

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 444

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 8-23
DATE FOR REVIEW 9-1
DATE DUE 9-6

Adopted w/a hearing _____
Adopted w/o hearing ✓
Temporary rule _____

Approved _____ Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State _____ Revisor approved _____ disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed See S.R.

✓ Order Adopting 8.15.83 Date

N/A Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
N/A date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
? Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
12.15.82 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
12.20.82 At least 30/~~20~~ days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
✓ _____ Approving agency action

✓ Agency's Findings of Fact

N/A LCRAR Report or agency Affidavit

N/A Certificate of Board's Resolution Adopting Rules

N/A Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

N/A Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : Leonard Levine, Commissioner of Public Welfare
Attn: Dianne Masters, Special Assistant Attorney General

DATE: 9/6/83

FROM : TED A. MARTINEZ
Special Assistant Attorney General TAM

PHONE: 296-4692

SUBJECT: In the Matter of the Proposed Adoption of Rules of the State Department of Public Welfare Governing the Administration and Provision of Protective Services to Children Through Local Social Service Agnecies, 12 MCAR 2.207.

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Please note that they have not been filed with the State Register. This must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of stamps of the Attorney General and Secretary of State;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages to the rules in the approved set.

If you have any questions in this regard, please contact me.

Encs.
TAM/ls
cc: ~~Ms~~. Kathy Burek
Mr. Duane Harves

AG copy.

Department of Public Welfare
Social Services Division

Adopted Rules of the State Department of Public Welfare Governing the Administration and Provision of Protective Services to Children through Local Social Service Agencies

Rule as Adopted

12 MCAR S 2.207 Protective services to children -- adopted.

A.-B. [Unchanged.]

C. Administration and organization of protective service program.

1. Local social service agency responsibility in the delivery of child protective services.

a. Any child in Minnesota who is in need of protection is to receive such service in the county in which the child lives or is found, irrespective of family income and legal or poor relief settlement of the child or family.

b. The local social service agency must accept all complaints alleging that a child has been physically or sexually abused or neglected. Neglect includes conditions or actions which threaten either the child's physical health or the child's mental health. Upon receiving such complaints, the local social service agency shall immediately notify the local police or sheriff's department.

(1)-(6) [Unchanged.]

(7) The local social service agency shall file a petition in juvenile court for an extension of time to hold a child in a shelter care facility longer than 72 hours excluding weekends or holidays when the agency determines that it is necessary to detain a child for his or her own protection.

(8) When placing a child in a shelter care facility, the local social service agency shall determine whether disclosure of the location of the facility to the child's parent, guardian, or custodian may place the child in danger. The decision of whether or not to disclose the location shall

then be contained in the written report to the court, and to the facility supervisor.

c. Where the need for protective intervention has been established, the local social service agency shall, whenever possible, provide services that preserve the child within the family unit while at the same time assuring the child a safe environment. Such services may include, but are not limited to:

(1) family counseling,

(2) homemaking services or in-home services,

(3) referral to parent support organizations to courses in parenting or child care such as may be available in the community.

d. If services necessary to provide the child a safe environment are rejected, the child protection worker shall petition the court for authorization to intervene.

e. Following the assessment of a child abuse or neglect report, the local social service agency shall, when requested, provide the reporting party a summary of the agency's findings. The summary shall be limited to:

(1) the agency's determination that the report was either substantiated, unsubstantiated or presently inconclusive;

(2) the agency's intention to provide, or not provide, or refer to, remedial services; and

(3) the local social service agency may deny the request of the reporting party if it determines that disclosure of the information is detrimental to the child's best interests.

e.-f. [See relettering instruction.]

h. When child maltreatment is reported in a state supervised or licensed facility, including a foster home, the local social service agency shall:

(1) immediately contact the facility to determine the validity of the report;

(2) where such reports are valid, the local social service agency shall:

(a) assess present risk to the child and assure steps are taken to protect the child;

(b) as soon as possible, inform the child's parents or guardians of the incident;

