. Other members of Indian child's tribe
4. Other Indian families.

Consideration can be given to an Indian child or their parents' preferred placement, but is not the sole consideration when contemplating foster care or pre-adoptive and adoptive placements. Tribal input in this decision should be given consideration.

For ICWA cases, child welfare agencies must make efforts that meet active effort requirements. It is recommended that the local agency, or any party seeking placement, document the search so it is reflected in the record. To identify relatives, agencies shall:

- Ask parents for the names and contact information of relatives
- Fill out ICWA/MIFPA genogram with parents and relatives (DHS-5227B)
- Use internet and other reasonable means to locate relatives
- Ask child, of an appropriate age, who they consider to be family members and friends
- Identify individuals with whom 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.

The above relative search process does not alter or supersede other provisions of the ICWA and MIFPA.

Where applicable, child welfare agency duties under the ICWA regarding active efforts to prevent breakup of an Indian family are required to meet placement preferences, including taking the following steps:

- Review child's case file for information regarding relatives
- Use internet search tools to locate relatives identified as supports
- Continuously consult tribe(s) with which a child is affiliated for assistance in identifying placements
- Conduct diligent follow up with all potential relative placements
- Ask school staff and neighbors
- Use the federal Parent Locator service
- Utilize tools to help child or parents identify relatives, including a genogram, ecomap and other methods
- Search court, school, and child care provider records
- Review juvenile justice records.

This information does not address all ICWA/MIFPA requirements; refer to the attached resource list for information about additional requirements, or email DHS.ICWA.MIFPA@state.mn.us.

IV. Diligent Efforts to Search for Relatives

A. Duration

A relative search may begin before placement but must begin no later than 30 days after a child is placed out of the home. When a relative is located, notice of placement must be provided. The court will review a child welfare agency's efforts to search for relatives at the three-month review hearing, and may order an agency to continue recruitment of relatives, if it determines an agency has not performed a proper search.

In the event that efforts to locate relatives or kin are unsuccessful, based on information provided by parents, child, or collaterals, a diligent search continues. Minnesota law does not relieve child welfare agencies of the duty to search for relatives because a child is placed with a relative, or the initial identification of relatives does not uncover the identity or location of a relative. This duty continues as

new information is gathered throughout the life of a case, or until the court relieves an agency of the duty to search for relatives.

If a subsequent placement becomes necessary and other relatives might be available as foster care providers, child welfare agencies must renew the search for relatives.

It is critical for practitioners to ensure that a relative search is thorough and does not stop because a child is placed with a relative. This practice allows for more options to be explored, increasing the likelihood that a permanency option is found.

B. Child Engagement

[Minnesota Statutes, section 260C.221 \(b\)](#), requires agencies to ask a child (in an age-appropriate manner) about who they consider to be family members and important friends with whom they have lived or had significant contact. This may involve asking a child about relatives by using thoughtful and probing questions, such as: Where do you usually go for family gatherings? Do you call anyone granny, grandpa, nana, auntie, or uncle, etc? Who helps you when you need assistance? Charts and graphs, such as ecomaps, might be helpful in engaging children in the relative search process.

C. Parent Engagement

All relatives or kin known to parents may prove useful in helping agencies develop a comprehensive list that includes all relatives to contact. A parent with a legal parent and child relationship as defined in [Minnesota Statutes, section 260C.007, subdivision 25](#), includes the following:

- A child and a biological mother, by proof of her having given birth to the child.
- A child and father, when there is:
 - A presumption of paternity and no action has been taken to declare the nonexistence of a father and child relationship.
 - A presumption of paternity and an adjudication of paternity, or the father and mother have signed a recognition of parentage, having the effect of an adjudication.
 - A presumption of paternity and an adjudication of paternity.
 - No presumption of paternity but the father has been adjudicated by court order.
 - No presumption of paternity but the father and mother have signed a recognition of parentage, having the effect of adjudication.
 - A positive test result and is adjudicated as the father of a child, either by court order or because the father and child's mother have signed a recognition of parentage, having the effect of adjudication.
- Parent and child relationship is established under section 260.755, subdivision 14.
- A child and an adoptive parent by proof of adoption.

