

Minnesota Attorney General: Administrative Rules Proceedings

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RULE REVIEW CHECKLIST

File No. 1821
DATE RECEIVED 4-12-91
REVIEW DATE 4-22-91
DUE DATE 4-26-91
(DIS)APPROVED 4-25-91
WITHDRAWN _____

Docket No. 05.0009.0822
ADOPTED W/O HEARING _____
EMERGENCY RULE _____
TO REVISOR ON 4-15-91
REVISOR (DIS)APPROVED 4-17-91
FILED W/SEC. OF STATE _____
RETURNED TO AGENCY _____

✓ Rule as adopted (4 copies)

_____ Notice to Solicit Outside Information/Opinion (if applicable)
_____ Date published in State Register
_____ Comments

_____ Petition for Adoption of a Rule

_____ Board's Authorizing Resolution
_____ Date adopted

✓ Proposed Rule
✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
260.242 Statutory Authority 393.07
_____ Small Business Statement
prepare fiscal note Expenditure of public money statement
12-12-90 Signature

_____ Statement of Need and Reasonableness (if applicable)
doesn't effect it Small Business Statement
NA Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
January 2, 1991 Dated 30/25 days before adoption
✓ Notice attached indicates it is attached
_____ Copy of rule or summary attached

✓ Publication in State Register
~~August 6, 1990~~ Date 30/25 days before adoption
January 7, 1991

✓ 180-day deadline from:
_____ Effective date of law requiring rule (14.12) (both rules) amendments don't apply
_____ end of comment period (§ 14.26) (rules without hearing)
_____ effective date of statutory authority (§ 14.29) (emergency rules)

_____ Resolution Adopting
_____ Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
March 26, 1991 Date

✓ Written Requests, Submissions or Comments

✓ Declaration of Attorney
David Iverson Name of SAAG representing agency

_____ Notice of Submission to Attorney General (if applicable)

_____ Affidavit of Mailing Notice to Attorney General (if applicable)

IN THE MATTER OF THE PROPOSED ADOPTION OF DEPARTMENT OF HUMAN SERVICES AMENDMENTS TO RULES GOVERNING THE ADMINISTRATION OF LOCAL AGENCY RESPONSIBILITIES FOR CHILDREN UNDER STATE GUARDIANSHIP WHO ARE IN NEED OF PROTECTION OR SERVICES, MINNESOTA RULES, PARTS 9560.0410 to 9560.0485

MINNESOTA DEPARTMENT OF HUMAN SERVICES

STATEMENT OF NEED AND REASONABLENESS

INTRODUCTION

The above-entitled rule amendments are authorized by Minnesota Statutes, sections 260.242 and 393.07. Minnesota Statutes, section 260.242 authorizes appointment of the commissioner of human services as guardian when parental rights have been terminated. It also establishes the responsibilities of all court-appointed guardians. Minnesota Statutes, section 393.07 assigns the commissioner of human services supervisory authority over the child public welfare program. This authority includes the responsibility to assure protection and care for dependent and neglected children. Counties are required by this section to supervise wards of the commissioner and act as the commissioner's agents in the adoptive placement and foster care placement of these wards and to comply with law and "with rules of the commissioner."

The proposed amendments incorporate changes in state law and clarify certain provisions that have been the source of some confusion in the past. The amendments include added definitions and language that brings the rule into conformity with the Minnesota unitary residence and financial responsibility act, Minnesota Statutes, chapter 256G.

The proposed rule amendments have been developed in consultation with an advisory committee composed of representatives from counties, child-placing agencies and advocacy organizations. This committee met two times to discuss various drafts of the proposed amendments. The language of the proposed rule reflects input received from the committee.

SPECIFIC RULE PROVISIONS

The above-entitled rules are affirmatively presented by the department in the following narrative in accordance with the provisions of the Minnesota Administrative Procedure Act, Minnesota Statutes, chapter 14 and the rules of the Attorney General's Office.

9560.0410 SCOPE.

This part is amended by changing the phrase "dependent and neglected children" to "children in need of protection or services," an amendment necessary and reasonable to reflect the language used in Minnesota Statutes, section 260.015, subdivision 2a. This part is also amended by changing the phrase "local social service agency" to the more abbreviated "local agency," a change necessary and reasonable to reflect the terminology used in Minnesota Statutes, section 256G.02, subdivision 7.

9560.0420 PURPOSE.

This part is amended in the same way and for the same reason as the change in part 9560.0410.

9560.0430 DEFINITIONS.

Subpart 1. Applicability.

This subpart is necessary to establish that the terms used in the rule have the meanings assigned to them in this part. The subpart is reasonable because it applies the defined terms to all the parts of the rule. Terms used in a manner consistent with common usage in the child welfare field are not defined unless a definition is necessary to clarify the rule.

Subpart 2. Commissioner.

This definition is necessary because the term "commissioner" is used throughout the rule in reference to the individual who serves as guardian of state wards. The definition is reasonable because it is consistent with the definitions of "commissioner" in Minnesota Statutes, sections 257.351, subdivision 3a and 259.21, subdivision 5. It is further reasonable to include "designee" within this definition because one individual cannot perform all the tasks for which the commissioner is responsible.

Subpart 3. County of residence.

This subpart defines "county of residence" as the county in which the child is physically present in the home of a related individual, a residential program or an adoptive placement. The definition of "county of residence" is necessary because the term is used throughout the rule as the basis for allocating guardianship duties among the counties. It is reasonable because it identifies a child's county of residence as the county in which the child lives, ensuring that responsibility for the child rests with the county agency in which the child lives. Close physical proximity to the child enables the county agency to effectively

monitor and protect the child on behalf of the commissioner as guardian.

It is reasonable to specify relatives, residential programs and adoptive placements as the living arrangements that establish county residency for a child because these are the three possible living situations for a child under state guardianship. When the parents of a child die or lose their parental rights, the child will live with relatives as defined in Minnesota Statutes, section 245A.02, subdivision 13, be placed in foster care or another type of residential program defined in Minnesota Statutes, section 245A.02, subdivision 14, or be placed for adoption.

Subpart 4. County of financial responsibility.

This definition is necessary because the term is used throughout the rule to delineate that county which is financially responsible for a child under state guardianship. The definition is reasonable because it defines financial responsibility by reference to the Minnesota unitary residence and financial responsibility act, Minnesota Statutes, chapter 256G.

Subpart 5. Indian child.

This definition is necessary because the term is used throughout the rule to describe a person under age 18 who is a member of or eligible for membership in an American Indian tribe. The definition is reasonable because it is consistent with the use of "Indian child" in Minnesota Statutes, section 257.351, subdivision 6.

Subpart 6. Local agency.

This definition is necessary because the term is used throughout the rule to delineate the political subdivisions responsible for state wards. The definition is reasonable because it is consistent with the definition of "local agency" in Minnesota Statutes, section 256G.02, subdivision 7.

Subpart 7. Licensed child-placing agency.

This definition is necessary because the term is used throughout the rule in reference to private agencies licensed by the commissioner to place children in foster care or for adoption. Licensed child-placing agencies may, under certain circumstances, provide services to state wards on behalf of the commissioner. The definition is reasonable because it is consistent with definitions of the term in Minnesota Statutes, sections 245A.02, subdivision 12; 257.351, subdivision 12 and 259.21, subdivision 6.

Subpart 8. Relative.

This definition is necessary because the term is used in part 9560.0440, subpart 3, item C when referencing the social service plan that must establish a "permanent family relationship" for a ward. The social service plan must have adoption as its goal for a child under age 14, unless there is established a permanent family relationship between a child and the child's relative. The definition is reasonable because it is consistent with definitions of the term in Minnesota Statutes, sections 245A.02, subdivision 13 and 260.015, subdivision 13.

9560.0440 GENERAL RESPONSIBILITIES.

Subpart 1. Financial responsibility.

This subpart requires the county of financial responsibility to provide financial assistance and to pay the cost of services provided to a child under state guardianship. The use of the phrase "county of financial responsibility" is necessary and reasonable because it is the phrase used in Minnesota Statutes, chapter 256G, the Minnesota unitary residence and financial responsibility act.

This subpart specifically requires the county of financial responsibility to pay the cost of services provided to a child under state guardianship. This language is necessary to ensure that a county's financial responsibility for state wards is not limited to cash assistance, but can include social work or psychiatric services, and/or clerical and administrative costs relating to the child's guardianship. The addition is reasonable because it is consistent with current practice and with Minnesota Statutes, section 256G.01, subdivision 3.

The change from "local social service agency" to "local agency" is done for same reason as discussed in part 9560.0430, subpart 6.

Subpart 2. Notice.

This subpart requires the local agency in the child's county of residence to notify the commissioner when a child is placed under state guardianship and, when an Indian child is eligible for tribal membership, to the appropriate tribe. The notice to the commissioner must be on a form prescribed by the commissioner and must be provided to the commissioner within 30 days after the child is placed under state guardianship.

This subpart is necessary because the county of residence is most likely to be aware of the child's circumstances, be responsible for the child's care and be in the best position to know whether a child is placed under state guardianship. The notice requirement

is reasonable because the county of residence is responsible for establishing the types and level of social services provided to a state ward pursuant to Minnesota Statutes, section 256G.07, subdivision 4, for carrying out the guardianship duties delegated by the commissioner in accordance with Minnesota Statutes, section 260.242, subdivision 2 and for ensuring compliance with both the Indian Child Welfare Act of 1978, 25 U.S.C. 1901 et seq., Pub.L. 95-608 and with Minnesota Statutes, section 257.352.

The requirement that the notice to the commissioner be provided on the form prescribed by the commissioner is necessary to ensure that the commissioner receives all the information needed to assume guardianship of the child. The requirement is reasonable because it conforms with Minnesota Statutes, section 256.01, subdivision 4, clause 4 which gives the commissioner the authority to prescribe the form of applications, reports and affidavits. Because the commissioner has no similar authority to prescribe the form of the notice to the appropriate tribe, the local agency may notify the appropriate tribe by letter.

The change from "local social service agency" to "local agency" is done for the same reason as discussed in part 9650.0430, subpart 6, above.

Subpart 3. Social service plan.

The revisions to this subpart are necessary to make it consistent with state statute. Language is deleted that assigns social service planning responsibilities to the county of financial responsibility, and language is added to make this subpart consistent with state statute which assigns planning to the county of residence. Specifically, item E makes these changes. Other changes are relatively minor and do not alter the basic requirement under this subpart that counties develop social service plans within 90 days for state wards. This time frame is reasonable because three months is a large enough block of time for a social worker to develop a social service plan.

The changes in item A are reasonable because a child may not be old enough or competent to participate in the development of his or her social service plan. The department believes a child under seven years of age, or a child seven years of age incapable of articulating his or her thoughts is not old enough or competent enough to adequately participate in the creation or review of a social service plan. Therefore, the participation of a child's local agency as representative of the commissioner is a reasonable means of ensuring that a child's interests are represented in the development of the service plan. This is consistent with the requirements in Minnesota Rules, part 9550.0090.

Item B is amended with the addition of a reference to the statutory provisions requiring racial, ethnic and religious preferences in the placement of children as well as tribal membership status for Indian children. This addition is a reasonable means of ensuring that these statutory requirements are implemented with respect to children under state guardianship.

This item is also amended to require the social service plan to preserve the sibling relationship, where feasible. A child under guardianship often has siblings. The amendment is necessary because regardless of the type of placement that will occur, the commissioner and the commissioner's agents have a responsibility to maintain the sibling group where feasible. Part of this responsibility is found in part 9560.0450, subpart 2, item G (only the commissioner can issue consent to separate siblings after the date of appointment of the commissioner as guardian).

Further, department experience shows that a sibling relationship often is stronger than a parent-child relationship. When siblings are placed under state guardianship, the bond between them is strengthened, and a traumatic time is made less threatening. Department experience also shows that preserving the family structure whenever possible will mean fewer requests for postguardianship services. Therefore, requiring the social service plan to preserve the sibling relationship where feasible is a reasonable method to carry out the department's responsibility to protect children under guardianship.

Item C is amended with the addition of language requiring the social service plan to provide for the adoptive placement of a child under 14 years of age unless there is established a permanent family relationship between the child and the child's relative, in which case adoption must be encouraged. This amendment is necessary because state law provides for the goal of adoption except in specific circumstances. This requirement is reasonable because it incorporates Minnesota Statutes, section 259.45, requiring the commissioner to seek an adoptive placement for a child under 14 years of age.

This item is also amended to provide that a child 14 years of age or older shall receive counseling regarding adoption and other available permanent placement options. If the child chooses not to be placed for adoption, the local agency must notify the commissioner. This is necessary and reasonable to comply with Minnesota Statutes, section 259.45, subdivision 5.

Item D currently provides that a plan which permits a child to "assume responsibility to meet his own needs without agency guidance shall not preclude agency responsibility to be aware of the child's needs and provide for them if necessary." This item is amended to refer to plans which permit a child to "live independently" without relieving the agency of its responsibilities

to the ward. This change is reasonable because it more accurately reflects the living situations of children who may not be living with foster parents or in adoptive homes but who are still wards of the commissioner under the care and supervision of the local agency.

Item E is amended to replace the term "private agency" with the term "licensed child-placing" agency. This change is necessary and reasonable because Minnesota Statutes, sections 260.015, subdivision 3 and 260.191, subdivision 1 use the term "child-placing agency" in reference to agencies with the delegated authority to place and supervise children under state guardianship.

