

NUMBER

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DATE

November 20, 2019

OF INTEREST TO

County Directors

Social Services Supervisors and
Staff

Tribal Social Services Staff

Private Agency Social Services
Staff

County Attorneys

District Court Judges

ACTION/DUE DATEPlease read information and
implement.**EXPIRATION DATE**

November 20, 2021

Family Reunification Act requirements

TOPIC

Family Reunification Act (re-establishment of the legal parent and child relationship).

PURPOSE

To provide policy and SSIS guidance on the Family Reunification Act, including legislative changes made during the 2019 legislative session.

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LISA PRITCHARD BAYLEY

Acting 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 (DHS) supports the use of "People First" language.

I. Background

The Family Reunification Act, which was signed into law in 2013 and modified during the 2019 legislative session, provides a legal mechanism for previously terminated parental rights to be re-established under specific circumstances. The goal of the Family Reunification Act is to provide another permanency option for children and youth under guardianship of the commissioner who would otherwise remain in, or age out of, foster care without being adopted.

Re-establishment of parental rights means the physical reunification of a child under guardianship of the commissioner of human services with their previously terminated parent, and restoration of all rights, powers, privileges, immunities, duties, and obligations that were severed and terminated by a court under Minnesota Statutes, section 260C.317.

This bulletin provides an overview of the legal process to re-establish parental rights, including eligibility criteria and agency roles and responsibilities, as well as how to document change in status in the Social Services Information System (SSIS). This process is inclusive of the 2019 legislative changes effective August 1, 2019.

II. Eligibility criteria for re-establishing parental rights

Prior to initiating the legal process to re-establish parental rights, certain conditions must be met. A parent for whom parental rights are to be re-established must:

- Have had parental rights to their child terminated under a previous court order under Minnesota Statutes, section 260C.317
- Have corrected the condition(s) which led to the order terminating parental rights
- Be willing and capable of providing day-to-day care for their child, maintaining their health, safety and welfare.

[Minnesota Statutes, section 260C.329, subdivision 3]

A parent whose parental rights were terminated voluntarily as part of a private adoption matter, or who signed a consent to adopt under Chapter 259 or Chapter 260C, cannot have parental rights re-established under this law. Parental rights cannot be re-established if a parent's rights were terminated due to sexual abuse or conduct that resulted in their child's death, or if a parent has been convicted of a crime involving egregious harm under Minnesota Statutes, section 260C.007, subdivision 14.

[Minnesota Statutes, section 260C.329, subdivision 4]

For parental rights to be re-established, their child must:

- Have been in foster care for at least 48 months after the court issued an order terminating parental rights
- Not have been adopted (see section A)
- Not be the subject of a written adoption placement agreement.

[Minnesota Statutes, section 260C.329, subdivision 3]

A. Children who were adopted

Minnesota Statutes, section 260C.329, subdivision 3, states that to be eligible for re-establishment of parental rights, a child must not have been adopted. However, statute is unclear regarding a biological parent's ability to re-establish parental rights if their child was adopted, and their child's adoptive parents' rights were subsequently terminated. It is at the court's discretion to grant a petition under this circumstance; however, the department supports a flexible interpretation of eligibility criteria should such a situation emerge. In this situation, when calculating the time in foster care after a court orders termination of parental rights, the department recommends including time spent in foster care after termination of biological parents' rights in addition to time spent in foster care after termination of adoptive parents' rights.

If a parent is unsure if their child was adopted, they may contact the responsible social services agency with a request for current information under Minnesota Statutes, section 260C.613, subdivision 8, and section 259.83, subdivision 1. Agencies are required by law to respond to such requests; however, agencies must also respond in a manner consistent with state and federal laws, rules, and regulations regarding confidentiality and privacy of child welfare and adoption records. Agencies with questions regarding the type and amount of information they can provide should consult with their county attorney for guidance.

[Minnesota Statutes, section 260C.613, subdivision 8; and section 259.83, subdivisions 1 and 4]

A child's adoptive parents' rights may also be re-established under this section, provided adoptive parents and child meet eligibility criteria outlined under Section II of this bulletin.

III. Legal process to re-establish parental rights

Either a county attorney or a parent who meets criteria in Section II can file a petition to re-establish parental rights. Parents do not have a right to appointment of counsel under Minnesota Statutes, section 260C.163, subdivision 3, or Minnesota Court Rules of Juvenile Protection Procedure, Rule 25.02, subdivision 2, when pursuing re-establishment of their parental rights under Chapter 260C.

[Minnesota Statutes, section 260C.329, subdivisions 3 and 10]

A. Petition requirements for parents

If a parent wishes to file a petition to re-establish their parental rights, they must first notify the child's responsible social services agency of their intent to file, using the commissioner's designated form, [DHS-7949](#). Notice must be given 45 days before filing a petition.