(c) when an incident involves a child placed out of his/her home county, inform the agency responsible for the child's placement;

(d) notify the state agency responsible for licensing within 48 hours excluding holidays and weekends. The notification shall include:

(i) the identity of facility in which the incident occurred, the name, age and sex of the victim and the name and status of the alleged perpetrator if known;

(ii) the nature and extent of the child's injuries, measures taken to assure necessary treatment and protection, and the name of the protective services worker responsible for investigating the incident.

h. [See relettering instruction.]

j. The local social service agency shall assess and classify and record all reports as either substantiated, unsubstantiated, or unable to substantiate within 90 days of receiving the initial report. At the conclusion of the assessment the subjects of the report shall be notified in writing of the agency's determination of the classification of the report. The subjects of the report shall also be informed of their right to review the report subject to applicable Minnesota law. If a report is substantiated and a child protection case is opened, the subject's copy of the social service application shall constitute sufficient written notification of the classification.

k. Records relating to reports made pursuant to Minnesota Statutes, section 626.556.

(1) The name of the person making a child abuse or neglect report shall not be disclosed to the subject of the report while the report is under assessment. Upon completion of the assessment, the name of the reporting party shall be confidential and shall be disclosed only upon court order.

(2) Records relating to reports which are supported

by evidence and information obtained during the assessment, and are determined by the agency to be substantiated, shall be destroyed seven years following the date of the final entry in the case record.

(3) If upon initial assessment, a report is determined to be unsubstantiated, the subject of the report shall be notified in writing of the report's classification, the agency's intent to destroy the records relating to the report, and the subject's right to ~~review~~ have the records maintained as private data, except that the name of the reporting party shall remain confidential and shall be disclosed only upon court order. If no request ~~for access~~ to maintain the records is made by the subject within 30 days of the mailing of the notification, the records shall be destroyed.

F&F

(4) If upon assessment a report is classified as unable to substantiate by the local social service agency, the records relating to the report may be kept for one year. If, after one year, neither the local social service agency nor the law enforcement agency is able to substantiate the report, the subject shall be notified in writing of the report's classification, the agency's intent to destroy the records, and the subject's right to ~~review~~ have the records maintained as private data, except that the name of the reporting party shall be disclosed only upon court order. If no request ~~for access~~ to maintain the records is made by the subject within 30 days of the mailing of the notification, the records shall be destroyed.

2. [Unchanged.]

Relettering. Reletter 12 MCAR S 2.207 C.1.e. as C.1.f.; C.1.f. as C.1.g.; and C.1.h. as C.1.i.

APPROVED AS TO LEGALITY

September 6 19 83

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Ted A. Martinez
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
SEP 6 1983
Joan Anderson Growe
Secretary of State

10:13 AM

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE
SOCIAL SERVICES DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE STATE DEPARTMENT OF PUBLIC WELFARE GOVERNING THE ADMINISTRATION AND PROVISION OF PROTECTIVE SERVICES TO CHILDREN THROUGH LOCAL SOCIAL SERVICE AGENCIES, 12 MCAR 2.207

ORDER ADOPTING RULES

Notice of the Commissioner's intent to adopt the above-entitled rule without a public hearing was published in the State Register on December 20, 1982, and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes section 15.0412, subdivision 4 on December 15, 1982. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than seven written requests for a public hearing within the 30-day comment period, reviewing and considering the comments, and determining the need for and reasonableness of the above-captioned rule,

NOW, THEREFORE, IT IS ORDERED that this rule identified as 12 MCAR 2.207 is adopted this 15th day of August, 1983, pursuant to authority vested in me by Minnesota Statutes §256.01.

STATE OF MINNESOTA



Commissioner of Public Welfare

DM-16

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC WELFARE

In the Matter of the Proposed Adoption of Rules of the State Department of Public Welfare Governing The Administration and Provision of Protective Services to Children through Local Social Service Agencies

ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT PUBLIC HEARING

IT IS ORDERED this 2 day of December, 1982 that a Notice of Intent to Adopt Rule Without Public Hearing in the above-entitled matter be given to all persons who have registered their names with the State Department of Public Welfare for that purpose and be published in the State Register.