Some questions to ask parents (or legal custodians) include the following:

- If you cannot care for your child, who would you trust with their care?
- Who does the child live with? What is the relationship of the child to these household members? How long have these household members lived with the child?
- Do you know other relatives of the child on either the mother's or father's side? What is their contact information?
- Does the child have siblings, including half-siblings, adopted siblings, or step-siblings? What is their contact information?
- Does the child's family have any close friends? Are there individuals the child refers to as "uncle" or "aunt," but are not directly related to the family. Do you know their contact information?
- How would you describe the child's relationship with these relatives and close family friends?
- How big is your family?
- If you have family reunions or celebrations, who organizes them? Who attends these gatherings?
- Does anyone keep a list of relatives or a family tree?

D. Parent(s) Objecting to a Relative Search

If parents refuse to give an agency sufficient information to identify maternal or paternal relatives of a child, agency staff can ask the juvenile court to order parents to provide the information.

If a parent has fears of domestic violence if a specific relative is notified, information about exceptions to relative search is on page 16 of this bulletin.

E. Individuals Who are Important Friends or had Significant Contact

Important friends or individuals with significant contact may include, but not limited to:

- Current and former neighbors, foster parents, guardians, caregivers and child care providers
- Current or former teacher, counselor, special education professional, medical professional, or coach
- Individuals who have called about the child, visited child, provided support for a family, or attended a court hearing.

Best practice is to work in partnership with the above collateral sources; they may want to be a placement and/or permanency resource for a child, and they may know of relatives not yet disclosed, or other persons who demonstrated an ongoing commitment to a child. Minnesota Statutes, section 260C.221, permits an agency to use any reasonable means to identify and locate relatives.

F. Other Resources to Locate Relatives

There are several search options for child welfare agencies in identifying relatives, including:

- PRISM, Minnesota’s Child Support Federal Parent Locator Service, is used to identify relatives. Child welfare agencies may access data related to a noncustodial parent and their relatives, as child support data is part of the welfare system by Minnesota Statutes, section 13.46. Child welfare agencies must coordinate with county PRISM administrators to access records and agency PRISM databases.
- Child welfare agencies may utilize internet-based searches such as [Lexis-Nexis Accurint](#) and [Seneca](#).
- Emergency contact sheets could identify someone who is a relative or other person who knows how to reach a relative that could serve as a permanency/placement option.
- Criminal justice agency rosters such as [Minnesota Department of Corrections Locator Service](#), may identify relatives who could provide information about other relatives. If there is a chance that a relative could provide valuable case information for a relative search in another state, that state’s department of corrections can be contacted.

V. Diligent Efforts to Notify Relatives

Once relatives are identified, child welfare agencies are required to provide them notice that a child is at risk of or needs out-of-home placement, and may need a permanent placement. Agencies must contact or send written notice within 30 days of placement, or when a relative is located. All relatives must be notified whether or not they have an existing relationship with the child. Even if a child is placed with a relative, or relatives may not be a placement option, they must still receive notice.

A notice must include the following, the:

- Child was or is being removed from custody of their parent(s)
- Options under applicable law to participate in the care and placement of the child, including options that may be lost by failing to respond to the notice, and
- Requirements to become a foster parent, and additional services and supports available for children placed in a home.

The form [Child Foster Care Notice to Relatives \(DHS-3799\)](#) has each of the required elements.

A. Sending Notice to Identified Relatives

Agencies send the notice to a relatives’ last known address or contacts them by phone if an address is not known, or if an agency prefers this method of contact. Minnesota and out-of-state relatives identified after the first 30 days of placement, or those who come forward at a later date, are notified as soon as possible, no later than 30 days after learning of them. Agencies document relatives notified by letter or phone.

It is recommended that agency staff document when notices are returned as undeliverable, and efforts to obtain a new address or phone number for a relative. It may be necessary to accommodate a relative with a disability, or providing an interpreter to explain the notice and answer questions.

B. Identifying Other Relatives through Notification

When a child welfare agency notifies and talks to any friend or family member, it is an opportunity to ask questions such as whether they know of other friends and/or family members, and where they can be located. Agency staff document information gathered from these encounters, including the name and address of the person who provided the information. Any information discovered during this phase may prove useful for permanency planning at a later date.

C. Agency's Continuing Responsibility to Relatives Responding to Notice

Agencies must appropriately involve relatives who respond to a notice throughout a case. Relatives respond to the notice by providing contact information (such as email, mailing address or phone number), and indicating their interest in being considered for placement or participating in the care and planning for the child. Relatives who are not placement options may participate in care and planning, including participating in case planning for child and parent; identifying parents' or child's strengths and needs; supervising parent/child visits; providing respite and vacation visits; providing transportation to appointments; and helping child to preserve their relationships with family and friends. Relative's initial response may be that they are not interested in being considered, but later contact the agency and request consideration. Relatives cannot be ruled out based solely on their initial decision to not be a placement or permanency resource, or for not stepping forward right away. When relatives request, they are to be considered.

