

NUMBER

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DATE

July 12, 2017

OF INTEREST TO

County Directors

Social Services Supervisors and
StaffTribal Social Service Directors
and Staff

County Attorneys

Tribal Attorneys

ACTION/DUE DATEPlease read information and
prepare for implementation**EXPIRATION DATE**

July 12, 2019

Overview of 2017 Child Welfare Legislation

TOPIC

2017 child welfare legislation

PURPOSE

Provide a summary of 2017 legislative actions that affect the delivery of child welfare services to children and families.

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JAMES G. KOPPEL

Assistant Commissioner

Children and Family Services Administration

TERMINOLOGY NOTICE

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

I. McKenna's Law: Informed and expanded right to counsel for children age 10 or older in juvenile court proceedings

A. Appointment of counsel for a child age 10 or older

Effective August 1, 2017, a court must appoint a public defender or other counsel at public expense for every child age 10 or older who desires counsel, but is unable to employ it, in connection with a juvenile court proceeding, except where the sole basis for a petition is habitual truancy.

The role of social service agencies in informing a child of their right to be represented by appointed counsel

The responsible social service agency must, within 14 days after filing a petition for a child in need of protection or services, or at an emergency removal hearing if child is present, fully and effectively inform them of their right to be represented by appointed counsel upon request. Agencies must also inform a child of their right to be represented by counsel within 14 days of their 10th birthday when a child is the subject of a petition for a child in need of protection or services or under guardianship of the commissioner. Agencies shall notify the court as to whether a child desires counsel.

At a minimum, agencies must share with a child:

- the fact that counsel will be provided to them without charge;
- that their communication with counsel is confidential; and
- that they have the right to participate in all proceedings on a petition, including the opportunity to attend all hearings.

B. Waiver

1. Waiver of any right a child has under Chapter 260C must be made voluntarily, intelligently, and in writing by a child after they have been fully and effectively informed of their right to counsel and after consulting with an appointed attorney.
2. Waiver of a child's right to counsel must be made voluntarily, intelligently, and in writing, by a child after they have been fully and effectively informed of their right being waived by the responsible social service agency and after consultation with an appointed attorney. A court must not permit a child's parent, other person legally responsible for their care, or child's guardian ad litem to waive their right to be represented by counsel.

C. Notice

Notice of review hearings must be given by the court to counsel appointed for a child. [Laws of Minnesota 2017, 1st Spec. Sess. chapter 60, sections 1, 2, 3 and 4]

II. Reimbursement to county agencies and American Indian Child Welfare Initiative tribes for the nonfederal share of out-of-home placement costs for Indian children

A. Eligible placements for reimbursement

Effective July 1, 2017, the nonfederal share of costs of out-of-home placements of children who are under age 18 and either members of, or eligible for membership in, an Indian tribe, and for whom a county or tribal social services agency has been assigned responsibility for children's placement or care are eligible for reimbursement by the state. An email was recently sent from the department to county directors regarding reimbursement for the nonfederal share of out-of-home placement costs for Indian children in calendar year 2016.

B. Determination of nonfederal share of costs

1. Reimbursement to county agencies

For aid payable in calendar year 2018 and thereafter, the Minnesota Department of Revenue must reimburse each county agency its proportionate share of the \$5 million annual appropriation that remains after aid for the two American Indian Child Welfare Initiative tribes (initiative tribes) has been paid. Each county agency's proportionate share is based on its nonfederal share of the cost for out-of-home placement of Indian children in the county in the previous calendar year that has been certified by the Minnesota Department of Human Services (department), provided that the department certifies to the Department of Revenue:

- that accurate data are available to make an aid determination, and
- the county agency is in substantial compliance according to the Indian Child Welfare Act compliance review system (effective in the second year and thereafter).

2. The Indian Child Welfare Act compliance review system

The Indian Child Welfare Act compliance review system must be developed by January 1, 2018, by the department in consultation with county and tribal agencies and will be implemented thereafter. That system may include cases to be reviewed, criteria to be reviewed to demonstrate compliance with the ICWA and Minnesota Indian Family Preservation Act (MIFPA), the rate of noncompliance and the coordinating penalty, the program improvement plan and training. The following will apply:

- If the department determines that a county agency is substantially out of compliance with the ICWA and MIFPA, as determined by the Indian Child Welfare Act compliance review system, the department must provide written notice to a county agency of its noncompliance and what actions are necessary by the county agency to improve and maintain compliance.