STATE OF MINNESOTA

COMMISSIONER OF PUBLIC WELFARE

KT/60

DEPARTMENT OF PUBLIC WELFARE

SOCIAL SERVICES DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE STATE DEPARTMENT OF PUBLIC WELFARE GOVERNING THE ADMINISTRATION AND PROVISION OF PROTECTIVE SERVICES TO CHILDREN THROUGH LOCAL SOCIAL SERVICE AGENCIES

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

Notice is hereby given that the State Department of Public Welfare proposes to adopt the above-entitled rule without a public hearing. The Commissioner has determined that the proposed adoption of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes section 15.0412, Subdivision 4h (1980). 2

Persons interested in this rule shall have 30 days to submit comment on the proposed rule. The proposed rule may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language. The 30 day period ends at midnight at the end of January 19, 1983. 3 4

Unless seven or more persons submit written requests for a public hearing on the proposed rule within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes section 15.0412, Subdivisions 4-4f. 5 7

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Paul Spears
Social Services Division, Department of Public Welfare
Fourth Floor, Centennial Office Building
St. Paul, Minnesota 55155
(612)296-6740 6

Authority for the adoption of this rule is contained in Minnesota Statutes §§ 626.556 and 260.171. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Paul Spears upon request. 9?

Upon adoption of the final rule without a public hearing, the proposed rule, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final rule as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rule as proposed for adoption, should submit a written statement of such request to Paul Spears. 8

The proposed rule amendments relate to the following matters:

C.1.b.(7) This amendment clarifies local agency responsibility under Minnesota Law 1982, Chapt. §469, §3, Subd. 2, which requires the filing of a juvenile court petition for an extension when it is necessary to hold a child in shelter care longer than 72 hours for his or her protection.

C.1.b.(8) This amendment clarifies local agency responsibility under Minnesota Law 1982, Chapt. §469, §3, Subd. 2, and §6, Subd. 5.a., which requires the local agency to determine whether or not the location of a child's placement should be disclosed to the child's parent, guardian or custodian and to notify the facility operator and the court of such determination.

C.1.c.(2) This amendment implements Minn. Stat. §626.556 and the legislative intent of Minn. Stat. §260.001 by offering the local agency in-home services as an alternative to out-of-home placement in instances where the local agency may determine such an alternative to be feasible.

C.1.e.(1)(2)(3) This amendment clarifies Minnesota Laws 1982, Chapt. §636 §1 which requires local agencies to give feedback to reporters in instances where such feedback does not violate the child's best interests. The amendment limits the amount and type of information which may be given in order to remain in compliance with federal confidentiality regulations.

C.1.h.(2)(d) This amendment extends the time given the local agency for reporting incidents of institutional abuse/neglect to the state licensing authority from 24 hours to 48 hours excluding weekends and holidays.

C.1.j. This amendment reduces local agency responsibility for notifying child protection clients in cases where abuse/neglect are substantiated, of the classification of the report by allowing the worker's verbal notification and the social service application to serve as sufficient notification - thereby making additional written notification unnecessary.

C.1.k.(1)(2)(3)(4) This amendment implements Minnesota Law 1982, Chapt. §636, §3, requiring the local agency not to disclose the names of individuals making child abuse/neglect reports, as well as requirements for classifying reports as substantiated, unsubstantiated or unable to substantiate.

Copies of this Notice and the proposed rule are available and may be obtained by contacting Paul Spears.

There will be no fiscal impact for local public agencies in implementing the proposed amendments in this rule.

STATE OF MINNESOTA

Date: 12-3-82

Commissioner of Public Welfare

KD1/23

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE STATE DEPARTMENT OF PUBLIC WELFARE GOVERNING THE ADMINISTRATION AND PROVISION OF PROTECTIVE SERVICES TO CHILDREN THROUGH LOCAL SOCIAL SERVICE AGENCIES

AFFIDAVIT OF MAILING

Wendy Johnson, being first duly sworn, deposes and says:

That on the 15th day of December, 1982, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Intent to Adopt a Rule Without a Public Hearing by depositing in the State of Minnesota Central Mail System for first class mailing, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the Department of Public Welfare for the purpose of receiving notice of the proposed adoption of rules by this Department.