D. Documentation and Court Reports

An agency shall document its efforts to identify, engage and provide notice to relatives, and provide to the court at a regularly scheduled hearing, but no later than three months after a child's placement. This documentation includes:

- Efforts to identify maternal and paternal relatives
- How relatives were engaged in providing support to a child and family
- A list of relatives who were provided notice
- Decisions regarding placement, and asking relatives to visit or maintain contact with the child when placement with a relative is not possible or appropriate.

E. Placement Changes

Relative search results are revisited and updated when a child's placement is subject to change, including when placements disrupt. Consider relatives who responded to the initial search and update them on recent information about the child, including educational needs. Relatives may change their minds about being a permanency option.

Look for anyone who called about the child, provided support for the family (including the parents), attended a court hearing, visited the child, sought placement at an earlier time in the child's life, and have an education-related connection, such as teachers, counselors, special education professionals, coaches and administrative staff.

VI. Diligent Efforts to Consider Relatives

Considering relatives means to assess or determine if a relative who responds to a notice can safely meet the individual needs of the child by considering the best interest factors as defined in Minnesota Statutes, section 260C.212, subdivision 2; or if it is in the child's best interest to involve a responding relative in their care and case planning.

A. Disclosure of Private Data

Child welfare agencies may disclose private data, if necessary, to facilitate relative placement to ensure they are informed of the needs of a child so they can participate in case planning, and support all services provided to a child and parent. It is recommended that child welfare agencies consult with their county or tribal attorneys about specific data practice questions when disclosing information about particular relatives identified as part of an agency's search efforts.

B. Consider Relatives Individually

A child's individualized best interest factors are used by agency staff to consider how each relative may be an appropriate placement and/or permanency option, as required by Minnesota Statutes, section 260C.212, subdivision 2.

Agency staff must consider placing children with relatives and important friends in the following order:

- An individual who is related to child by blood, marriage or adoption, including the legal parent, guardian, or custodian of child's sibling
- An individual who is an important friend with whom child has resided or had significant contact. The designation of important friend is based on a child's relationship to a person, not the relationship between that person and child's birth parent or relative.

Agency staff must consider the following 10 factors in determining individual needs when making placement decisions, including the child's:

- Current functioning and behaviors
- Medical needs
- Educational needs
- Developmental needs
- History and past experience
- Religious and cultural needs
- Connection with a community, school and faith community
- Interests and talents
- Relationship to current caretakers, parents, siblings and relatives
- Reasonable preference, if the court, or child-placing agency in the case of a voluntary placement, deems a child to be of sufficient age to express preferences.

For an American Indian child, an agency must also consider their best interests, as defined in Minnesota Statutes, section 260.755, subdivision 2a.

It is important to have conversations with each relative about the child and their needs. Likely questions from relatives include how long a placement might last, and what the foster parent/foster child relationship entails. Share with relatives a child's activities or interests. Agency efforts to consider a relative include:

- Completing a series of phone conversations can help agency staff to build rapport with relatives. Conversations are to include information about the child, their needs, permanency plan, court processes, foster care licensing, and services that will support child's care.
- Visiting relatives in their homes and having a candid conversation about the child's need for a safe and stable placement, foster care licensing process, and variance options or set aside processes for background study disqualifications, case planning, family visitation, and caregiver's ability to provide daily care for the child. Provide complete information about supports, processes and training for foster parents to address placement stability.
- Connecting relatives to the individuals who provide education or other services for child, such as teachers, health care professionals, child care providers, and mental health providers who can be helpful to relatives as they consider child's needs. This will help relatives determine what level of involvement they would like to have in case planning, or being a placement or permanency resource.
- Explain the permanency goal and responsibilities of a foster parent, including case plan activities that support goals; their role and responsibilities in helping achieve goals; and the responsibilities of

a foster parent to meet child's educational and medical needs, and supporting them to be involved in typical age-appropriate activities.