Child-placing agencies are defined in state statute as agencies licensed by the state. The broader term "private agency" encompasses agencies which are not authorized to place or supervise children, and therefore it is necessary to delete its reference.

Item E is also amended to place responsibility for the child's social service plan and goals on the county of residence rather than the county of financial responsibility. Although the county of financial responsibility and the county of residence will generally be the same, the change is needed to address those instances where they are not. This is necessary to make this subpart consistent with the Minnesota unitary residence and financial responsibility act, Minnesota Statutes, section 256G.07, subdivision 4, which assigns social service responsibilities to the county of residence. Further, Minnesota Statutes, section 260.242, subdivision 2 regarding guardianship responsibilities permits the commissioner to delegate authority to act in decisions affecting state wards to the welfare board of the county in which the ward resides.

Subpart 3a. Review of social service plan.

This new subpart requires a quick review of a child's social service plan by the local agency in the child's new county of residence. This is reasonable and necessary because time is often of the essence particularly for a developmentally disabled or handicapped child, or a child who is the victim of molestation. Subpart 3a prohibits the new local agency from changing a plan developed by the child's previous county of residence before notification of the local agency in the child's previous county of residence and, if necessary, the county of financial responsibility. If, after 45 days, there is no consensus, the local agency may change the plan, but only with written approval from the commissioner.

This language is reasonable because two months should be enough time to decide on the proper social service plan, particularly if the child is in need of special services or protection. This language is also reasonable because it ensures that the plan is not

altered contrary to the best interests of the child. The change is also reasonable because, as the child's guardian, the commissioner is ultimately responsible for the well-being of the child. This language is necessary because Minnesota Statutes, section 260.242, subdivision 2 states that any county action with respect to a state ward taken on behalf of the commissioner is subject to the commissioner's final authority. This change is also consistent with the community social services act language, Minnesota Statutes, section 256E.05, subdivision 2, which requires commissioner approval of community social service plans and plan amendments.

Subpart 4. Change in child's county of residence.

This subpart requires the local agency in the child's current county of residence to notify the new county's local agency and, if applicable, the American Indian child's tribe, of a change in the child's county of residence. This amendment is necessary to ensure that guardianship and social service responsibilities are assumed by a child's new county of residence. A child's current county of residence is the county responsible for the child, putting the county in the best position to know if a child has relocated. This amendment is necessary to conform to Minnesota Statutes, chapter 256G.

This subpart is also amended to require the new county of residence to provide the county of financial responsibility with reports the county of financial responsibility requests concerning service expenditures for the child. This is necessary because the new county of residence would not be assuming financial responsibility for a child in "excluded time" status, defined in Minnesota Statutes, section 256G.02, subdivision 6 as time spent in, among other things, a foster home. It is reasonable to make sure that the county of financial responsibility is provided with information needed to meet and evaluate its financial obligations.

Subpart 5. Appointment of guardian ad litem.

This subpart is amended by placing responsibility for the appointment of a guardian ad litem on the county of residence rather than the county of financial responsibility.

The change assigning responsibility for appointments under this subpart to the county of residence is necessary and reasonable because the county of residence is the county to which the commissioner may delegate the department's guardianship responsibilities pursuant to Minnesota Statutes, section 260.242, subdivision 2.

9650.0450 CONSENTS.

Subpart 1. Delegated consents.

The changes to items B, C, D, I, J, P and Q are necessary to clarify the scope of consents delegated to counties by the commissioner. The clarifications are reasonable because they are consistent with current agency practice and are supported by the advisory committee. The delegation of these consents is also reasonable because delegation is within the commissioner's authority under Minnesota Statutes, section 260.242, subdivision 2, paragraph (b).

Item C contains the language from deleted (old) item J, except for the nondelegated consent in subpart 2, item H.

Item D contains the language from deleted (old) item K, with the addition of language currently used by the department.

The new language in item F is necessary to comply with current use of "regional treatment center," one of the examples of a state facility in Minnesota Statutes, section 246.50, subdivision 3.

The addition of item H is necessary to provide wards with the opportunity to take trips of more than 30 days but less than 90 days without the excessive delay entailed in obtaining consent directly from the commissioner. This time period will encompass most summer vacations and caregiver's trips out-of-state. If a trip lasts 90 days or longer, the department will look into a more permanent living arrangement as well as a child's need for services. In sum, up to 89 days is a workable maximum time frame to delegate department consent; after three months, the commissioner will be more involved in ensuring services for the child. This change is reasonable because it is supported by the advisory committee and is within the commissioner's delegation authority under Minnesota Statutes, section 260.242, subdivision 2, paragraph (b).

Item I contains the language from deleted (old) item O. Item J contains the deleted language from item E, with the addition of "driver's permit." Item K contains the language from deleted (old) item P. Item L contains the deleted language from item C.

The reference to abortion (old item M) is deleted, because it is a surgical procedure covered under new item M. New item M is necessary and reasonable because it is a consent delegated to the local agency by the commissioner pursuant to Minnesota Statutes, section 260.242, subdivision 2, paragraph (b).

Item N contains the deleted language from item D. Item O contains the deleted language from item F. Item P is expanded to include the current statutory and policy references to tuition waivers.

Subpart 2. Nondelegated consents.

The change from "local social service agency" to "local agency" is done for the same reason as discussed in part 9560.0430, subpart 6.

The language change to item B is necessary to provide clarity. "Exportation" is jargon. The new language clears up what is meant by "exportation": taking or sending a child out of Minnesota for the purpose of placing a child in foster care or an adoptive home. See Minnesota Statutes, section 257.06.

The amendment to item C is necessary to provide clarity and provide that the commissioner can ensure the proper services for the child As discussed in subpart 1, item H, travel for 90 days or more does not encompass most summer vacations and is not a workable time frame to delegate department consent. The change is reasonable because it is consistent with the commissioner's delegation authority under Minnesota Statutes, section 260.242, subdivision 2, paragraph (b). The amendment is also necessary and reasonable because it ensures compliance with Minnesota Statutes, section 257.06 which prohibits anyone other than a parent or guardian from taking a child out of state for purposes of foster care placement without first obtaining the approval of the commissioner.

The new language in item E is necessary to comply with current use of "regional treatment center," one of the examples of a state facility as defined in Minnesota Statutes, section 246.50, subdivision 3.

The amendment to item G is necessary to remove redundant language. Subpart 2 lists nondelegated consents, meaning they can be issued only by the commissioner. For issuance to take place, the commissioner would already be appointed guardian. Therefore, language stating that separation of siblings may take place only "after the appointment of the commissioner of human services as guardian" is redundant.

Item H (requests that the child not be resuscitated or intubated) is necessary because this issue requires review of life threatening conditions. Including this item in this subpart ensures that consents to requests for nonresuscitation testing will not be delegated as are consents for other medical treatment under subpart 1, item C. This item is reasonable because it is consistent with Minnesota Statutes, section 260.242, subdivision 2 which gives the commissioner discretion to determine which guardianship duties will be delegated to counties. This item was supported by the advisory committee and is consistent with current department practice.

9560.0460 DISPOSITION OF SOCIAL WELFARE FUND.

The amendments to this part are necessary to ensure that money and funds intended for a state ward are managed in accordance with state law. The amendments are reasonable because they incorporate the relevant statutory provisions that govern county dispensation of benefits intended for state wards.

9560.0470 STATE GUARDIANSHIP ASSISTANCE UP TO AGE 21.

The amendments further define the assistance wards may receive. They are necessary to ensure that the local agency in the child's county of residence provides social services and access to financial assistance to wards who have reached age 16 and, in some instances, to wards who have reached the age of majority. The amendments are reasonable because they are consistent with federal law as provided in 42 U.S.C. 677 regarding client services toward independent living skills. This federal statute lists the independent living initiative programs states may establish; such programs may include initiatives providing counseling, coordinating services, establishing outreach programs, and enabling participants to seek a high school diploma or its equivalent or to take part in vocational training. The amendments are also reasonable because they are consistent with Minnesota Statutes, section 256E.08, subdivision 1, clause (4), which establishes the responsibility of county welfare boards and Minnesota Statutes, section 260.40, which establishes 21 years of age as the age of majority for children under state guardianship.

It is also reasonable to give the child adequate notice, six months before the child reaches age 18, of his or her right to request the continuation of social services and access to financial assistance up to age 21.

9560.0475 ADMINISTRATIVE REVIEWS AND DISPOSITIONAL HEARINGS.

The addition of this part is necessary to ensure that children placed under the guardianship of the commissioner receive the same services toward permanent placement as other children who reside in out-of-home care under agency supervision due to voluntary placement agreements or court custody orders.

The provisions of this part are reasonable because they are based upon the statutory requirements of Minnesota Statutes, sections 257.071, subdivision 2 and 260.242, subdivision 2, paragraph (d). These statutes, in turn, are based upon the federal mandates found in the Social Security Act, Section 471(a)(14), (15) and (16).

9560.0480 GUARDIANSHIP RECORDS.

Subpart 1. Content.

This subpart is necessary to ensure that the agency maintains a service record of its services while the child is under the commissioner's guardianship as required by Minnesota Statutes, section 257.01. By maintaining a record, the local agency will be able to help a former ward who requires postguardianship services or a former ward who requests needed family and medical history and assistance in locating family members. This subpart is reasonable because often the local agency is the only resource for a former ward and because maintaining records is administratively efficient.

Subpart 2. Retention.

This subpart requires permanent retention of the guardianship records. Former wards who grew up separated from birth siblings were assured by the agency that they would receive assistance after age 18 to locate their siblings. Therefore, it is necessary to enable the local agency to respond to requests from former wards or, in the event of death, next of kin. This subpart is reasonable because many requests are made years after the records are closed, sometimes after the death of the former ward, and because retention of the data will be done to ensure privacy. This subpart is based upon Minnesota Statutes, section 259.46, subdivision 3, which requires that all adoption records be retained permanently to ensure confidentiality.

Subpart 3. Use of information.

This subpart is necessary to clarify that unless state law requires a different classification, information on a child is private data subject to the provisions of the Minnesota government data practices act, Minnesota Statutes, chapter 13. This subpart is reasonable because it provides the agency in the child's county of residence with direction on how to disseminate information on a former ward under Minnesota Statutes, sections 13.01 et. seq. and in situations where the child was adopted, under Minnesota Statutes, section 259.46, subdivision 1.

9560.0485 POSTGUARDIANSHIP SERVICES.

Subpart 1. Postguardianship assistance.

This subpart is added because former wards may request postguardianship services after they reach 21 years of age. The need for postguardianship services has been shown over the past 20 years: Each month, up to five or more former wards request the commissioner or local agency to provide background and health history from the local agency record, as well as assistance in

locating birth relatives. The needs of former wards, then, are similar to those of adopted persons who are able to receive postadoption services under Minnesota Statutes, sections 259.47 and 259.49. The department believes it is good public policy to supply services to former wards in the same manner as is provided to adopted persons. In order to serve these former wards, it is necessary to provide for postguardianship services.

When the person was a ward, the local agency acted for the commissioner by providing services as required by Minnesota Statutes, sections 256E.03, subdivision 2, paragraph (a), clause (2) and 393.07, subdivision 2. Additionally, the local agency may have provided services to "other groups of persons" in need of social services pursuant to Minnesota Statutes, section 256E.03, subdivision 2, paragraph (a), clause (9). The local agency was also required to maintain records in accordance with Minnesota Statutes, section 257.01 which contain information about the birth parents and "further demographic and other information as is required by the commissioner of human services." The commissioner also has the authority "to adopt and enforce rules ... governing the custody, use and preservation of ... child welfare records, files, and communications" pursuant to Minnesota Statutes, section 393.07, subdivision 4. Because services were provided to the ward by the local agency, because important records were maintained by the local agency, and because the requests and needs of former wards are similar to those of adopted persons who can receive services under Minnesota Statutes, sections 259.47 and 259.49, it is reasonable to require local agencies to provide postguardianship services when so requested in writing.

Subpart 2. Documentation of postguardianship service.

As noted in subpart 1, it is not unusual for a former ward to request additional postguardianship services over a span of years. If services are provided, it is reasonable to require documentation in the guardianship record of the services provided. This is especially true because staff changes and potential client recontacts are likely to occur. This requirement is necessary to ensure that the information is available for the delivery of future services.

Subpart 3. Reimbursement.

Neither state nor county governments will cover the cost of postguardianship services. As noted above in part 9560.0485, subpart 1, services may include providing background and health histories and providing help in locating birth relatives, both of which may require photocopying and other administrative details. If a former ward is entitled to receive postguardianship services from a local agency, it may become necessary for the local agency to cover the costs of providing services. Seeking "reasonable" reimbursement from the former ward based on the former ward's

ability to pay for the cost of providing services and for recovery of administrative costs is reasonable. While the amount varies from agency to agency, reimbursement covers an agency's cost per hour for service and administration. The agency can charge a flat fee, a sliding fee scale or waive reimbursement costs.

This subpart is also reasonable as it is based in part on Minnesota Statutes, sections 256E.08, subdivision 6 (the county board can establish a fee schedule to be charged to persons receiving social services); 259.47, subdivision 5 (the commissioner, local agencies and licensed child-placing agencies may require "a **reasonable expense reimbursement**" for providing postadoption services) (emphasis added); and 259.49, subdivision 2 (the commissioner, local agencies and licensed child-placing agencies may "charge a **reasonable fee** to the adopted person for the cost of making a search" of the original birth certificate) (emphasis added).