Wendy Johnson

Subscribed and sworn to before me

this 20 day of December, 1982.

Margaret Holt

MARGARET HOLT
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires Sept. 22, 1984

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE STATE DEPARTMENT OF PUBLIC WELFARE GOVERNING THE ADMINISTRATION AND PROVISION OF PROTECTIVE SERVICES TO CHILDREN THROUGH LOCAL SOCIAL SERVICE AGENCIES

CERTIFICATE

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. §15.0412, subd. 4, that their names be placed on file with and maintained by the Department of Public Welfare for the purpose of receiving notice of the proposed adoption of rules by this Department is accurate and complete as of 4:00 P.M., this 15th day of December, 1982.

Department of Public Welfare
Social Services Division

Proposed Rules of the State Department of Public Welfare Governing the Administration and Provision of Protective Services to Children through Local Social Service Agencies

Notice of Intent to Adopt a Rule without a Public Hearing

Notice is hereby given that the state Department of Public Welfare proposes to adopt the above-entitled rule without a public hearing. The commissioner has determined that the proposed adoption of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes section 15.0412, subdivision 4h (1980).

Persons interested in this rule shall have 30 days to submit comment on the proposed rule. The proposed rule may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rule within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes section 15.0412, subdivisions 4-4f.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Paul Spears
Social Services Division, Department of Public Welfare
Fourth Floor, Centennial Office Building
St. Paul, Minnesota 55155
(612) 296-6740

Authority for the adoption of this rule is contained in Minnesota Statutes §§ 626.556 and 260.171. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Paul Spears upon request.

Upon adoption of the final rule without a public hearing, the proposed rule, this notice, the statement of need and reasonableness, all written comments received, and the final rule as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rule as proposed for adoption, should submit a written statement of such request to Paul Spears.

The proposed rule amendments relate to the following matters:

C.1.b.(7) This amendment clarifies local agency responsibility under Minnesota Law 1982, ch. 469, § 3, subd. 2, which requires the filing of a juvenile court petition for an extension when it is necessary to hold a child in shelter care longer than 72 hours for his or her protection.

C.1.b.(8) This amendment clarifies local agency responsibility under Minnesota Law 1982, ch. 469, § 3, subd. 2, and § 6, subd. 5.a., which requires the local agency to determine whether or not the location of a child's placement should be disclosed to the child's parent, guardian or custodian and to notify the facility operator and the court of such determination.

C.1.c.(2) This amendment implements Minn. Stat. § 626.556 and the legislative intent to Minn. Stat. § 260.001 by offering the local agency in-home services as an alternative to out-of-home placement in instances where the local agency may determine such an alternative to be feasible.

C.1.e.(1)(2)(3) This amendment clarifies Minnesota Laws 1982, ch. 636 § 1 which requires local agencies to give feedback to reporters in instances where such feedback does not violate the child's best interests. The amendment limits the amount and type of information which may be given in order to remain in compliance with federal confidentiality regulations.

C.1.h.(2)(d) This amendment extends the time given the local agency for reporting incidents of institutional abuse/neglect to the state licensing authority from 24 hours to 48 hours excluding weekends and holidays.

C.1.j. This amendment reduces local agency responsibility for notifying child protection clients in cases where abuse/neglect are substantiated, of the classification of the report by allowing the worker's verbal notification and the social service application to serve as sufficient notification—thereby making additional written notification unnecessary.

C.1.k.(1)(2)(3)(4) This amendment implements Minnesota Law 1982, ch. 636, § 3, requiring the local agency not to disclose

the names of individuals making child abuse/neglect reports, as well as requirements for classifying reports as substantiated, unsubstantiated or unable to substantiate.