- Coordinating child and relative visitation when it is safe and in a child's best interest. Preserving family connections is in a child's best interest unless it impacts their safety or well-being. Relatives may request visitation, or an agency may ask a relative to visit a child, or schedule respite care with a relative.
- Deciding that a relative is an appropriate placement option for a child, agencies may make an emergency placement and/or refer relatives to the appropriate licensing agency, or initiate an Interstate Compact Agreement for relatives living out of state. Agencies may consider more than one relative for a foster child.

C. Documenting Efforts when Considering Relatives

To ensure reasonable or active efforts are made, agency staff should document the steps taken when considering each relative. Record in case notes contacts with each relative who responds to a notice, including their information and requests made of the relative.

Examples include:

- Phone conversation with child's paternal grandmother. She indicated an interest in being considered as a placement option. Set up a home visit, and told her about child's school program next week. Suggested she plan to attend. Grandmother does not have transportation to the school; provided a bus card.
- Home visit with child's paternal grandmother; saw her home and completed the home safety check list. She has a bedroom for the child and is willing to provide day-to-day care for the child. Explained the foster care licensing process and provided an application. Also provided information about foster care payments and the child's well-being needs, including his medical and therapy appointments. Grandmother is concerned that she will not be able to transport the child to his appointment and school events. Group family conference is set up for next week; she will attend the meeting. It was explained at this meeting we will explore placement, transportation and support options. A visit with the child was set up for next week.
- Family Group Decision Making conference for an adopted child re-entering foster care is set up by the agency with the child's adoptive parents, their extended family and paternal aunt from her biological family who has remained in contact with them through a contact agreement to consider placement and permanency plans.

Documentation includes how a placement may be an appropriate permanency option based on child's individualized best interest factors.

D. Relatives Who Come Forward Later

Relatives who were not previously identified or did not initially contact an agency after receiving a notice must be engaged and considered for placement or participation in the care and planning for a child when they respond and desire to be considered. Relatives cannot be ruled out based solely on their prior decision to not be a placement or permanency resource, or for not stepping forward right away. Decisions to consider a relative are made as outlined in this section.

E. Relatives who are not Considered Placement Options

When an agency determines that a relative who responded to the notice is not suitable for placement, it documents the decision and the reason. Agencies have continued responsibility to appropriately involve relatives who do not meet placement needs of a child, as they can still contribute to the safety, permanency, and well-being of children in many ways, including:

- Attending Family Group conferencing
- Visiting children in care
- Providing respite care or transportation to school and other activities
- Maintaining cultural connections and family relationships.

Relatives who are not placement resources but are involved in the care and planning for a child should be noted in the case plan, court reports and SSIS, as appropriate.

VII. Using SSIS to Document Relative Searches

There are many ways to document the diligent search notice and consideration, which is necessary in maintaining connections with relatives. The form Relative-Kinship Search and Placement Considerations ([DHS 4524](#)) is used for this purpose.

A new option for documenting a relative search was included in the Social Service Information System (SSIS) 18.4 release. An SSIS screen was added to document a foster child's relatives. It is encouraged that the screen below be used to list a child's relatives. Additional enhancements will be requested to improve relative search documentation features.

- Alexander Beth, SSIS Case #1
- Case Details
- Case Clients
- Case Relationships
- Court Actions
- Workers
- Insurance Policies
- Fiscal Details
- Severity Misc CP Assessment
- Severity Facility CP Assessment
- Alexander Beth CP Assessment
- Closed Workgroups

Name	Relationship (Person 1 - Person 2)	Name (Person 2)	Status	Inactive Reason	Inactive Date	Inactive Reason Detail
Beth Alexander	Birth mother - Birth son	Grant Petri Alexander	Active			
Trisha Alexander	Sister - Brother	Samuel Robert Alexander	Active			
Beth Alexander	Birth mother - Birth daughter	Trisha Alexander	Inactive	Termination of parental rights	11/13/2003 12:10:57 AM	Involuntary (found by court or admitted by parent)
Beth Alexander	Birth mother - Birth daughter	Beatrice B Alexander	Active			
Beth Alexander	Birth mother - Birth daughter	Jackie Alexander	Inactive	Consent to adopt	9/30/2015 11:53:49 PM	
Beth Alexander	Birth mother - Birth daughter	Melinda P Alexander	Active			
Samuel Robert Alexander	Stepbrother - Stepbrother	Grant Petri Alexander	Active			
Trisha Alexander	Foster mother - Foster son	Grant Petri Alexander	Active			

Relationship

Person 1:

Relationship:

Lineage:

Person 2:

Relationship status

Status:

Inactive reason:

Inactive date:

Inactive reason detail:

Reestablished date:

at time of child's birth:

VPILOT\data
1/3/2019 12:21:18 PM
10%

VIII. Court Reviews of Relative Searches

Minnesota Statutes require that no later than three months after a child’s placement in foster care, the juvenile court review whether a child welfare agency made reasonable or active efforts to conduct the relative search, as required under [Minnesota Statutes, section 260C.221](#), and make an individualized determination to select a foster home that meets the needs of a foster child, as required under [Minnesota Statutes, section 260C.212, subdivision 2](#).