Expert Witnesses/Small Business

If this rule is heard in public hearing, the Department does not intend to have outside expert witnesses testify on its behalf. The proposed rule amendments do not affect small businesses as defined in Minnesota Statutes, section 14.115.

Dated: 12-12-90

ANN WYNIA
Commissioner

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES
Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-38___

May 24, 1991

Ms. Patricia Nolte, Legal Assistant
Office of the Attorney General
Public Finance Division
Capitol Office Building
525 Park Street
St. Paul, MN 55103

RE: Proposed permanent amendments to Minnesota Rules, parts 9560.0410 to 9560.0485 (Rule 171)

Dear Ms. Nolte:

In order to gather all the documents needed to complete the Department's record on these soon-to-be-adopted rules, I am in need of the following:

- Declaration of Counsel (David Iverson)
- Cover letter I wrote to you when sending over the file

If you could please send me copies of these, I would appreciate it. This was the first time I promulgated a rule, and I know now that in the future, I must make copies of everything.

Thank you. If you have any questions, please call me at 297-4302.

Sincerely,

Stephanie L. Schwartz

Stephanie L. Schwartz
Rules Division

ATTY GENERAL-

28 MAY 91 2:58

Sent PN

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AN EQUAL OPPORTUNITY EMPLOYER

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES
Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-38___

TO: Patricia Nolte, Legal Assistant
Public Finance Division
525 Park Street, Suite 500

FROM: Stephanie L. Schwartz

SUBJECT: Review of a Rule Adopted Without a Public Hearing; Relating to Children in Need of Protection or Services, Minnesota Rules, parts 9560.0410 to 9560.0485.

Enclosed are the documents required to be submitted under Minnesota Rules, part 2010.0300 for your review of a rule adopted without a public hearing for the above entitled matter.

Official documents in this submitted material include:

1. A copy or photocopy of the notice of solicitation of outside information or opinions as published in the State Register.

2. A copy of the proposed rule with a certificate of approval as to form by the revisor of statutes attached.

3. The notice of intent to adopt a rule without a public hearing as mailed.

4. The statement of need and reasonableness in support of the proposed rule complying with part 2010.0700.

5. The affidavit of mailing the notice of intent to adopt a rule without a public hearing. The affidavits state that the mailing list maintained by the agency pursuant to Minnesota Statutes, sections 14.22 and 14.14, subdivision 1a is accurate, complete, and current and that the notice of intent to adopt the rule without a public hearing was mailed to all persons and groups whose names appear on the list.

6. A copy or photocopy of the notice of intent to adopt the rule without a public hearing as published in the State Register.

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7. Four copies of the rule as adopted. Any modification made to the proposed rule is reflected on the rule as adopted and is approved as to form by the revisor of statutes.

8. The findings of fact, conclusions, and order adopting the rule.

9. All written requests, submissions, or comments on the rule received by the agency except requests solely for copies of the rule or of the statement of need and reasonableness.

10. The declaration of the attorney in the attorney general's office who represents the agency.

11. No requests to be notified of submittal of the rule to the Attorney General.

If you have any questions on this submitted material, please call me at 297-4302.

In the Matter of the Adoption of the Rule of the State Department of Human Services Governing the Administration of Local Agency Responsibilities for Children Under State Guardianship Who are in Need of Protection or Services, Minnesota Rules, parts 9560.0410 to 9560.0485.

DECLARATION OF COUNSEL

I, David P. Iverson, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 0822.

Special Assistant
Attorney General

Dated: 4-11-91

DEPARTMENT: Office of the Attorney General **STATE OF MINNESOTA**

OFFICE MEMORANDUM

DATE: May 3, 1991

TO: STEPHANIE L. SCHWARTZ
Department of Human Services

FROM: CHARLENE HATCHER
Special Assistant Attorney General
525 Park Street, Suite 500 (55103)

PHONE: 296-9422

SUBJECT: In the Matter of the Adopted Rule Relating to Children in Need of Protection or Services

The above-referenced rule has been approved as to its legality by the Attorney General on April 25, 1991.

Enclosed is your copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of the notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

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

CH:sc
Enclosures
cc: David Iverson
William Brown, Chief Judge
MaryAnn Hruby

Department of Human Services

Adopted Permanent Rules Relating to Children in Need of Protection or Services

Rules as Adopted

9560.0410 SCOPE.

Parts 9560.0410 to 9560.0485 identify and govern the administration of local agency responsibilities for children under state guardianship in need of protection or services pursuant to Minnesota Statutes, sections 260.111 et seq., and the delegation to local agencies of the authority to grant consents.

9560.0420 PURPOSE.

The purpose of state guardianship is to carry out the responsibility to act and care for children in need of protection or services committed to the guardianship of the commissioner.

9560.0430 DEFINITIONS.

Subpart 1. **Applicability.** The terms used in parts 9560.0410 to 9560.0485 have the meanings given them in this part.

Subp. 2. **Commissioner.** "Commissioner" means the commissioner of human services or a designee.

Subp. 3. **County of residence.** "County of residence" means the county in which the child is physically present:

A. in the home of ~~an individual who is related to the child under Minnesota Statutes, section 245A.02, subdivision 13~~ a relative as defined in subpart 8;

B. in a residential program as defined in Minnesota Statutes, section 245A.02, subdivision 14; or

C. in an adoptive placement.

Subp. 4. **County of financial responsibility.** "County of financial responsibility" means the county financially responsible under Minnesota Statutes, chapter 256G, for the cost

Approved by Revisor KTH

of providing services to a child under state guardianship.

Subp. 5. **Indian child.** "Indian child" means an unmarried person under age 18 who is either a member of or eligible for membership in an American Indian tribe.

Subp. 6. **Local agency.** "Local agency" means the agency authorized by the county welfare or human service board to provide and ensure social services.

Subp. 7. **Licensed child-placing agency.** "Licensed child-placing agency" means an agency defined under Minnesota Statutes, sections 245A.02, subdivision 12; 257.351, subdivision 12; and 259.21, subdivision 6, and authorized by the commissioner to place children for foster care or adoption.

Subp. 8. **Relative.** "Relative" ~~means an individual who is related to a child within the third degree according to the civil table of consanguinity by blood, marriage, or adoption as a parent, stepparent, brother, sister, grandparent, great-grandparent, aunt, uncle, niece, or nephew~~ has the meaning given in Minnesota Statutes, section 260.015, subdivision 13.

9560.0440 GENERAL RESPONSIBILITIES.

Subpart 1. **Financial responsibility.** The local agency in the county of financial responsibility shall provide financial assistance and shall pay the cost of services provided to a child under state guardianship.

Subp. 2. **Notice.** The local agency in the child's county of residence shall notify the commissioner and, for a child eligible for tribal membership, the appropriate tribe when a child is placed under state guardianship. The notice to the commissioner must be on the form prescribed by the commissioner and must be provided to the commissioner within 30 days after the child is placed under state guardianship. The notice to the appropriate tribe may be by letter.

Subp. 3. **Social service plan.** The local agency in the child's county of residence must develop a social service plan within 90 days after a child becomes a ward. The plan must be developed according to items A to E.

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by Revisor _____

A. The child's social service plan under part 9550.0090 must be developed by the local agency and with the child if the child is seven years of age or older and capable of articulating his or her thoughts. The plan must be reviewed at least annually by the local agency. A child seven years of age or older at the time of the annual review and capable of articulating his or her thoughts shall participate in the review.

B. The plan must address the emotional, health, educational, vocational, and spiritual needs of the child, and preserve, where feasible, the racial and familial identity of the child. For an Indian child, the plan must include arrangement to apply for or obtain verification of tribal membership status under Minnesota Statutes, section 257.352, subdivision 1. ~~It~~ For an Indian child or a child of minority race or minority ethnic heritage, the plan must also comply with the racial, ethnic, and religious placement preference requirements under Minnesota Statutes, sections 257.071, subdivision 1a; 259.255; 259.455; and 260.181, subdivision 3. If a child has at least one sibling, the plan must provide for preserving the sibling relationship, where feasible.

C. The aim of the plan must be to establish a permanent family relationship for the child through the selection of a family committed to providing a home until the child reaches majority. The plan must include the goal of adoption for a child under age 14, using the procedures required in Minnesota Statutes, section 259.45. However, if there is established a permanent family relationship between the child and the child's relative as defined in part 9560.0430, subpart 8, adoption must be encouraged but is not required as a condition of permanent placement.

For a child age 14 or older, the child shall be counseled regarding adoption and other available permanent placement options. If the child chooses not to be adopted, the local agency shall notify the commissioner by submitting a written report and a copy of the child's affidavit in the form prescribed by the commissioner.

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D. Any plan which permits a child to live independently without local agency guidance does not relieve a local agency of its responsibility to be aware of the child's needs and provide for them if necessary.

E. The goals, plans, and objectives for children under the supervision of licensed child-placing agencies must be made only with the agreement of the local agency in the child's county of residence after notification to the county of financial responsibility, if different from the county of residence.

Subp. 3a. **Review of social service plan.** Within two weeks after a child's move into a county, the county's local agency must review the social service plan developed by the local agency in the child's previous county of residence to determine the continued applicability of the plan.

The local agency in the child's new county of residence may approve or disapprove the plan. If the local agency disapproves the plan, it must notify the local agency in the child's previous county of residence and the county of financial responsibility, if different from the county of residence. If, after 45 days, the local agency and the local agency in the child's previous county of residence continue to disagree as to the plan, the local agency may change the plan after receiving written approval of the change from the commissioner.

Subp. 4. **Change in child's county of residence.** Before a child moves to a new county, the local agency in the child's current county of residence shall notify the new county's local agency and, if applicable, the Indian child's tribe of the change in the child's residence. The notification must be in writing and must indicate that the new county's local agency shall assume responsibility for implementing the social service plan developed under subpart 3. If the child's new county of residence does not become the county of financial responsibility, the child's new county of residence shall provide reports requested by the local agency in the county of financial responsibility. Payment responsibilities for services

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by Revisor _____

provided to the child by the child's new county of residence are governed by Minnesota Statutes, chapter 256G.

Subp. 5. **Appointment of guardian ad litem.** The local agency in the child's county of residence shall assure the appointment of a guardian ad litem to represent the child under state guardianship:

A. when the child has a legal claim against another party;

B. when the child has an interest in an existing legal action;

C. when an action has been instituted against the child by another; and

D. in all other instances when the best interest of the child requires legal counsel.

9560.0450 CONSENTS.

Subpart 1. **Delegated consents.** The following consents are delegated to local agencies:

A. autopsy;

B. baptism or other similar religious rites;

C. medical treatment, except for subpart 2, item H;

D. mental health services, including treatment with psychotropic medications;

E. application for marriage license;

F. admission to a regional treatment center or other inpatient mental health facility to the extent permitted under law;

G. giving the body or parts of the body to science after death;

H. out-of-state or out-of-country travel for more than 30 days, but less than 90 days, including application for passports and visas necessary for travel;

I. permanent placement agreement on a child over 14 years of age;

J. application for driver's permit or driver's license;

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by Revisor _____

K. petition to transfer guardianship;

L. petition for change of name;

M. surgical treatment;

N. publicity about the child;

O. enlistment in the armed services, peace corps, or job corps; and

P. request for tuition waiver under Minnesota Statutes, section 136.11, subdivision 1, or as allowed by Number 3.3.2.5 of the Minnesota Board of Vocational Technical Education's System Policy Manual, approved May 10, 1988. This manual is incorporated by reference and is subject to frequent change. It is available at the Minnesota State Law Library, Minnesota Judicial Center, 25 Constitution Avenue, Saint Paul, Minnesota 55155.

Subp. 2. **Nondelegated consents.** All consents not specifically delegated to local agencies may be issued only by the commissioner. The consents not specifically delegated include:

A. adoption;

B. taking or sending a child out of Minnesota for purposes of placing a child in foster care or adoption;

C. out-of-state or out-of-country travel for 90 days or more;

D. giving a part of the body for therapeutic purposes for another person while the child is living;

E. transfer from one regional treatment center to another regional treatment center;

F. sterilization;

G. separation of siblings; and

H. requests that the child not be resuscitated or intubated.

9560.0460 DISPOSITION OF SOCIAL WELFARE FUND.

The local agency in the county of financial responsibility may accept gifts, contributions, pensions, benefits and inheritance on behalf of a child under state guardianship. The

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money received by the local agency may be applied to the maintenance and support of the child. The unspent portion of the money must be held in trust and invested through the social welfare fund under Minnesota Statutes, sections 256.88 to 256.91.

When a ward is legally adopted, is discharged from guardianship, or dies, the remaining funds in the social welfare fund must be paid as provided in Minnesota Statutes, section 256.91.

9560.0470 STATE GUARDIANSHIP ASSISTANCE UP TO AGE 21.

The local agency in the child's county of residence shall provide a child who has reached the age of 16 years with social services and access to financial assistance to help the child develop independent living skills. An individual who is under state guardianship at age 18 continues to be eligible for social services and access to financial assistance up to age 21 if the individual is incapable of self-sustaining employment or is in need of continuing education or training beyond high school.

For the purposes of this part, social services include counseling, training in independent living skills, and access to community resources.

Six months before a child under state guardianship reaches age 18, the local agency in the child's county of residence shall inform the child, in writing, of the child's right to request the continuation of social services and access to financial assistance beyond age 18.