Copies of this notice and the proposed rule are available and may be obtained by contacting Paul Spears.

There will be no fiscal impact for local public agencies in implementing the proposed amendments in this rule.

James E. Noot
Commissioner of Public Welfare

Rule as Proposed

12 MCAR § 2.207 Protective services to children—adopted.

A.-B. [Unchanged.]

C. Administration and organization of protective service program.

1. Local social service agency responsibility in the delivery of child protective services.

a. Any child in Minnesota who is in need of protection is to receive such service in the county in which the child lives or is found, irrespective of family income and legal or poor relief settlement of the child or family.

b. The local social service agency must accept all complaints alleging that a child has been physically or sexually abused or neglected. Neglect includes conditions or actions which threaten either the child's physical health or the child's mental health. Upon receiving such complaints, the local social service agency shall immediately notify the local police or sheriff's department.

(1)-(6) [Unchanged.]

(7) The local social service agency shall file a petition in juvenile court for an extention of time to hold a child in a shelter care facility longer than 72 hours excluding weekends or holidays when the agency determines that it is necessary to detain a child for his or her own protection.

(8) When placing a child in a shelter care facility, the local social service agency shall determine whether disclosure of the location of the facility to the child's parent, guardian, or custodian may place the child in danger. The decision of whether or not to disclose the location shall then be contained in the written report to the court, and to the facility supervisor.

c. Where the need for protective intervention has been established, the local social service agency shall, whenever possible, provide services that preserve the child within the family unit while at the same time assuring the child a safe environment. Such services may include, but are not limited to:

(1) family counseling,

(2) homemaking services or in-home services,

(3) referral to parent support organizations to courses in parenting or child care such as may be available in the community.

d. If services necessary to provide the child a safe environment are rejected, the child protection worker shall petition the court for authorization to intervene.

e. Following the assessment of a child abuse or neglect report, the local social service agency shall, when requested, provide the reporting party a summary of the agency's findings. The summary shall be limited to:

(1) the agency's determination that the report was either substantiated, unsubstantiated or presently inconclusive;

(2) the agency's intention to provide, or not provide, or refer to, remedial services; and

(3) the local social service agency may deny the request of the reporting party if it determines that disclosure of the information is detrimental to the child's best interests.

e.-f. [See relettering instruction.]

~~g.~~ h. When child maltreatment is reported in a state supervised or licensed facility, including a foster home, the local social service agency shall:

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike~~ ~~outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike~~ ~~outs~~ indicate deletions from proposed rule language.

(1) immediately contact the facility to determine the validity of the report;

(2) where such reports are valid, the local social service agency shall:

(a) assess present risk to the child and assure steps are taken to protect the child;

(b) as soon as possible, inform the child's parents or guardians of the incident;

(c) when an incident involves a child placed out of his/her home county, inform the agency responsible for the child's placement;

(d) ~~make an oral report to~~ notify the state agency responsible for licensing within ~~24~~ 48 hours excluding holidays and weekends. ~~Such reports~~ The notification shall include:

(i) the identity of facility in which the incident occurred, the name, age and sex of the victim and the name and status of the alleged perpetrator if known;

(ii) the nature and extent of the child's injuries, measures taken to assure necessary treatment and protection, and the name of the protective services worker responsible for investigating the incident.

h. [See relettering instruction.]

~~i.~~ j. The local social service agency shall assess and classify and record all reports as either substantiated, unsubstantiated, or unable to substantiate within 90 days of receiving the initial report. At the conclusion of the assessment the subjects of the report shall be notified in writing of the agency's determination of the classification of the report. The subjects of the report shall also be informed of their right to review the report, subject to applicable Minnesota law. If a report is substantiated and a child protection case is opened, the subject's copy of the social service application shall constitute sufficient written notification of the classification.

~~(1)~~ k. Records relating to ~~substantiated~~ reports made pursuant to Minnesota Statutes, section 626.556.

(1) The name of the person making a child abuse or neglect report shall not be disclosed to the subject of the report while the report is under assessment. Upon completion of the assessment, the name of the reporting party shall be confidential and shall be disclosed only upon court order.