To meet the court review provisions in [Minnesota Statutes, section 260C.193, subdivision 3 \(b\)](#), and the Minnesota Rules of Juvenile Protection Procedure, Rule 38.04, the responsible social services agency reports to the court their efforts to identify, notify and consider maternal and paternal relatives of a child, including an agency’s efforts to engage with parents and children, and speak with them about relatives and kin, and use of the internet or other electronic means of conducting a search.

If the court finds that an agency did not make proper efforts, it may order agency staff to continue to search, notify and/or consider relatives. If a relative is available who qualifies to be licensed to provide child foster care, the court may order a child placed with that relative, consistent with child’s best interests.

If the court is satisfied that an agency has exercised due diligence, it may find that agency staff made reasonable efforts to conduct a relative search to identify and properly notify relatives. The court shall order agency staff to continue to engage relatives who responded to the notice, as well as relatives who come to the agency’s

attention at a later date. For American Indian children, the court must find that an agency made **active efforts** to conduct a relative search and notify them of child welfare involvement.

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.

[Minnesota Statutes, section 260C.193, subdivision 3; Minnesota Rules of Juvenile Protection Procedure, Rule 38.04]

IX. Permanency Placement Considerations

If an agency determines that permanency proceedings are necessary because it is likely that a child will not be reunified with their parents, agency staff must send a written notice of a child's need for a permanent home to:

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

In addition to stating a child's need for a permanent home, notices must state that individuals receiving a notice inform the agency of their desire to provide a permanent home. Notices must also state that relatives have 30 days from receipt of a notice to indicate their desire to be a permanent home, or they may lose the opportunity to be considered for permanent placement.

Exceptions to this requirement are when:

- An agency was relieved of this requirement by the court, or
- Child is placed with a caregiver who has committed to adopt or accept transfer of permanent legal and physical custody, and the agency approves of the caregiver as a permanent placement.

If an agency does not send the required permanency notice due to the commitment of child's caregiver(s), agency staff should notify the court of the reason why a permanency relative notice is not being sent. Agencies may ask the court to modify or relieve it of the permanency notice requirement.

[Minnesota Statutes, section 260C.221 (g) and (h)]

For information about tribal notification and ICWA/MIFPA requirements, review pages 4 and 5 of this bulletin and the resources in Attachment A.

A. Relative Search Requirements for Adoption

There are additional requirements regarding relative searches for children under guardianship of the commissioner. When a child is not in a pre-adoptive home, or a pre-adoptive placement is disrupting or has disrupted, agency staff are required by law to recruit an adoptive family for the child, based on an individualized determination of their needs using the best interest factors in [Minnesota Statutes, section 260C.212, subdivision 2](#). Reasonable efforts to recruit an adoptive family include:

- Completing and/or updating the relative search
- Giving notice of the need for an adoptive home to relatives who indicated an interest in being an adoptive resource, or newly located relatives
- Engaging relatives identified as an adoptive resource to commit to being an adoptive home.

An updated relative search is required by law when one of the following circumstances applies:

- A child under guardianship of the commissioner does not have an adoptive home, regardless of the court relieving an agency of relative search efforts
- A child's pre-adoptive placement disrupted for any reason
- The court determines an updated relative search is in child's best interest.

Remember that relatives who said they could not be a permanency or placement resource earlier in a child's case can and may change their mind at a later date. This is especially true when a child reaches permanency. Relatives who may not have been a placement or permanency resource initially due to their circumstances may become a permanency resource later. A relative who could not be licensed for child foster care initially due to a disqualification in their background study may be able to be licensed later, if enough time elapsed where a disqualification expired.