9560.0475 ADMINISTRATIVE REVIEWS AND DISPOSITIONAL HEARINGS.

The local agency in the child's county of residence shall conduct administrative reviews of the child's social service plan under Minnesota Statutes, section 257.071, subdivision 2, at least every six months while the child is under state guardianship, in foster care, or in an adoptive placement. A court of competent jurisdiction shall, upon its own motion or that of the child's guardian, conduct a dispositional hearing under Minnesota Statutes, section 260.242, subdivision 2, paragraph (d), within 18 months after the child is placed in

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foster care and once every two years thereafter to determine the future status of the child. When the child is placed in an adoptive home, a dispositional hearing shall be sought if the child is removed from the adoptive home or is not legally adopted within two years of the adoptive placement. The local agency in the child's county of residence shall notify an Indian child's tribe of any administrative review or dispositional hearing.

9560.0480 GUARDIANSHIP RECORDS.

Subpart 1. **Content.** The local agency shall maintain a record on each child for whom it is responsible. The record must contain:

A. copies of all court findings and orders affecting custody, termination of parental rights, and assignment of guardianship to the commissioner;

B. data on the background and health history of the child and the child's birth family;

C. data on the background of the child's adoptive family if a previous adoption has occurred;

D. copies of notices to an Indian child's tribe whenever the child is placed in a home of a relative, a residential program or an adoptive home, as well as when there is an administrative review or court disposition;

E. documentation of the child's eligibility for benefits and services under title IV-E of the Social Security Act and other provisions of state and federal law, unless the child is no longer a ward or is at least age 21; and

F. all other information required by Minnesota Statutes, section 257.01.

Subp. 2. **Retention.** The record required under subpart 1 must be retained on a permanent basis using a record system that ensures privacy and lasting preservation.

Subp. 3. **Use of information.** Unless state law requires a different classification, all information on a child must be maintained by the local agency in the child's county of

Approved
by Revisor _____

residence as private data and disseminated according to the Minnesota Government Data Practices Act, Minnesota Statutes, chapter 13. Unless state law requires a different classification, all information on a child who is subsequently adopted must be maintained as confidential data under Minnesota Statutes, section 259.46, subdivision 1.

9560.0485 POSTGUARDIANSHIP SERVICES.

Subpart 1. **Postguardianship assistance.** Upon a written request, the local agency or, when appropriate, the former supervising agency, shall provide postguardianship services to former wards of the commissioner. Postguardianship services include:

A. dissemination of information from the agency record on a former ward's background, health and placement history;

B. search assistance in locating and establishing contact with a former ward's relatives; and

C. counseling on issues related to guardianship or referral to appropriate counseling services.

Subp. 2. **Documentation of postguardianship services.** The local agency shall document in the agency's guardianship record the postguardianship services provided.

Subp. 3. **Reimbursement.** The local agency may require the former ward to provide a reasonable expense reimbursement based on a former ward's ability to pay for providing postguardianship services.

Approved
by Revisor _____

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

MAY 1 1991

Joan Anderson Growe
Secretary of State

4:09

APPROVED AS TO FORM AND LEGALITY

April 25, 1991

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Charlene H. Hatcher
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of the Rule of the State Department of Human Services Governing the Administration of Local Agency Responsibilities for Children Under State Guardianship Who are in Need of Protection or Services, Minnesota Rules, parts 9560.0410 to 9560.0485.

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

(1) Notice of the Commissioner's intent to adopt the above-entitled rule was published in the State Register on January 7, 1991 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22, on January 2, 1991. (2) The statement of need and reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public.

(4) All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking. (5) The agency received seven requests for a public hearing, of which none were subsequently withdrawn. Therefore the agency did not receive requests for a public hearing from 25 or more persons which were not withdrawn. (7) No requests for notice of submission to the attorney general were received by the agency.

Based on the comments and evidence in the record before the agency, I find the following:

9560.0430 DEFINITIONS.

Subpart 8. Relative.

In subpart 8, the Department is making a technical change to bring the definition of "relative" as proposed in the rule into conformity with Minnesota Statutes, §260.181, subdivision 3.

In the rule as proposed, subpart 8 defines "relative" by combining parts of the definitions of Minnesota Statutes, §§245A.02, subdivision 13 and 260.015, subdivision 13. Minnesota Statutes, §245A.02, subdivision 13 defines relative as "a . . . parent, a . . . stepparent, a stepbrother, a stepsister, a niece, a nephew, an adoptive parent, a grandparent, a sibling, an aunt, an uncle, or a legal guardian." Minnesota Statutes, §260.015, subdivision 13 defines relative as "a parent, stepparent, grandparent, brother, sister, uncle, or aunt of the minor. This relationship may be by blood or marriage."

It continues:

> For an Indian child, relative includes members of the extended family as defined by the law or custom of the Indian child's tribe or, in the absence of laws or custom, nieces, nephews, or first or second cousins, as provided in the Indian Child Welfare Act of 1978. . . For purposes of dispositions, relative has the meaning given in section 260.181, subdivision 3.

This is the part that is not included in the definition of relative as proposed.

Kevin Kenney, Associate County Administrator, Hennepin County Bureau of Social Services, correctly notes that the definition of relative as proposed is too narrow; it does not take into account the broader definition of "relative" in Minnesota Statutes, §260.181, subdivision 3. For children of minority race or minority ethnic heritage, this statute defines "relatives" as "members of a child's extended family and important friends with whom the child has resided or had significant contact." Therefore, Mr. Kenney suggests a technical amendment modifying the definition to take into account the broader definition of "relative" in Minnesota Statutes, §260.181, subdivision 3.

The Department agrees that in foster home placements, state law requires local agencies to attempt to place children of minority race or minority ethnic heritage with a broader range of "relatives" than is defined in the rule as proposed. Further, the definition as proposed does not take into account federal law regarding Indian children. Therefore, subpart 8 is amended to read:

Subp. 8. **Relative.** "Relative" ~~means an individual who is related to a child within the third degree according to the civil table of consanguinity by blood, marriage, or adoption as a parent, stepparent, brother, sister, grandparent, great-grandparent, aunt, uncle, niece, or nephew~~ has the meaning found in Minnesota Statutes, section 260.015, subdivision 13.

Minnesota law is clear on what constitutes a "relative" for an Indian child, and the law requires that a child of minority race or minority ethnic heritage have the opportunity to be placed with a broader range of "relatives" than the proposed language allows. This technical amendment is not a substantial change because it simply conforms to state law.

Subpart 3. County of residence.

Item A.

In subpart 3, item A, the Department is making a technical change to cross-reference the correct definition of "relative."

In the rule as proposed, a county of residence is defined as the county where the child is physically present "in the home of an individual who is related to the child under Minnesota Statutes, section 245A.02, subdivision 13. . . ."

Because the Department accepts Hennepin County's suggestion to expand the definition of "relative" to include members of the extended family or as provided in federal law (for an Indian child) and members of the extended family and important friends (for a child of minority race or minority ethnic heritage), it is necessary to modify item A to follow the new definition in subpart 8. Therefore, item A is amended to read:

Subp. 3. **County of residence.** "County of residence" means the county in which the child is physically present:

A. in the home of ~~an individual who is related to the child under Minnesota Statutes, section 245A.02, subdivision 13~~ a relative as relative is defined in subpart 8;

This technical amendment is not a substantial change because it simply cross-references the new definition of "relative" in subpart 8.

9560.0440 GENERAL RESPONSIBILITIES.

Subpart 3. Social service plan.

Item B.

In subpart 3, item B, the Department is making a technical change, expanding the requirement that an Indian child's social service plan must comply with specific state law by mandating the same for children of minority race or minority ethnic heritage.

In the rule as proposed, only an Indian child's social service plan must comply with the "racial, ethnic, and religious placement preference requirements under Minnesota Statutes, sections 257.071, subdivision 1a; 259.255; 259.455; and 260.181, subdivision 3."

Because the Department accepts Hennepin County's suggestion to expand the definition of "relative" to take into account a child of minority race or minority ethnic heritage, item B must likewise be expanded to apply to these children. Therefore, item B is amended to read:

B. The plan must address the emotional, health, educational, vocational, and spiritual needs of the child, and preserve, where feasible, the racial and familial identity of the child. For an Indian child, the plan must include arrangement to apply for or obtain verification of tribal membership status under Minnesota Statutes, section 257.352, subdivision 1. ~~It~~ For an Indian child or a child of minority race or minority ethnic heritage, the plan must also comply with the racial, ethnic, and religious placement preference requirements. . . .

This revision is not a substantial change because it merely clarifies the requirements of Minnesota Statutes, §260.181, subdivision 3, which apply to a child of minority race or minority ethnic heritage.

Item C.

In subpart 3, item C, the Department is making a nonsubstantial, technical change to clarify that the social service plan cannot, in every case, "establish a permanent family relationship." Rather, its *objective* must be a permanent relationship. Therefore, item C is amended to read:

C. The aim of the plan must be to establish a permanent family relationship for the child through the selection of a family committed to providing a home until the child reaches majority. . . .

Mr. Kenney also states that it is inconsistent to offer adoption to children at age 14 years who were permanently placed when under age 14, if they were placed with relatives as part of a permanent plan. This is a misreading of the proposed rule. The first paragraph of item C applies to the social service plan's goal of adoption for a child under age 14 living with relatives, where adoption is encouraged but not required.

The second paragraph of item C applies to a child age 14 or older. Pursuant to Minnesota Statutes, §259.45, each child under age 14 will be registered on the State Adoption Exchange, unless deferral is granted under specific circumstances. See Minnesota Statutes, §259.45, subdivision 8. Minnesota Statutes, §259.45, subdivision 5 provides that a child's registration shall be withdrawn if the child has reached age 14 and will not consent to adoption. Therefore, a child age 14 or over may or may not consent to adoption.

Mr. Kenney also recommends a change in the statutes to "allow for court-ordered permanent placement, with relatives, of state wards under the age of 14; this is not an option under the current statutes." Because proposed rules must comply with current state law, the Department does not accept this suggestion.

Subpart 3.

There are no changes to subpart 3. In the rule as proposed, the social service plan is required to be developed within 90 days after a child becomes a ward.

Mr. Kenney of Hennepin County states that the timelines for development of the social service plan and annual review are "not synchronized with requirements" under Minnesota Statutes, §257.071, subdivision 3 and Public Law 96-272 (Title IV-E of the Social Security Act). He notes that in order to comply with these laws, Hennepin County must make a new placement plan within 30 days of the termination of parental rights and must review it every six months. He suggests limiting the time to develop a social service plan from the proposed 90 days to 30 days and requiring review every six months.

Minnesota Statutes, §257.071, subdivision 3 address placement of a child into a residential facility (in this case, a foster home) upon a voluntary release by the parent when the child does not return home within a year after initial placement. It requires the local agency to update the case plan (social service plan) when a petition is filed by the agency to review the child's foster care status or to terminate parental rights. There is no mention of a timeframe for development of the social service plan.

However, Minnesota Statutes, §257.071, subdivision 1 does require that a case plan be "prepared within 30 days" after a child is placed in a foster home by court order or by the voluntary release of the child by the parent or parents. Accordingly, Minnesota Rules, part 9560.0610, subpart 2 requires the development of a case plan "before the child is placed" in a foster home, unless the child's situation requires immediate placement. If an emergency placement is necessary, the case plan must be developed "within 30 days after initial placement."

Most state wards will already have been in foster placement (before they became wards) pursuant to Minnesota Statutes, §257.071, subdivision 1 and have had case plans developed before a local agency petitions for review of the foster care status or termination of parental rights (the process described in Minnesota Statutes, §257.071, subdivision 3). In the minority of instances where a case plan has not yet been developed for a state ward, one will need to be developed or updated. As noted, there is no timeframe mandated for this scenario.

Public Law 96-272 (Title IV-E of the Social Security Act) does not mandate a timeframe for development of a social service plan. However, it does require a periodic review at least once every six months by court or an administrative review of the child's status. Minnesota Statutes, §257.071, subdivision 2 requires periodic administrative reviews at least every six months, and Minnesota Statutes, §260.242, subdivision 2, paragraph (d) requires a court administrative review of state wards every two years. The rule as proposed follows federal and state law. See Minnesota Rules, part 9560.0475.

Because no timeframe is mandated by state or federal law to develop a ward's social service plan when a local agency petitions the court to terminate parental rights, because a local agency may need 90 days to develop a social service plan, and because a county is free to develop a plan within 30 days, the Department declines to change subpart 3.

9560.0485 POSTGUARDIANSHIP SERVICES.

Although Ms. Marjorie Mereen, Director, Child and Family Services Division, Children's Home Society of Minnesota, submitted comments after the 30-day period in which to submit comments, the Department will respond to the concerns raised.

Subpart 3.

Part 9560.0485 is a new part. Subpart 3 provides that a local agency (defined as the agency authorized by the county welfare or human service board to provide and ensure social services) may require a "former ward to provide a reasonable expense reimbursement based on a former ward's ability to pay for providing postguardianship services."

The Children's Home Society, a private agency, states that this subpart may affect how it charges fees as there "may be some situations in which we are asked to provide post-adoption services to children who have been state wards prior to adoption."

However, this rule administers post<u>guardianship</u>, not post<u>adoption</u> services to former wards who were never adopted. Additionally, because the Children's Home Society is not a local agency, this subpart does not affect its fee structure.

CONCLUSIONS

I hereby conclude that:

1. All modifications made to the proposed rule are not substantial changes.

2. The rules, as modified, are (8) necessary and reasonable.

3. Any duplication in these rules of language contained in Minnesota Statutes is crucial to the ability of persons affected by the rules to comprehend their meaning and effect.