~~(a)~~ (2) Records relating to reports ~~made pursuant to Minnesota Statutes, section 626.556~~ which are supported by evidence and information obtained during the assessment, and are determined by the agency to be substantiated, shall be destroyed seven years following the date of the final entry in the case record.

~~(b) The name of the individual submitting a report which is determined to be substantiated shall be disclosed only upon court order, or with the knowledge and consent of the person making the report.~~

~~(2) Records relating to unsubstantiated or false reports made pursuant to Minnesota statutes, section 626.556 shall be destroyed immediately, upon determination that they are unsubstantiated and the name of the individual submitting the report shall be disclosed upon request of the subject of the report.~~

(3) If upon initial assessment, a report is determined to be unsubstantiated, the subject of the report shall be notified in writing of the report's classification, the agency's intent to destroy the records relating to the report, and the subject's right to review the records, except that the name of the reporting party shall remain confidential and shall be disclosed only upon court order. If no request for access to the records is made by the subject within 30 days of the mailing of the notification, the records shall be destroyed.

(4) ~~Records relating to reports which upon initial assessment cannot be substantiated to the satisfaction of~~ If upon assessment a report is classified as unable to substantiate by the local social service agency, the records relating to the report may be kept for one year. ~~Since there is substance to the reports, and they are, therefore, not unsubstantiated, the name of the individual making the report shall not be disclosed unless the report is later found to be unsubstantiated, or one year passes, or with the knowledge and consent of the person making the report~~ If, after one year, neither the local social service agency nor the law enforcement agency is able to substantiate the report, the subject shall be notified in writing of the report's classification, the agency's intent to destroy the records, and the subject's right to review the records, except that the name of the reporting party shall be disclosed only upon court order. If no request for access to the records is made by the subject within 30 days of the mailing of the notification, the records shall be destroyed.

2. [Unchanged.]

Relettering. Reletter 12 MCAR § 2.207 C.1.e. as C.1.f.; C.1.f. as C.1.g.; and C.1.h. as C.1.i.

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE
SOCIAL SERVICES DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE STATE DEPARTMENT OF PUBLIC WELFARE GOVERNING THE ADMINISTRATION AND PROVISION OF PROTECTIVE SERVICES TO CHILDREN THROUGH LOCAL SOCIAL SERVICE AGENCIES, 12 MCAR 2.207

FINDINGS OF FACT AND CONCLUSIONS

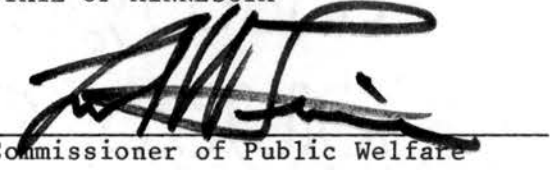
Notice of the Commissioner's intent to adopt the above-entitled rule without a public hearing was published in the State Register on December 20, 1982, and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes section 15.0412, subdivision 4 on December 15, 1982. After affording interested and affected persons an opportunity to submit comments for 30 days for a public hearing within the 30-day comment period, reviewing and considering the comments, and determining the need for and reasonableness of the above-captioned rule, I find the following:

The above-entitled rule shall be adopted as proposed.

Note: There was one written comment from the St. Louis County Attorney's Office on the rule and there were no requests for a public hearing. Based upon the comment and in consultation with the Attorney General's Office, the suggested changes in 1.K.(3) and (4) were made. The changes reflect the requirements of Minn. Stat. 626.556 more clearly than the originally proposed language.

No changes were made regarding the comments on Chapter 260. These comments are germane primarily to the procedures of St. Louis County Social Services. It is true that the statute references cited could be read to mean that only law enforcement may make placements. However, most local agencies not only choose the placement, but in most instances, obtain a court order and make the actual placement. These agencies do, therefore, have the responsibility to determine whether or not the child's whereabouts should be disclosed. Since 12 MCAR 2.207 applies only to local welfare agencies and not to law enforcement, C.1.b.(8) must be in the rule.