[Minnesota Statutes, section 260C.605]

When an agency is establishing eligibility for Northstar Adoption Assistance under Minnesota Statutes, section 256N.23, it must have conducted a relative search according to Minnesota Statutes, section 260C.221, and considered adoptive placement with a relative. This shows that an agency made reasonable, but unsuccessful, efforts to place a child in an adoptive home without providing Northstar Adoption Assistance. If an agency has not made efforts to conduct a relative search, including considering adoptive placement with a relative, it will not be able to establish child's eligibility for Northstar Adoption Assistance.

[Minnesota Statutes, section 256N.23, subdivision 2]

B. Relative Notification Requirements for Adoption Placement Agreements

Relatives must be notified of a fully executed Adoption Placement Agreement (APA) if they kept the court informed of their whereabouts, and have not been previously ruled out by the court as a foster or permanency placement resource. An agency ruling out a relative is not the same as a court making a written ruling. The court relieving an agency of further relative search efforts does not relieve it of the APA notification requirement.

[Minnesota Statutes, section 260C.613, subdivision 1 (c); In the Matter of the Welfare of the Children of: J. L. G., D. M., and J. T. B., Minnesota Court of Appeals (2018)]

C. Court Remedies for Relatives not Selected for Adoptive Placement

If a relative wishes to be considered for adoptive placement, or would like to be the adoptive placement, and an agency responsible for permanency planning for a child is either not considering them for placement, or selected a different placement for a child, relatives have two options as identified below.

1. Request for Consideration

Relatives can file a request for consideration with the court if they feel an agency did not reasonably consider their request to be an adoptive placement for a child. After reviewing a request, the court may order an agency to take appropriate action under [Minnesota Statutes, section 260C.212, subdivision 2](#), (consider a relative for adoptive placement using the best interest factors). For this type of request, a relative is not required to have an approved adoption home study in place.

[Minnesota Statutes, section 260C.607, subdivision 5 (b)]

2. Motion for Adoptive Placement

Relatives can also file a motion for adoptive placement with the court if they feel an agency was unreasonable in not making the adoptive placement with them. In this situation, a relative must have an approved adoption home study in place, regardless of the state in which they live. They must also establish a prima facie showing that an agency was unreasonable.

This motion can be filed even if a relative was ruled out by an agency after the court ordered it to consider the relative, as outlined above. However, the motion must be filed any time after a child is ordered under guardianship of the commissioner, but no later than 30 days after a relative received notice of a fully executed APA.

If the court determines a relative has established a prima facie showing, it may hold a hearing on the matter. The court may also dismiss the petition if it determines a relative did not establish a prima facie showing. If a hearing is held, the relative must show that an agency was unreasonable. Agencies will have an opportunity to present their case. After a hearing, the court may find an agency was not unreasonable, or it may order adoptive placement with the relative if it finds an agency was unreasonable in not making an adoptive placement with the relative.

[Minnesota Statutes, section 260C.607, subdivision 6]

X. Permitted Exceptions for Relative Search

This section covers three circumstances in which part or all of a relative search may be waived.

A. Exception for Domestic Violence Considerations

If 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, an agency must bring the parent's request to the attention of the court to determine whether the parent's request is consistent with child's best interests. Agencies must not send a notice or contact that relative until approval by the court to do so. If the juvenile court finds that contacting the specific relative would endanger a parent, child, sibling, or any family member, agencies must not send notice or contact that relative.

In cases where an agency knows that there is an existing order for protection or past domestic child abuse findings involving a specific relative, an agency must not send notice or contact that relative until the parent is consulted and the matter is brought to court.

This exception does not allow a parent to request that all relatives, whether maternal or paternal, not be contacted, unless a parent brings explicit requests regarding each specific relative. There is no legal basis for the court to waive relative search in its entirety under this exception.

[Minnesota Statutes, section 260C.221 (c)]

B. Exception for Voluntary Placements

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 or annual review hearing, agencies may conduct a relative search and notify relatives as part of an 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 needs. Agency staff will 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]

C. Exception for Safe Place for Newborns

When a child is placed in foster care under Safe Place for Newborns provisions, a relative search is not required, provided agency staff do not know the identity of a child, mother or father. Relative preference for placement is also not required under this circumstance. However, if the identity of a child, mother or father is known, relative search, notification, and consideration requirements apply.

[Minnesota Statutes, section 260C.139, subdivision 1]

Americans with Disabilities Act (ADA) Advisory

This information is available in accessible formats for people with disabilities by calling 651-431-3039 (voice) or by using your preferred relay service. For other information on disability rights and protections, contact the agency's ADA coordinator.