- If a county agency remains substantially out of compliance with the ICWA and MIFPA, as determined by the compliance review system, for a second consecutive year, a county is eligible for 50 percent of its aid beginning with the next certification and until the department certifies to the Minnesota Department of Revenue that a county agency is in substantial compliance and eligible for the aid payment.

3. Reimbursement to initiative tribes

The department must certify to the Minnesota Department of Revenue the reimbursement amounts received from the federal government for out-of-home placement costs from the previous calendar year received by each initiative tribe.

The amount of reimbursement to each initiative tribe shall be 5 percent of the reimbursement amount received from the federal government for out-of-home placement costs for the previous calendar year, or \$200,000, whichever is greater. [Laws of Minnesota 2017, 1st Spec. Sess. chapter 1, article 4, section 14]

III. Foster care re-entry for a child 18-21

Effective July 1, 2017, the state must fund, and the responsible social service agency must allow, individuals who had not been under guardianship of the commissioner of human services prior to age 18 to re-enter foster care after age 18 at their request. Agencies must provide services to increase an individual's ability to live safely and independently, and to meet eligibility criteria for a child to return to foster care until age 21. This expands these services to include individuals who left foster care within six months prior to their 18th birthday and who were not discharged to their home, adopted, or placed in a relative's home under transfer of permanent legal and physical custody under Minnesota Statutes, section 260C.515, subdivision 4. [Laws of Minnesota 2017, 1st Spec. Sess. chapter 6, article 7, section 32]

IV. White Earth Nation child protection funding allocation

Effective July 1, 2017, the legislature is providing additional funding to White Earth Nation to cover more of the actual costs the tribe is incurring for provision of child protective services to eligible children and families. This appropriation supports the tribe in providing child welfare services it knows to be culturally meaningful and effective with children and families. This will improve child safety, permanency and well-being outcomes for American Indian children served by the tribe. [Laws of Minnesota 2017, 1st Spec. Sess. chapter 6, article 7, section 2, subdivision 22(e)]

V. Anoka County foster care recruitment grant

Effective July 1, 2017, the legislature is funding a one-time allocation of \$75,000 for Anoka County to establish and promote family foster care recruitment models. The county social services agency shall use the grant funds

for the purpose of increasing foster care providers through administrative simplification, nontraditional recruitment models, and family incentive options; and develop a strategic planning model to recruit family foster care providers. [Laws of Minnesota 2017, 1st Spec. Sess. chapter 6, article 7, section 2, subdivision 22(d)]

VI. Improvements to child safety, case management practice, foster care, and permanency practice standards

Effective July 1, 2017, an appropriation funds additional department staffing to improve child safety assessment, foster care and permanency practice standards. These staff will monitor local agency practices related to child safety assessments and adherence to state and federal guidance on practice standards when children are in foster care, or when requiring supports for alternative permanency through kinship or adoption. This funding increases the department's capacity to provide oversight to local county and tribal child welfare agencies to support improved outcomes. [Laws of Minnesota 2017, 1st Spec. Sess. chapter 6, article 18, section 2, subdivision 4]

VII. Homeless youth pilot project

Effective July 1, 2017, an appropriation establishes a coordinated response system pilot project intended to meet the specific needs of older minor youth who are homeless and without parental support by providing oversight of the pilot program by the department, and navigator services at the local level, when a referral is made by a local social service agency concerning a need for youth homeless services. Under this proposal, funding will be used to hire one full-time staff to provide oversight of the program at the department, and a full-time contracted staff to provide navigator services at the local level. [Laws of Minnesota 2017, 1st Spec. Sess. chapter 6, article 18, section 2, subdivision 4]

VIII. Child welfare services for sexually exploited youth

Effective July 1, 2017, an appropriation fully implements federal Public Law Number 114-22, the Justice for Victims of Trafficking Act of 2015, by funding staff to assist in development of the state's Child Abuse Prevention and Treatment Act (CAPTA) plan policies and procedures for:

- Identifying and assessing all reports involving known or suspected child sex trafficking victims;
- Training child protection workers in identifying, assessing and providing comprehensive services to children who are sex trafficking victims, including efforts to coordinate with law enforcement, juvenile justice, Safe Harbor services specific to sex trafficked children and youth and social service agencies, including runaway and homeless youth shelters;
- Collecting and reporting on the number of children who are victims of sex trafficking as part of the National Child Abuse and Neglect Data System (NCANDS); and

- Considering any child who is identified as a victim of sex trafficking or severe forms of trafficking as a victim of child abuse, neglect and sexual abuse. [Laws of Minnesota 2017, 1st Spec. Sess. chapter 6, article 18, section 2, subdivision 4]