STATE OF MINNESOTA



Commissioner of Public Welfare

Date: 8-15-83

LW/10

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE PROPOSED ADOPTION
OF 12 MCAR 2.207 (DPW RULE #207) GOVERNING
THE ADMINISTRATION AND PROVISION OF
PROTECTIVE SERVICES TO CHILDREN THROUGH
LOCAL SOCIAL SERVICE AGENCIES

STATEMENT OF NEED
AND REASONABLENESS

This rule is being revised to implement changes in Minn. Stat. 626.556 and 260.171, effective in May 1982. The rule also contains some additional minor revisions which are proposed in order to simplify and clarify existing requirements and reduce confusion. Because the changes add no requirements other than those contained in statute and will have no conceivable fiscal impact, the revision is considered noncontroversial and not subject to public hearing unless requested by seven individuals in accordance with Minnesota Law. This statement is addressed only to the proposed revisions.

C.1.b.(7)(8). These additions are necessary and reasonable in order to implement current Minnesota Laws 1982, Ch. §469, §3, Subd. 2 and §6, Subd. 5.a. and to ensure compliance with the requirements contained therein.

C.1.c.(2). In-home service is offered as an alternative to removal of a child from the home. Such an option is necessary and reasonable to implement the requirement contained in Minn. Stat. §626.556, subd. 10 and the statement of legislative intent contained in Minn. Stat. §260.011 "to preserve and strengthen the child's family ties whenever possible, removing him from the custody of this parent only when his welfare or safety cannot be adequately safeguarded without removal". In-home service has frequently been successful in preventing out-of-home placement.

C.1.e.(1)(2)(3). These additions are necessary in order to implement Minnesota Laws 1982, Ch. 636, §1 and to give operational definition to the term "concise summary of the disposition". By limiting the information to that pertaining only to the specific content of the report, the local agency will comply with the Minn. Stat. 15.163, Subd. 3 which limits the amount of confidential or private data to be disclosed to that whichever is necessary for administration of program.

C.1.h.(2)(d). These changes are necessary and reasonable to ensure that appropriate licensing action can be taken by DPW within its statutory authority granted under Minn. Stat. §245.781 to §245.812. The change to 48 working hours is reasonable since workers investigating reports of institutional abuse/neglect often find it imposible to obtain the information required by the state agency within 24 working hours.

C.1.j. This addition is necessary and reasonable because the application and the worker's required verbal notification of this client's right to access to his records and of the possible use of the data contain the necessary information to the client. A second notification in substantiated cases is, therefore, redundant and serves only to place an unnecessary burden on the local agency.

C.1.k.(1)(2)(3)(4). The restructuring and additions are necessary and reasonable in order to implement current Minnesota Laws, Ch. §636, §3.

12-3-82
Date

ARTHUR E. NOOT
Commissioner

I8/50

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE
SOCIAL SERVICES DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE STATE DEPARTMENT OF PUBLIC WELFARE GOVERNING THE ADMINISTRATION AND PROVISION OF PROTECTIVE SERVICES TO CHILDREN THROUGH LOCAL SOCIAL SERVICE AGENCIES, 12 MCAR 2.207

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Diane Masters, do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Dianne Masters
Special Assistant Attorney General

Dated: 8/22/83

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE
SOCIAL SERVICES DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE STATE DEPARTMENT OF PUBLIC WELFARE GOVERNING THE ADMINISTRATION AND PROVISION OF PROTECTIVE SERVICES TO CHILDREN THROUGH LOCAL SOCIAL SERVICE AGENCIES, 12 MCAR 2.207

AFFIDAVIT OF MAILING NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

Paul Spears, being first duly sworn, deposes and says:

that no requests were received to notify any persons or organizations when the above entitled matter is submitted to the Attorney General.

Paul A Spears
Department of Public Welfare

Subscribed and sworn to before me this 19 day of May, 1983

DM-15

Margaret Holt

MARGARET HOLT
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires Sept. 22, 1984