4. The Department has complied with all applicable provisions of law and rule in the promulgation of these rules.

5. If any finding or part of a finding, above, is properly characterized as a conclusion, it is adopted as a conclusion.

The above-captioned rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rule identified as Administration of Local Agency Responsibilities for Children Under State Guardianship Who are in Need of Protection or Services is adopted this 26th day of March, 1991, pursuant to authority vested in me by Minnesota Statutes, sections 260.242 and 393.07.

(9)

George J. Steiner

for NATALIE HAAS STEFFEN
Commissioner

Stat Authority

260.242

If the court terminates parental rights of both parents or of the only known living parent, the court shall order the guardianship and the legal custody of the child transfered to:

(a) The commissioner of human services

(b) A licensed child placing agency or

(c) An individual who is willing and capable of assuming the appropriate duties and responsibilities to the child.

393.07 subd 4

The commissioner of human services shall be the authority to adopt and enforce rules concerning the use and publication of lists of public assistance to recipients and governing the custody, use, and preservation of public assistance, mental health or child welfare records, files, and communications. The commissioner of human services shall adopt such rules as may be necessary to comply with the requirements of the federal social security act

Notice of Intent - people have until Feb 6 to comment

Rules 9560.0440 subp 2, lines 32-35 (Page 2)
"form prescribed by the commissioner and must be provided to the commissioner within 30 days

page 4, lines 5-10, 8-9 submitting a copy of the affidavit in the form prescribed by the commissioner

Changes in the ~~program~~ rules
Broadening the definition of relative
is including people that were don not originally effected by this rule. ie members of extended family and important friends
a significant change

4-17-91- called Stephanie - she said they mailed the SOLAR to the LCAR

DARRELL WADENA, PRESIDENT
NORMAN DESCHAMPE, VICE PRESIDENT

GARY S. FRAZER, EXECUTIVE DIRECTOR
KENT P. TUPPER, LEGAL COUNSEL

EUGENE A. BOSHEY, SR., SECRETARY
DANIEL BROWN, TREASURER

The Minnesota Chippewa Tribe

P.O. BOX 217 — CASS LAKE, MINNESOTA 56633-0217

HOME LOAN
335-8582
ECONOMIC DEVELOPMENT
335-8583
EDUCATION
335-8584
HUMAN SERVICES
335-8585
WATER QUALITY
335-6303

April 25, 1989

ADMINISTRATION
335-8581
TELEFAX
335-6562



Ms. Ruth Weidell
Adoption and Guardianship Section
State of Minnesota
Department of Human Services
444 Lafayette Road
St. Paul, Minnesota 55155

Dear Ms. Weidell:

We have reviewed the draft on proposed rule revisions concerning adoption and are making these recommendations.

The revision should include the following:

9560.0440 GENERAL RESPONSIBILITIES
Subp. 1. Notice. Should also notify tribe if child is eligible or enrolled in the tribe.
Subp. 45. Upon or before child moves to a new county - must also notify tribe.

9560.0450 CONSENTS
Subp. 1. Delegated consents.
L. Attempt to seek ethnicity of child and make arrangements to enroll child if child is eligible for tribal enrollment, with the tribe.

9560.0480 DISPOSITIONAL HEARINGS AND ADMINISTRATIVE REVIEWS

Notice to the tribe on all hearings and reviews. Especially if child is removed from adoptive home.

9560.0490 GUARDIANSHIP RECORDS

Subp. 1. Content.
E. Records of notice to tribe, when child is placed, moved, reviewed or a hearing conducted.

Sincerely,

THE MINNESOTA CHIPPEWA TRIBE

Adrienne Bendix

Adrienne Bendix, Director
Human Services Division

AB:mrl

SAINT LOUIS COUNTY
SOCIAL SERVICE DEPARTMENT

Robert J. Zeleznikar
Director

☐ ADMINISTRATIVE OFFICES
Government Services Center
320 West Second Street
Duluth, MN 55802
(218) 726-2000

May 8, 1989

Ms. Ruth Weidell
Department of Human Services
444 Lafayette Road
St. Paul, MN 55155

Dear Ruth:

I am writing this letter in response to your request for comments on the proposed rule revisions for Children Under State Guardianship. I feel the committee has completed its work. Having participated on the rule committee and reviewed the final draft with my staff, I can recommend no further changes.

It was nice working with you. I am sure the rest of the process will go smoothly.

Sincerely,

Bill Paulsen
SAF Unit Supervisor

BP/vm



☒ Reply to

☐ Northland Office Center
307 South First Street
Virginia, MN 55792
(218) 749-7100

☐ Graysher Shopping Center
Hibbing, MN 55746
(218) 262-6000

☐ 118 South Fourth Avenue East
Ely, MN 55731
(218) 365-6151

Interested persons or groups may submit data or views on the subject matter of the Plans in writing or orally. Written statements should be addressed to Mary Donohue, Minnesota Department of Health, 717 S.E. Delaware Street, P.O. Box 9441, Minneapolis, MN 55440. Oral statements will be received during regular business hours over the telephone at the above telephone number and in person at the above address.

All statements of information and opinions shall be accepted until 4:30 p.m., August 13, 1990. Any written material received by the Minnesota Department of Health shall become part of the Plan record subject to inspection by the United States Department of Agriculture.

Department of Human Services

Medical Assistance Payment Rate for Special Transportation

The Department of Human Services Medical Assistance Program will continue to use the current base rate for transportation of ambulatory recipients using special transportation.

The current base rate of $16.00 will continue to be used for special transportation provided to both wheel chair bound and ambulatory recipients. Special transportation is provided to recipients who cannot use a taxi, bus or private automobile because of a mental or physical impairment. Additional information can be obtained from:

Department of Human Services
Health Care Management Division
Health Care Policy Section
444 Lafayette Road
St. Paul, Minnesota 55155-3853
(612) 296-3200

Department of Human Services

Children's Services Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rule Governing the Administration of Local Agency Responsibilities for Children under State Guardianship Who are in Need of Protection or Services

NOTICE IS HEREBY GIVEN that the State Department of Human Services is seeking information or opinions from sources outside the agency in preparing to propose the amendment of the rule governing the administration of local agency responsibilities for children under state guardianship who are in need of protection or services, *Minnesota Rules*, parts 9560.0410 to 9560.0485. The amendment of the rule is authorized by *Minnesota Statutes*, section 260.242, which requires appointment of the commissioner or a licensed child-placing agency as guardian where parental rights have been terminated and *Minnesota Statutes*, section 393.07, which assigns the commissioner supervisory authority over the child public welfare program, including the responsibility to assure protection and care for dependent and neglected children. Counties are also required by this section to supervise wards of the commissioner and act as the commissioner's agents in the adoptive placement and foster care placement of wards.

Amendments will clarify the county of financial responsibility requirement to provide financial assistance and to pay for services provided to a ward; require the local agency in the child's county of residence to notify the commissioner when a child is placed under state guardianship and, if appropriate, the child's tribe; expand the requirements of the social service plan to be developed for each ward; require the local agency in the child's current county of residence to notify the new county's local agency and, if appropriate, the child's tribe; allow the local agency in the child's county of residence to ensure appointment of legal counsel in lieu of or in addition to a guardian ad litem; allow authorization by the commissioner of an advocate; clarify the scope of consents delegated to counties by the commissioner and those not delegated; update language to follow state law pertaining to the state's Social Welfare Fund; ensure that local agencies provide social and financial services to wards; ensure that local agencies carry out statutory mandates to conduct administrative reviews of social service plans and request dispositional hearings; require local agencies to maintain permanent records on wards; and require postguardianship services.

The State Department of Human Services requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to: Stephanie L. Schwartz, Rules and Bulletins Division, Minnesota Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816. Oral statements will be received during regular business hours over the telephone at 297-4302 and in person at the above address.

All statements of information and opinions shall be accepted until further notice is published in the *State Register* or the Notice of Hearing or Notice of Intent to Adopt Rules Without a Hearing is published in the *State Register*. Any written material received by the State Department of Human Services shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Dated: 27 July 1990

Stephanie L. Schwartz
Rules and Bulletin Division

Department of Human Services

Chemical Dependency Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rule Governing Chemical Dependency Care for Public Assistance Recipients

NOTICE IS HEREBY GIVEN that the State Department of Human Services is seeking information or opinions from sources outside the agency in preparing to propose the amendment of the rule governing the appropriate level of chemical dependency care for public assistance clients, *Minnesota Rules*, parts 9530.6600 to 9530.6650. The amendment of the rule is authorized by *Minnesota Statutes*, section 254A.03, subdivision 3, which requires the commissioner to "establish by rule criteria to be used in determining the appropriate level of chemical dependency care, whether outpatient, inpatient or short-term treatment programs, for each recipient of public assistance seeking treatment for alcohol or other drug dependency and abuse problems" and *Minnesota Statutes*, section 254B.03, subdivision 5, which requires the commissioner to "adopt rules as necessary" to implement *Laws of Minnesota 1986*, chapter 394, sections 8 to 20.

The State Department of Human Services requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to: Stephanie L. Schwartz, Rules and Bulletins Division, Minnesota Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816. Oral statements will be received during regular business hours over the telephone at 297-4302 and in person at the above address.

All statements of information and opinions shall be accepted until further notice is published in the *State Register* or the Notice of Hearing or Notice of Intent to Adopt Rules Without a Hearing is published in the *State Register*. Any written material received by the State Department of Human Services shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Dated: 27 July 1990

Stephanie L. Schwartz
Rules and Bulletins Division

Departments of Human Services, Health and Public Safety

Notice of Intent to Solicit Outside Information or Opinions Regarding Proposed Merit System Rules Governing Compensation Plans

NOTICE IS HEREBY GIVEN that the State Departments of Human Services, Health and Public Safety are seeking information or opinions from sources outside the agencies in preparing to propose amendments to the rules governing the Minnesota Merit System's compensation plans. The amendments to the rules are authorized by *Minnesota Statutes*, sections 256.012, 144.071 and 12.22, subd. 3, which permits the Merit System to establish compensation plans for non-union employees in some local and county welfare, human services, health and emergency management agencies. The amendments would provide for salary adjustments for incumbents and adjustments to the various salary ranges for purposes of continued implementation of comparable worth.

The State Departments of Human Services, Health and Public Safety request information and opinions concerning the subject matter of the rules. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements of information and comment should be addressed to:

Ralph W. Corey
Minnesota Merit System
Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-3822

Department of Human Services

In the Matter of the Proposed Adoption of the Rule of the State Department of Human Services Governing the Administration of Local Agency Responsibilities for Children Under State Guardianship Who are in Need of Protection or Services, Minnesota Rules, parts 9560.0410 to 9560.0485

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

(1) Notice is hereby given that the State Department of Human Services intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, sections 260.242 and 393.07.

(2) All persons have 30 days or until 4:30 p.m. on February 6, 1991 in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. (3) Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. (4) If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. (6) Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. (7) If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

(5) Comments or written requests for a public hearing must be submitted to: Stephanie L. Schwartz, Rules Division, Minnesota Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816, (612) 297-4302.

(8) The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

(11) Minnesota Rules, parts 9560.0410 to 9560.0485 govern the administration of local agency responsibilities for children under state guardianship who are in need of protection or services and the delegation to local agencies of the authority to grant consents.

Amendments will clarify the county of financial responsibility requirement to provide financial assistance and to pay for services provided to a ward; require the local agency in the child's county of residence to notify the commissioner when a child is placed under state guardianship; expand the requirements of the social service plan to be developed for each ward; require the local agency in the child's current county of residence to notify the new county's local agency; clarify the scope of consents delegated to counties by the commissioner and clarify nondelegated consents; update language to follow state law pertaining to the state's Social Welfare fund; ensure that local agencies provide social services and access to financial assistance for wards; ensure that local agencies carry out statutory mandates to conduct administrative reviews of social service plans and require courts of competent jurisdiction to conduct dispositional hearings within 18 months after a child is placed in foster care and once every two years thereafter; ensure that when a child is adopted, a dispositional hearing will be requested if the child is subsequently removed or is not legally adopted within two years; require local agencies to maintain permanent records on wards to be maintained as private data, unless otherwise statutorily classified (if a ward is subsequently adopted, the data will be maintained as confidential); and require postguardianship services.

(11) A free copy of the rule is available upon request from Stephanie L. Schwartz, Rules Division, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota, 55155-3816, (612) 297-4302. A copy of the rule may also be viewed at any of the 87 county welfare or human services agencies in the State of Minnesota.

(12) 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 Stephanie L. Schwartz upon request at the address above.

(13) Adoption of these rules will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following adoption under the requirements of Minnesota Statutes, section 14.11. A fiscal note prepared according to the requirements of Minnesota Statutes, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available from Stephanie L. Schwartz, Department of Human Services upon request at the address above.

(9) If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 adopted rule, must submit the written request to Stephanie L. Schwartz at the address above.

date: 12-12-90

ANN WYNIA
Commissioner

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, (612) 296-5148.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General's Office for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit a written request to the State Board of Electricity.

John Quinn, Executive Secretary
State Board of Electricity

Rules as Proposed

3800.3590 LICENSES; EXPIRATION AND FEES.

[For text of subpart 1, see M.R.]