An appropriation funds emergency shelter and long-term housing beds for sexually exploited youth, and those at risk of sexual exploitation. Funds statewide youth outreach workers connecting sexually exploited youth, and youth at risk of sexual exploitation, with shelter and services. Expands Safe Harbor services to youth age 24 and younger. [Laws of Minnesota 2017, 1st Spec. Sess. chapter 6, article 18, section 2, subdivision 24(f)]

IX. Early learning scholarships for children under age 5 in foster care or receiving child protective services

Effective July 1, 2017, to increase access to high-quality early education programs and to improve school readiness, children age 5 or younger who are not eligible for enrollment in kindergarten and are either in foster care or whose families are receiving child protective services, will be prioritized to receive an early learning scholarship to attend a Parent Aware rated program. Up to \$7,500 per scholarship will be awarded based on the star rating of a program a family chooses, and may only be used at Parent Aware rated programs. Once a child is eligible for an early learning scholarship at a Parent Aware rated program, they will continue to be eligible for the scholarship until they enter kindergarten, regardless of with whom or where a child lives.

In collaboration with the Minnesota Department of Education, the department defines children whose families are receiving child protective services as those who are receiving Family Assessment, Family Investigation, Facility Investigation, or who are currently involved in any case management workgroup. Due to the limited number of scholarships available, social service agencies should prioritize the early learning scholarships for children age 2 and under who are receiving either a Family Assessment, Family Investigation, or Facility Investigation, or whose families are involved in a child protection case management work group.

The Minnesota Department of Education contracts with area administrator offices, including tribal offices, which work with local social service agencies to secure scholarships for eligible children. When a child is not in foster care but their family is receiving child protective services, the social service agency should work with their parent or legal guardian to complete and submit an early learning scholarship application together. [Laws of Minnesota 2017, 1st Spec. Sess. chapter 5, article 8, sections 4 and 5]

X. Foster care liability insurance

Effective July 1, 2017, this provision allows the department to retain Title IV-E federal funds, earned on expenditures, for foster parent liability insurance to offset cost increases in the family foster care liability program to cover increased insurance premiums. [Laws of Minnesota 2017, 1st Spec. Sess. chapter 6, article 7, section 23]

XI. Support for adoptive, foster and kinship families

Effective July 1, 2017, this provision realigns how the department spends certain federal adoption incentive funds. It requires that the department design and implement a coordinated program to reduce the need for placement changes of children and youth in foster care, adoptive placements, and permanent physical and legal custody kinship placements, and to improve functioning and stability of these families. It requires provision of services, to the extent that federal funds are available, that include:

- Providing information, referrals, parent-to-parent support network, peer support for youth, family activities, respite care, crisis intervention services, educational support and mental health services;
- Training for adoptive and kinship families, and additional training for foster families on the effects of trauma, common disabilities of adopted children and those in foster care and kinship placements, and challenges in these placements; and
- Periodic evaluation of these services to ensure program effectiveness. [Laws of Minnesota 2017, 1st Spec. Sess. chapter 6, article 7, section 28; article 18, section 2, subdivisions 22(a) – 22(c)]

XII. Special education aid for transporting children in shelter care facilities; foster care transportation pilot program between social service agencies and school districts

The state special education aid for transporting students with disabilities was amended to include students awaiting foster care that were previously covered under the McKinney-Vento Homeless Assistance Act. It is retroactive to December 10, 2016, but only applies through the 2016-2017 school year. [Laws of Minnesota 2017, 1st Spec. Sess. chapter 5, article 2, section 7]

Effective July 1, 2017, another provision is a \$1 million pilot program to encourage school districts and county governments to develop partnership agreements and enter into transportation plans to keep students in foster care enrolled in their school of origin when a student is placed in a foster care setting outside the school of origin's boundaries. To participate in the pilot program, a school district must submit an application in the form and manner prescribed by the commissioner of the Minnesota Department of Education. One or more school districts and the local child welfare agency must have a written interagency agreement that describes the local plan for ensuring educational stability for foster care students. The parties to the agreement must seek Title IV-E reimbursement for eligible students and transportation costs. [Laws of Minnesota 2017, 1st Spec. Sess. chapter 5, article 2, section 54]

XIII. Investigation of child maltreatment reports in juvenile correctional facilities to be investigated by the department

Effective July 1, 2017, the department is the agency responsible for investigating allegations of maltreatment in juvenile correctional facilities listed under Minnesota Statutes, section 241.021 in the local welfare agency's county. [Laws of Minnesota 2017, 1st Spec. Sess. chapter 6, article 9, section 11]

Americans with Disabilities Act (ADA) Advisory

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