At the time of filing, parent/s must pay a filing fee, unless waived by the court. Petitions must be signed under oath by the petitioner. Information in a parent's petition must include:

- Petitioner's full name, date of birth, address, and all other legal names or aliases by which the petitioner was known at any time
- Name and date of birth of each child for whom reunification is sought
- Petitioner's relationship to each child for whom reunification is sought

- Why reunification is being sought, and why it is in child's best interest
- Details of the termination of parental rights for which reunification is sought, including the date, jurisdiction, and court file number of the order, and date of any prior order terminating parental rights
- What steps petitioner has taken toward personal rehabilitation since the time of the order terminating parental rights, including treatment, work, or other personal history that demonstrates rehabilitation
- How petitioner corrected conditions that led to the order terminating parental rights for which reunification is sought
- Reasons why petitioner is willing and capable to provide day-to-day care and maintain the health, safety and welfare of their child
- All prior requests by the petitioner, whether for the current order or for any other orders terminating parental rights, whether granted or not.

A copy of the notice of intent sent to the agency ([DHS-7949](#)) must be filed with a parent's petition.

[Minnesota Statutes, section 260C.329, subdivisions 3 and 3a]

Upon filing a petition, it must be served on the:

- Child
- County attorney
- Responsible social services agency
- Child's guardian ad litem
- Child's tribe, if the Indian Child Welfare Act (ICWA) applies.

[Minnesota Statutes, section 260C.329, subdivision 7]

B. Petition requirements for county attorneys

If a county attorney files a petition requesting re-establishment of parental rights, a child's legally responsible social services agency and county attorney must agree that pursuing this permanency option is in a child's best interests. A county attorney must file the petition with the court that transferred guardianship to the commissioner of human services and is conducting reviews in the matter. Upon filing a petition, it must be served on the:

- Child
- Parent whose rights were terminated and with whom the legal parent-child relationship is proposed to be re-established
- Child's guardian ad litem
- Child's tribe, if the ICWA applies.

[Minnesota Statutes, section 260C.329, subdivisions 3, 6 and 7]

C. Court process

A court may grant a petition to re-establish parental rights if it finds, by clear and convincing evidence, that criteria used to file a petition have been met, that a child wants to live with their parent, and that re-establishment of the legal parent-child relationship is in a child's best interests.

[Minnesota Statutes, section 260C.329, subdivision 8]

A court may deny a parent's petition after a hearing. If this occurs, the court must issue a written order that bars the parent from filing subsequent petitions for a specified time period (to be determined by the court). As part of this order, the court must make written findings supporting its denial, and must evaluate the best interests of the child.

[Minnesota Statutes, section 260C.329, subdivision 12]

Court administrators must send copies of final court orders, whether a petition was granted or denied, to all persons entitled to notice, specifically the:

- Child
- Parent whose rights have been terminated and with whom the legal parent-child relationship is proposed to be re-established
- Child's guardian ad litem
- Child's tribe, if they are subject to the Indian Child Welfare Act.

In addition, court administrators must send certified copies of these orders to the commissioner of human services.

[Minnesota Statutes, section 260C.329, subdivision 9]

D. Effect of order

Effective the date of the court order granting a petition, a child who is the subject of said petition becomes the legal child of the parent, and the parent whose rights were previously terminated becomes the child's legal parent. This means all rights, powers, privileges, immunities, duties, and obligations that had been terminated by the court are restored. Permanent legal and physical custody is also awarded to the new legal parent.

At the same time, the order that placed the child under guardianship of the commissioner of human services is dismissed.

A court order re-establishing parental rights between a child who is the subject of a petition to re-establish parental rights, and the parent whose rights are to be restored, has no effect on the legal rights of any other parent whose rights had been terminated, nor on the legal sibling relationship between the child and any other children of the parent.

[Minnesota Statutes, section 260C.329, subdivision 11]

III. Data entry in Social Services Information System

When a legal parent-child relationship is re-established under the Family Reunification Act, the court also orders guardianship to be removed from the commissioner of human services. Court administrators must send copies of orders re-establishing parental rights and removing guardianship from the commissioner to the commissioner of human services.

Upon receipt and review of final court orders re-establishing parental rights, department staff will create new event details in the Social Services Information System (SSIS). These are:

- Guardianship event: DHS guardianship dismissed – Reestablished Parent/Child
- Parent resolution event: TPR – Reestablished Parent/Child.

Entering these event details triggers a change in the Status at DHS field in the Child Ward Node in SSIS-County to Reestablished Parent/Child. The Relationship record will also be updated automatically to Reestablished. The Reestablished date is also auto filled. The responsible agency staff do not enter data to indicate a relationship has been re-established. The responsible social services agency staff are responsible for closing the continuous placement episode with the discharge reason of Reestablishment of the legal parent and child relationship.

Americans with Disabilities Act (ADA) Advisory

This information is available in accessible formats for people with disabilities by calling (651) 431-4660 (voice) or by using your preferred relay service. For other information on disability rights and protections, contact the agency's ADA coordinator.