Subp. 2. **Examination, issuance, and renewal fees.** The following fees shall be payable for examination, issuance, and renewal:

A. For examination for each class of license, ~~$25~~ $35.

B. For issuance of original license and renewal:

(1) Class A master and master elevator constructor, ~~$35~~ $40 a year;

(2) Class B master, ~~$20~~ $25 a year;

(3) Class A journeyman, Class B journeyman, Class A or B installer, elevator constructor, maintenance, lineman, or special electrician, ~~$10~~ $15 a year; and

(4) electrical contractor and alarm and communication contractor, ~~$75~~ $100 a year.

[For text of subps 3 to 6, see M.R.]

EFFECTIVE DATE. The amendments to part 3800.3590, subpart 2, are effective July 1, 1991.

Department of Human Services

Proposed Permanent Rules Relating to Children in Need of Protection or Services

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Department of Human Services intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes*, sections 260.242 and 393.07.

All persons have 30 days or until 4:30 p.m. on February 6, 1991 in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to: Stephanie L. Schwartz, Rules Division, Minnesota Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816, (612) 297-4302.

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

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.

Minnesota Rules, parts 9560.0410 to 9560.0485 govern the administration of local agency responsibilities for children under state guardianship who are in need of protection or services and the delegation to local agencies of the authority to grant consents.

Amendments will clarify the county of financial responsibility requirement to provide financial assistance and to pay for services provided to a ward; require the local agency in the child's county of residence to notify the commissioner when a child is placed under state guardianship; expand the requirements of the social service plan to be developed for each ward; require the local agency in the child's current county of residence to notify the new county's local agency; clarify the scope of consents delegated to counties by the commissioner and clarify nondelegated consents; update language to follow state law pertaining to the state's Social Welfare fund; ensure that local agencies provide social services and access to financial assistance for wards; ensure that local agencies carry out statutory mandates to conduct administrative reviews of social service plans and require courts of competent jurisdiction to conduct dispositional hearings within 18 months after a child is placed in foster care and once every two years thereafter; ensure that when a child is adopted, a dispositional hearing will be requested if the child is subsequently removed or is not legally adopted within two years; require local agencies to maintain permanent records on wards to be maintained as private data, unless otherwise statutorily classified (if a ward is subsequently adopted, the data will be maintained as confidential); and require postguardianship services.

A free copy of the rule is available upon request from Stephanie L. Schwartz, Rules Division, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota, 55155-3816, (612) 297-4302. A copy of the rule may also be viewed at any of the 87 county welfare or human services agencies in the State of Minnesota.

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 Stephanie L. Schwartz upon request at the address above.

Adoption of these rules will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11. A fiscal note prepared according to the requirements of *Minnesota Statutes*, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available from Stephanie L. Schwartz, Department of Human Services upon request at the address above.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 adopted rule, must submit the written request to Stephanie L. Schwartz at the address above.

Ann Wynia
Commissioner

Rules as Proposed

9560.0410 SCOPE.

Parts 9560.0410 to ~~9560.0470~~ 9560.0485 identify and govern the administration of local ~~social service~~ agency responsibilities for children under state guardianship ~~as dependent or neglected~~ in need of protection or services pursuant to *Minnesota Statutes*, sections 260.111 et seq., and the delegation to local ~~social service~~ agencies of the authority to grant consents.

9560.0420 PURPOSE.

The purpose of state guardianship is to carry out the responsibility to act and care for ~~a child~~ children in need of protection or services committed to the guardianship of the commissioner ~~of human services as dependent or neglected~~.

9560.0430 ~~LOCAL SOCIAL SERVICE AGENCY; DEFINITION~~ DEFINITIONS.

Subpart 1. **Applicability.** The terms used in parts 9560.0410 to 9560.0485 have the meanings given them in this part.

Subp. 2. **Commissioner.** "Commissioner" means the commissioner of human services or a designee.

Subp. 3. **County of residence.** "County of residence" means the county in which the child is physically present:

A. in the home of an individual who is related to the child under *Minnesota Statutes*, section 245A.02, subdivision 13;

B. in a residential program as defined in *Minnesota* Statutes, section 245A.02, subdivision 14; or

C. in an adoptive placement.

Subp. 4. **County of financial responsibility.** "County of financial responsibility" means the county financially responsible under *Minnesota Statutes*, chapter 256G, for the cost of providing services to a child under state guardianship.

Subp. 5. **Indian child.** "Indian child" means an unmarried person under age 18 who is either a member of or eligible for membership in an American Indian tribe.

Subp. 6. **Local agency.** "Local ~~social service~~ agency" means the ~~local~~ agency ~~under the authority of~~ authorized by the county welfare ~~board~~ or human service board ~~responsible for~~ to provide and ensure social services.

Subp. 7. **Licensed child-placing agency.** "Licensed child-placing agency" means an agency defined under *Minnesota Statutes*, sections 245A.02, subdivision 12; 257.351, subdivision 12; and 259.21, subdivision 6, and authorized by the commissioner to place children for foster care or adoption.

Subp. 8. **Relative.** "Relative" means an individual who is related to a child within the third degree according to the civil table of consanguinity by blood, marriage, or adoption as a parent, stepparent, brother, sister, grandparent, great-grandparent, aunt, uncle, niece, or nephew.

9560.0440 GENERAL RESPONSIBILITIES.

Subpart 1. **Financial ~~assistance and social services~~ responsibility.** The local ~~social service~~ agency ~~having~~ in the county of financial responsibility shall provide financial assistance and ~~assure provision~~ shall pay the cost of ~~social~~ services~~, including protection, planning, and decision making, either directly or indirectly through other agencies~~ provided to a child under state guardianship.

Subp. 2. **Notice ~~from agency to commissioner~~.** The local ~~social service~~ agency ~~having financial responsibility~~ in the child's county of residence shall notify the commissioner ~~of human services within 30 days after commitment of~~ and, for a child eligible for tribal membership, the appropriate tribe when a child ~~to~~ is placed under state guardianship. The notice to the commissioner must be on the form prescribed by the commissioner and must be provided to the commissioner within 30 days after the child is placed under state guardianship. The notice to the appropriate tribe may be by letter.

Subp. 3. **Social service plan ~~of care and supervision~~.** ~~The local social service agency having financial responsibility shall prepare and carry out a plan for the care and supervision of the child through its own agency or an agency that agrees to supervise the child.~~ The local agency in the child's county of residence must develop a social service plan within 90 days after a child becomes a ward. The plan must be developed according to items A to E.

A. The ~~client~~ child's social service plan ~~(parts 9550.0100 to 9550.2900) shall~~ under part 9550.0090 must be developed by the local agency and with the child ~~and~~ if the child is seven years of age or older and capable of articulating his or her thoughts. The plan must be reviewed ~~with the~~ at least annually by the local agency. A child ~~at least annually~~ seven years of age or older at the time of the annual review and capable of articulating his or her thoughts shall participate in the review.

B. The plan ~~shall meet~~ must address the emotional, health, educational, vocational, and spiritual needs of the child, and preserve, where feasible, the racial and familial identity of the child. For an Indian child, the plan must include arrangement to apply for or obtain verification of tribal membership status under *Minnesota Statutes*, section 257.352, subdivision 1. It must also comply with the racial, ethnic, and religious placement preference requirements under *Minnesota Statutes*, sections 257.071, subdivision 1a; 259.255; 259.455; and 260.181, subdivision 3. If a child has at least one sibling, the plan must provide for preserving the sibling relationship, where feasible.

C. The plan ~~shall~~ must establish a permanent family relationship for the child through the selection of a family committed to providing a home until the child reaches majority. The plan must include the goal of adoption for a child under age 14, using the procedures required in *Minnesota Statutes*, section 259.45. However, if there is established a permanent family relationship between the child and the child's relative as defined in part 9560.0430, subpart 8, adoption must be encouraged but is not required as a condition of permanent placement.

For a child age 14 or older, the child shall be counseled regarding adoption and other available permanent placement options. If the child chooses not to be adopted, the local agency shall notify the commissioner by submitting a written report and a copy of the child's affidavit in the form prescribed by the commissioner.

D. Any plan which permits a child to ~~assume responsibility to meet his own needs~~ live independently without local agency guidance ~~shall~~ does not ~~preclude~~ relieve a local agency of its responsibility to be aware of the child's needs and provide for them if necessary.

E. The goals, plans, and objectives for children under the supervision of ~~private~~ licensed child-placing agencies ~~shall~~ must be made only with the agreement of the local ~~social service~~ agency ~~having financial responsibility~~ in the child's county of residence after notification to the county of financial responsibility, if different from the county of residence.

Subp. 3a. **Review of social service plan.** Within two weeks after a child's move into a county, the county's local agency must review the social service plan developed by the local agency in the child's previous county of residence to determine the continued applicability of the plan.

The local agency in the child's new county of residence may approve or disapprove the plan. If the local agency disapproves the

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.

plan, it must notify the local agency in the child's previous county of residence and the county of financial responsibility, if different from the county of residence. If, after 45 days, the local agency and the local agency in the child's previous county of residence continue to disagree as to the plan, the local agency may change the plan after receiving written approval of the change from the commissioner.

Subp. 4. ~~**Movement of child from**~~ **Change in child's county of** ~~**financial responsibility**~~ **residence.** ~~When~~ Before a child moves ~~from the~~ to a new county ~~of the local social service agency having financial responsibility~~, the local ~~social service~~ agency ~~of~~ in the child's current county ~~where the child will reside~~ of residence shall ~~be notified in writing with a request to supervise the child. The supervising local social service agency shall provide services, and issue consents on behalf of the child and provide reports requested by the local social service agency having financial responsibility.~~

~~The local social service agency having financial responsibility shall notify in writing, with a request to supervise, each succeeding local social service agency when the child moves from one geographical area of supervision to another.~~ notify the new county's local agency and, if applicable, the Indian child's tribe of the change in the child's residence. The notification must be in writing and must indicate that the new county's local agency shall assume responsibility for implementing the social service plan developed under subpart 3. If the child's new county of residence does not become the county of financial responsibility, the child's new county of residence shall provide reports requested by the local agency in the county of financial responsibility. Payment responsibilities for services provided to the child by the child's new county of residence are governed by *Minnesota Statutes*, chapter 256G.

Subp. 5. **Appointment of guardian ad litem.** The local ~~social service~~ agency ~~having financial responsibility~~ in the child's county of residence shall assure the appointment of a guardian ad litem ~~in the appropriate court~~ to represent the child under state guardianship:

A. when the child has a legal claim against another party;

B. when the child has an interest in an existing legal action;

C. when an action has been instituted against the child by another; and

D. in all other instances when the best interest of the child requires legal counsel.

9560.0450 CONSENTS.

Subpart 1. **Delegated consents.** The following consents are delegated to local ~~social service~~ agencies:

A. autopsy~~.~~;

B. baptism~~.~~ or other similar religious rites;

C. ~~Petition for change of name.~~ medical treatment, except for subpart 2, item H;

D. ~~Publicity about the child.~~ mental health services, including treatment with psychotropic medications;

E. application for ~~driver's~~ marriage license~~.~~;

F. ~~Enlistment in the armed services, peace corps, or job corps.~~ admission to a regional treatment center or other inpatient mental health facility to the extent permitted under law;

G. giving the body or parts of the body to science after death~~.~~;

H. ~~Admission to a state hospital or other psychiatric treatment facility to the extent permitted under law.~~ out-of-state or out-of-country travel for more than 30 days, but less than 90 days, including application for passports and visas necessary for travel;

I. permanent placement agreement on a child over 14 years of age;

J. application for ~~marriage~~ driver's permit or driver's license~~.~~;

~~J. Medical treatment.~~

~~K. Psychiatric treatment.~~

~~L.~~ K. petition to transfer guardianship;

L. petition for change of name;

M. surgical treatment~~.~~;

~~M. Abortion. To extent required by law, the local social service agency may not withhold consent.~~

N. publicity about the child;

O. enlistment in the armed services, peace corps, or job corps; and

P. request for tuition waiver~~.~~ under *Minnesota Statutes*, section 136.11, subdivision 1, or as allowed by Number 3.3.2.5 of the Minnesota Board of Vocational Technical Education's System Policy Manual, approved May 10, 1988. This manual is incorporated

by reference and is subject to frequent change. It is available at the Minnesota State Law Library, Minnesota Judicial Center, 25 Constitution Avenue, Saint Paul, Minnesota 55155.

~~O. Permanent placement agreement.~~

~~P. Petition to transfer guardianship.~~

Subp. 2. **Nondelegated consents.** All consents not specifically delegated to local ~~social service~~ agencies may be issued only by the commissioner ~~of human services~~. The consents not specifically delegated include:

A. adoption;

B. ~~exportation (out-of-state)~~ taking or sending a child out of Minnesota for purposes of placing a child in foster care or adoption;

C. ~~leaving the state or country~~ out-of-state or out-of-country travel for 90 days or more ~~than 90 days~~;

D. giving a part of the body for therapeutic purposes for another person while the child is living;

E. transfer from one ~~state hospital~~ regional treatment center to another ~~state hospital~~ regional treatment center;

F. sterilization; ~~and~~

G. separation of siblings ~~after date of appointment of commissioner of human services as guardian.~~; and

H. requests that the child not be resuscitated or intubated.

9560.0460 DISPOSITION OF ~~THE~~ SOCIAL WELFARE FUND.

The local ~~social service~~ agency ~~having~~ in the county of financial responsibility may ~~apply for and receive survivor benefits for an eligible~~ accept gifts, contributions, pensions, benefits and inheritance on behalf of a child under state guardianship. The ~~benefits~~ money received by the local agency may be applied to the maintenance and support of the child~~, and any excess amounts held in a social welfare fund, or the total benefits may be accumulated in~~. The unspent portion of the money must be held in trust and invested through the social welfare fund under *Minnesota Statutes*, sections 256.88 to 256.91.

~~Upon reaching age 18, the accumulated balance in the social welfare fund is to be paid directly, at that time, to the person for whom the survivor benefits were received.~~ When a ward is legally adopted, is discharged from guardianship, or dies, the remaining funds in the social welfare fund must be paid as provided in *Minnesota Statutes*, section 256.91.

9560.0470 STATE GUARDIANSHIP ~~BENEFITS~~ ASSISTANCE UP TO AGE 21.

The local agency in the child's county of residence shall provide a child who has reached the age of 16 years with social services and access to financial assistance to help the child develop independent living skills. An individual who is under state guardianship at age 18 continues to be eligible for ~~guardianship~~ social services and access to financial ~~benefits~~ assistance up to age 21 ~~at the request of the individual~~ if the individual is incapable of self-sustaining employment or is in need of continuing education or training beyond high school.

For the purposes of this part, social services include counseling, training in independent living skills, and access to community resources.

Six months before a child under state guardianship reaches age 18, the local agency in the child's county of residence shall inform the child, in writing, of the child's right to request the continuation of social services and access to financial assistance beyond age 18.

9560.0475 ADMINISTRATIVE REVIEWS AND DISPOSITIONAL HEARINGS.

The local agency in the child's county of residence shall conduct administrative reviews of the child's social service plan under *Minnesota Statutes*, section 257.071, subdivision 2, at least every six months while the child is under state guardianship, in foster care, or in an adoptive placement. A court of competent jurisdiction shall, upon its own motion or that of the child's guardian, conduct a dispositional hearing under *Minnesota Statutes*, section 260.242, subdivision 2, paragraph (d), within 18 months after the child is placed in foster care and once every two years thereafter to determine the future status of the child. When the child is placed in an adoptive home, a dispositional hearing shall be sought if the child is removed from the adoptive home or is not legally adopted within two years of the adoptive placement. The local agency in the child's county of residence shall notify an Indian child's tribe of any administrative review or dispositional hearing.

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.

9560.0480 GUARDIANSHIP RECORDS.

Subpart 1. **Content.** The local agency shall maintain a record on each child for whom it is responsible. The record must contain:

A. copies of all court findings and orders affecting custody, termination of parental rights, and assignment of guardianship to the commissioner;

B. data on the background and health history of the child and the child's birth family;

C. data on the background of the child's adoptive family if a previous adoption has occurred;

D. copies of notices to an Indian child's tribe whenever the child is placed in a home of a relative, a residential program or an adoptive home, as well as when there is an administrative review or court disposition;

E. documentation of the child's eligibility for benefits and services under title IV-E of the Social Security Act and other provisions of state and federal law, unless the child is no longer a ward or is at least age 21; and

F. all other information required by *Minnesota Statutes*, section 257.01.

Subp. 2. **Retention.** The record required under subpart 1 must be retained on a permanent basis using a record system that ensures privacy and lasting preservation.

Subp. 3. **Use of information.** Unless state law requires a different classification, all information on a child must be maintained by the local agency in the child's county of residence as private data and disseminated according to the Minnesota Government Data Practices Act, *Minnesota Statutes*, chapter 13. Unless state law requires a different classification, all information on a child who is subsequently adopted must be maintained as confidential data under *Minnesota Statutes*, section 259.46, subdivision 1.

9560.0485 POSTGUARDIANSHIP SERVICES.

Subpart 1. **Postguardianship assistance.** Upon a written request, the local agency or, when appropriate, the former supervising agency, shall provide postguardianship services to former wards of the commissioner. Postguardianship services include:

A. dissemination of information from the agency record on a former ward's background, health and placement history;

B. search assistance in locating and establishing contact with a former ward's relatives; and

C. counseling on issues related to guardianship or referral to appropriate counseling services.

Subp. 2. **Documentation of postguardianship services.** The local agency shall document in the agency's guardianship record the postguardianship services provided.

Subp. 3. **Reimbursement.** The local agency may require the former ward to provide a reasonable expense reimbursement based on a former ward's ability to pay for providing postguardianship services.

Adopted Rules

The adoption of a rule becomes effective after the requirements of Minn. Stat. §14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. §14.33 and upon the approval of the Revisor of Statutes as specified in §14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under §14.18.

Department of Human Services

Adopted Permanent Rules Relating to Implementation of the Consolidated Chemical Dependency Treatment Fund

The rules proposed and published at *State Register*, Volume 14, Number 43, pages 2483-2489, April 23, 1990 (14 SR 2483); Volume 14, Number 45, page 2579, May 7, 1990 (14 SR 2579); and Volume 15, Number 24, page 1366, December 10, 1990 (15 SR 1366) are adopted with the following modifications:

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of the Rule of the State Department of Human Services Governing the Administration of Local Agency Responsibilities for Children under State Guardianship who are in Need of Protection or Services, Minnesota Rules, parts 9560.0410 to 9560.0485

AFFIDAVIT OF ADDITIONAL MAILING

Nancy Bishop, being first duly sworn, deposes and says:

That on the 2nd day of January, 1991, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice by depositing in the State of Minnesota Central Mail System for first class mailing, a copy thereof, properly enveloped, with postage prepaid to the following parties:

- The 87 Minnesota County Human Services Agencies

- Advisory Committee Members/Organizations

Nancy L. Bishop

Subscribed and sworn to before me

this 2 day of January 1991

Claudia A. Eliason

CLAUDIA A. ELIASON
NOTARY PUBLIC-MINNESOTA
WASHINGTON COUNTY
MY COMMISSION EXPIRES NOVEMBER 14, 1996

Department of Human Services

In the Matter of the Proposed Adoption of the Rule of the State Department of Human Services Governing the Administration of Local Agency Responsibilities for Children Under State Guardianship Who are in Need of Protection or Services, Minnesota Rules, parts 9560.0410 to 9560.0485

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

Notice is hereby given that the State Department of Human Services intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, sections 260.242 and 393.07.

All persons have 30 days or until 4:30 p.m. on February 6, 1991 in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to: Stephanie L. Schwartz, Rules Division, Minnesota Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816, (612) 297-4302.

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

Minnesota Rules, parts 9560.0410 to 9560.0485 govern the administration of local agency responsibilities for children under state guardianship who are in need of protection or services and the delegation to local agencies of the authority to grant consents.

Amendments will clarify the county of financial responsibility requirement to provide financial assistance and to pay for services provided to a ward; require the local agency in the child's county of residence to notify the commissioner when a child is placed under state guardianship; expand the requirements of the social service plan to be developed for each ward; require the local agency in the child's current county of residence to notify the new county's local agency; clarify the scope of consents delegated to counties by the commissioner and clarify nondelegated consents; update language to follow state law pertaining to the state's Social Welfare fund; ensure that local agencies provide social services and access to financial assistance for wards; ensure that local agencies carry out statutory mandates to conduct administrative reviews of social service plans and require courts of competent jurisdiction to conduct dispositional hearings within 18 months after a child is placed in foster care and once every two years thereafter; ensure that when a child is adopted, a dispositional hearing will be requested if the child is subsequently removed or is not legally adopted within two years; require local agencies to maintain permanent records on wards to be maintained as private data, unless otherwise statutorily classified (if a ward is subsequently adopted, the data will be maintained as confidential); and require postguardianship services.

A free copy of the rule is available upon request from Stephanie L. Schwartz, Rules Division, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota, 55155-3816, (612) 297-4302. A copy of the rule may also be viewed at any of the 87 county welfare or human services agencies in the State of Minnesota.

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 Stephanie L. Schwartz upon request at the address above.

Adoption of these rules will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following adoption under the requirements of Minnesota Statutes, section 14.11. A fiscal note prepared according to the requirements of Minnesota Statutes, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available from Stephanie L. Schwartz, Department of Human Services upon request at the address above.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 adopted rule, must submit the written request to Stephanie L. Schwartz at the address above.

date: 12-12-90

ANN WYNIA
Commissioner

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of the Rule of the State Department of Human Services Governing the Administration of Local Agency Responsibilities for Children under State Guardianship who are in Need of Protection or Services, Minnesota Rules, parts 9560.0410 to 9560.0485

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Nancy Bishop, being sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 or 14.30, that their names be placed on the State Department of Human Services rulemaking mailing list is accurate, complete, and current as of this 2nd day of January, 1991.

That on the 2nd day of January, 1991, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt a Rule without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing, a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Nancy L. Bishop

Subscribed and sworn to before me
this 2 day of January 1991.

Claudia A. Eliason

CLAUDIA A. ELIASON
NOTARY PUBLIC-MINNESOTA
WASHINGTON COUNTY
MY COMMISSION EXPIRES NOVEMBER 14, 1996

Department of Human Services

In the Matter of the Proposed Adoption of the Rule of the State Department of Human Services Governing the Administration of Local Agency Responsibilities for Children Under State Guardianship Who are in Need of Protection or Services, Minnesota Rules, parts 9560.0410 to 9560.0485

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Notice is hereby given that the State Department of Human Services intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, sections 260.242 and 393.07.

All persons have 30 days or until 4:30 p.m. on February 6, 1991 in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to: Stephanie L. Schwartz, Rules Division, Minnesota Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816, (612) 297-4302.

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

Minnesota Rules, parts 9560.0410 to 9560.0485 govern the administration of local agency responsibilities for children under state guardianship who are in need of protection or services and the delegation to local agencies of the authority to grant consents.

Amendments will clarify the county of financial responsibility requirement to provide financial assistance and to pay for services provided to a ward; require the local agency in the child's county of residence to notify the commissioner when a child is placed under state guardianship; expand the requirements of the social service plan to be developed for each ward; require the local agency in the child's current county of residence to notify the new county's local agency; clarify the scope of consents delegated to counties by the commissioner and clarify nondelegated consents; update language to follow state law pertaining to the state's Social Welfare fund; ensure that local agencies provide social services and access to financial assistance for wards; ensure that local agencies carry out statutory mandates to conduct administrative reviews of social service plans and require courts of competent jurisdiction to conduct dispositional hearings within 18 months after a child is placed in foster care and once every two years thereafter; ensure that when a child is adopted, a dispositional hearing will be requested if the child is subsequently removed or is not legally adopted within two years; require local agencies to maintain permanent records on wards to be maintained as private data, unless otherwise statutorily classified (if a ward is subsequently adopted, the data will be maintained as confidential); and require postguardianship services.

A free copy of the rule is available upon request from Stephanie L. Schwartz, Rules Division, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota, 55155-3816, (612) 297-4302. A copy of the rule may also be viewed at any of the 87 county welfare or human services agencies in the State of Minnesota.

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 Stephanie L. Schwartz upon request at the address above.

Adoption of these rules will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following adoption under the requirements of Minnesota Statutes, section 14.11. A fiscal note prepared according to the requirements of Minnesota Statutes, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available from Stephanie L. Schwartz, Department of Human Services upon request at the address above.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 adopted rule, must submit the written request to Stephanie L. Schwartz at the address above.

date: 12-12-90

ANN WYNIA
Commissioner

Department of Human Services

Proposed Permanent Rules Relating to Children in Need of Protection or Services

Rules as Proposed

9560.0410 SCOPE.

Parts 9560.0410 to ~~9560.0470~~ 9560.0485 identify and govern the administration of local ~~social service~~ agency responsibilities for children under state guardianship ~~as dependent or neglected~~ in need of protection or services pursuant to Minnesota Statutes, sections 260.111 et seq., and the delegation to local ~~social service~~ agencies of the authority to grant consents.

9560.0420 PURPOSE.

The purpose of state guardianship is to carry out the responsibility to act and care for ~~a child~~ children in need of protection or services committed to the guardianship of the commissioner ~~of human services as dependent or neglected~~.

9560.0430 ~~LOCAL SOCIAL SERVICE AGENCY; DEFINITION~~ DEFINITIONS.

Subpart 1. **Applicability.** The terms used in parts 9560.0410 to 9560.0485 have the meanings given them in this part.

Subp. 2. **Commissioner.** "Commissioner" means the commissioner of human services or a designee.

Subp. 3. **County of residence.** "County of residence" means the county in which the child is physically present:

A. in the home of an individual who is related to the child under Minnesota Statutes, section 245A.02, subdivision 13;

B. in a residential program as defined in Minnesota Statutes, section 245A.02, subdivision 14; or

C. in an adoptive placement.

Subp. 4. **County of financial responsibility.** "County of financial responsibility" means the county financially responsible under Minnesota Statutes, chapter 256G, for the cost

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of providing services to a child under state guardianship.

Subp. 5. **Indian child.** "Indian child" means an unmarried person under age 18 who is either a member of or eligible for membership in an American Indian tribe.

Subp. 6. **Local agency.** "Local ~~social service~~ agency" means the ~~local~~ agency ~~under the authority of~~ authorized by the county welfare ~~board~~ or human service board ~~responsible for~~ to provide and ensure social services.

Subp. 7. **Licensed child-placing agency.** "Licensed child-placing agency" means an agency defined under Minnesota Statutes, sections 245A.02, subdivision 12; 257.351, subdivision 12; and 259.21, subdivision 6, and authorized by the commissioner to place children for foster care or adoption.

Subp. 8. **Relative.** "Relative" means an individual who is related to a child within the third degree according to the civil table of consanguinity by blood, marriage, or adoption as a parent, stepparent, brother, sister, grandparent, great-grandparent, aunt, uncle, niece, or nephew.

9560.0440 GENERAL RESPONSIBILITIES.

Subpart 1. **Financial ~~assistance and social services~~ responsibility.** The local ~~social service~~ agency ~~having~~ in the county of financial responsibility shall provide financial assistance and ~~assure provision~~ shall pay the cost of ~~social~~ services~~, including protection, planning, and decision making, either directly or indirectly through other agencies~~ provided to a child under state guardianship.

Subp. 2. **Notice ~~from agency to commissioner~~.** The local ~~social service~~ agency ~~having financial responsibility~~ in the child's county of residence shall notify the commissioner ~~of human services within 30 days after commitment of~~ and, for a child eligible for tribal membership, the appropriate tribe when a child ~~to~~ is placed under state guardianship. The notice to the commissioner must be on the form prescribed by the commissioner and must be provided to the commissioner within 30 days after the child is placed under state guardianship. The

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notice to the appropriate tribe may be by letter.

Subp. 3. **Social service plan ~~of care and supervision.~~** ~~The local social service agency having financial responsibility shall prepare and carry out a plan for the care and supervision of the child through its own agency or an agency that agrees to supervise the child.~~ The local agency in the child's county of residence must develop a social service plan within 90 days after a child becomes a ward. The plan must be developed according to items A to E.

A. The ~~client~~ child's social service plan ~~(parts 9550.0100 to 9550.2900) shall~~ under part 9550.0090 must be developed by the local agency and with the child ~~and~~ if the child is seven years of age or older and capable of articulating his or her thoughts. The plan must be reviewed ~~with the~~ at least annually by the local agency. A child ~~at least annually~~ seven years of age or older at the time of the annual review and capable of articulating his or her thoughts shall participate in the review.

B. The plan ~~shall meet~~ must address the emotional, health, educational, vocational, and spiritual needs of the child, and preserve, where feasible, the racial and familial identity of the child. For an Indian child, the plan must include arrangement to apply for or obtain verification of tribal membership status under Minnesota Statutes, section 257.352, subdivision 1. It must also comply with the racial, ethnic, and religious placement preference requirements under Minnesota Statutes, sections 257.071, subdivision 1a; 259.255; 259.455; and 260.181, subdivision 3. If a child has at least one sibling, the plan must provide for preserving the sibling relationship, where feasible.

C. The plan ~~shall~~ must establish a permanent family relationship for the child through the selection of a family committed to providing a home until the child reaches majority. The plan must include the goal of adoption for a child under age 14, using the procedures required in Minnesota Statutes, section 259.45. However, if there is established a permanent family

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relationship between the child and the child's relative as defined in part 9560.0430, subpart 8, adoption must be encouraged but is not required as a condition of permanent placement.

For a child age 14 or older, the child shall be counseled regarding adoption and other available permanent placement options. If the child chooses not to be adopted, the local agency shall notify the commissioner by submitting a written report and a copy of the child's affidavit in the form prescribed by the commissioner.

D. Any plan which permits a child to ~~assume responsibility to meet his own needs~~ live independently without local agency guidance ~~shall~~ does not ~~preclude~~ relieve a local agency of its responsibility to be aware of the child's needs and provide for them if necessary.

E. The goals, plans, and objectives for children under the supervision of ~~private~~ licensed child-placing agencies ~~shall~~ must be made only with the agreement of the local ~~social service~~ agency ~~having financial responsibility~~ in the child's county of residence after notification to the county of financial responsibility, if different from the county of residence.

Subp. 3a. **Review of social service plan.** Within two weeks after a child's move into a county, the county's local agency must review the social service plan developed by the local agency in the child's previous county of residence to determine the continued applicability of the plan.

The local agency in the child's new county of residence may approve or disapprove the plan. If the local agency disapproves the plan, it must notify the local agency in the child's previous county of residence and the county of financial responsibility, if different from the county of residence. If, after 45 days, the local agency and the local agency in the child's previous county of residence continue to disagree as to the plan, the local agency may change the plan after receiving written approval of the change from the commissioner.

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by Revisor _____

Subp. 4. **~~Movement of child from~~ Change in child's county of ~~financial responsibility~~ residence.** ~~When~~ Before a child moves ~~from the~~ to a new county ~~of the local social service agency having financial responsibility~~, the local ~~social service~~ agency ~~of~~ in the child's current county ~~where the child will reside~~ of residence shall ~~be notified in writing with a request to supervise the child. The supervising local social service agency shall provide services, and issue consents on behalf of the child and provide reports requested by the local social service agency having financial responsibility.~~

~~The local social service agency having financial responsibility shall notify in writing, with a request to supervise, each succeeding local social service agency when the child moves from one geographical area of supervision to another.~~ notify the new county's local agency and, if applicable, the Indian child's tribe of the change in the child's residence. The notification must be in writing and must indicate that the new county's local agency shall assume responsibility for implementing the social service plan developed under subpart 3. If the child's new county of residence does not become the county of financial responsibility, the child's new county of residence shall provide reports requested by the local agency in the county of financial responsibility. Payment responsibilities for services provided to the child by the child's new county of residence are governed by Minnesota Statutes, chapter 256G.

Subp. 5. **Appointment of guardian ad litem.** The local ~~social service~~ agency ~~having financial responsibility~~ in the child's county of residence shall assure the appointment of a guardian ad litem ~~in the appropriate court~~ to represent the child under state guardianship:

A. when the child has a legal claim against another party;

B. when the child has an interest in an existing legal action;

C. when an action has been instituted against the

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child by another; and

D. in all other instances when the best interest of the child requires legal counsel.

9560.0450 CONSENTS.

Subpart 1. **Delegated consents.** The following consents are delegated to local ~~social service~~ agencies:

A. autopsy~~.~~;

B. baptism~~.~~ or other similar religious rites;

C. ~~Petition for change of name.~~ medical treatment, except for subpart 2, item H;

D. ~~Publicity about the child.~~ mental health services, including treatment with psychotropic medications;

E. application for ~~driver's~~ marriage license~~.~~;

F. ~~Enlistment in the armed services, peace corps, or job corps.~~ admission to a regional treatment center or other inpatient mental health facility to the extent permitted under law;

G. giving the body or parts of the body to science after death~~.~~;

H. ~~Admission to a state hospital or other psychiatric treatment facility to the extent permitted under law.~~ out-of-state or out-of-country travel for more than 30 days, but less than 90 days, including application for passports and visas necessary for travel;

I. permanent placement agreement on a child over 14 years of age;

J. application for ~~marriage~~ driver's permit or driver's license~~.~~;

~~J.--Medical treatment.~~

~~K.--Psychiatric treatment.~~

~~L.~~ K. petition to transfer guardianship;

L. petition for change of name;

M. surgical treatment~~.~~;

~~M.--Abortion.--To extent required by law, the local social service agency may not withhold consent.~~

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N. publicity about the child;

O. enlistment in the armed services, peace corps, or job corps; and

P. request for tuition waiver. under Minnesota Statutes, section 136.11, subdivision 1, or as allowed by Number 3.3.2.5 of the Minnesota Board of Vocational Technical Education's System Policy Manual, approved May 10, 1988. This manual is incorporated by reference and is subject to frequent change. It is available at the Minnesota State Law Library, Minnesota Judicial Center, 25 Constitution Avenue, Saint Paul, Minnesota 55155.

~~O.--Permanent-placement-agreement.~~

~~P.--Petition-to-transfer-guardianship.~~

Subp. 2. **Nondelegated consents.** All consents not specifically delegated to local ~~social-service~~ agencies may be issued only by the commissioner ~~of-human-services~~. The consents not specifically delegated include:

A. adoption;

B. ~~exportation-(out-of-state)~~ taking or sending a child out of Minnesota for purposes of placing a child in foster care or adoption;

C. ~~leaving-the-state-or-country~~ out-of-state or out-of-country travel for 90 days or more ~~than-90-days~~;

D. giving a part of the body for therapeutic purposes for another person while the child is living;

E. transfer from one ~~state-hospital~~ regional treatment center to another ~~state-hospital~~ regional treatment center;

F. sterilization; ~~and~~

G. separation of siblings ~~after-date-of-appointment of-commissioner-of-human-services-as-guardian.~~; and

H. requests that the child not be resuscitated or intubated.

9560.0460 DISPOSITION OF ~~THE~~ SOCIAL WELFARE FUND.

The local ~~social-service~~ agency ~~having~~ in the county of

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financial responsibility may ~~apply-for-and-receive-survivor benefits-for-an-eligible~~ accept gifts, contributions, pensions, benefits and inheritance on behalf of a child under state guardianship. The ~~benefits~~ money received by the local agency may be applied to the maintenance and support of the child~~,-and any-excess-amounts-held-in-a-social-welfare-fund,-or-the-total benefits-may-be-accumulated-in~~. The unspent portion of the money must be held in trust and invested through the social welfare fund under Minnesota Statutes, sections 256.88 to 256.91.

~~Upon-reaching-age-18,-the-accumulated-balance-in-the-social welfare-fund-is-to-be-paid-directly,-at-that-time,-to-the-person for-whom-the-survivor-benefits-were-received.~~ When a ward is legally adopted, is discharged from guardianship, or dies, the remaining funds in the social welfare fund must be paid as provided in Minnesota Statutes, section 256.91.

9560.0470 STATE GUARDIANSHIP ~~BENEFITS~~ ASSISTANCE UP TO AGE 21.

The local agency in the child's county of residence shall provide a child who has reached the age of 16 years with social services and access to financial assistance to help the child develop independent living skills. An individual who is under state guardianship at age 18 continues to be eligible for ~~guardianship~~ social services and access to financial ~~benefits~~ assistance up to age 21 ~~at-the-request-of-the-individual~~ if the individual is incapable of self-sustaining employment or is in need of continuing education or training beyond high school.

For the purposes of this part, social services include counseling, training in independent living skills, and access to community resources.

Six months before a child under state guardianship reaches age 18, the local agency in the child's county of residence shall inform the child, in writing, of the child's right to request the continuation of social services and access to financial assistance beyond age 18.

9560.0475 ADMINISTRATIVE REVIEWS AND DISPOSITIONAL HEARINGS.

The local agency in the child's county of residence shall

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conduct administrative reviews of the child's social service plan under Minnesota Statutes, section 257.071, subdivision 2, at least every six months while the child is under state guardianship, in foster care, or in an adoptive placement. A court of competent jurisdiction shall, upon its own motion or that of the child's guardian, conduct a dispositional hearing under Minnesota Statutes, section 260.242, subdivision 2, paragraph (d), within 18 months after the child is placed in foster care and once every two years thereafter to determine the future status of the child. When the child is placed in an adoptive home, a dispositional hearing shall be sought if the child is removed from the adoptive home or is not legally adopted within two years of the adoptive placement. The local agency in the child's county of residence shall notify an Indian child's tribe of any administrative review or dispositional hearing.

9560.0480 GUARDIANSHIP RECORDS.

Subpart 1. **Content.** The local agency shall maintain a record on each child for whom it is responsible. The record must contain:

A. copies of all court findings and orders affecting custody, termination of parental rights, and assignment of guardianship to the commissioner;

B. data on the background and health history of the child and the child's birth family;

C. data on the background of the child's adoptive family if a previous adoption has occurred;

D. copies of notices to an Indian child's tribe whenever the child is placed in a home of a relative, a residential program or an adoptive home, as well as when there is an administrative review or court disposition;

E. documentation of the child's eligibility for benefits and services under title IV-E of the Social Security Act and other provisions of state and federal law, unless the child is no longer a ward or is at least age 21; and

Approved
by Revisor _____

F. all other information required by Minnesota Statutes, section 257.01.

Subp. 2. **Retention.** The record required under subpart 1 must be retained on a permanent basis using a record system that ensures privacy and lasting preservation.

Subp. 3. **Use of information.** Unless state law requires a different classification, all information on a child must be maintained by the local agency in the child's county of residence as private data and disseminated according to the Minnesota Government Data Practices Act, Minnesota Statutes, chapter 13. Unless state law requires a different classification, all information on a child who is subsequently adopted must be maintained as confidential data under Minnesota Statutes, section 259.46, subdivision 1.

9560.0485 POSTGUARDIANSHIP SERVICES.

Subpart 1. **Postguardianship assistance.** Upon a written request, the local agency or, when appropriate, the former supervising agency, shall provide postguardianship services to former wards of the commissioner. Postguardianship services include:

A. dissemination of information from the agency record on a former ward's background, health and placement history;

B. search assistance in locating and establishing contact with a former ward's relatives; and

C. counseling on issues related to guardianship or referral to appropriate counseling services.

Subp. 2. **Documentation of postguardianship services.** The local agency shall document in the agency's guardianship record the postguardianship services provided.

Subp. 3. **Reimbursement.** The local agency may require the former ward to provide a reasonable expense reimbursement based on a former ward's ability to pay for providing postguardianship services.

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Children in Need of Protection or Services

AGENCY: Department of Human Services

MINNESOTA RULES: Chapter 9560

INCORPORATIONS BY REFERENCE:

Part 9560.0450, subpart 1: Minnesota Board of Vocational Technical Education's System Policy Manual, Number 3.3.2.5, approved May 10, 1988. Available at the Minnesota State Law Library.

The attached rules are approved for publication in the State Register

Kathleen T. Harrington
Assistant Revisor

Ms. Stephanie L. Schwartz
Rules Division
Minnesota Department of Human Services
444 Layfayette Road
St. Paul, Minnesota 55155-3816

Dear Ms. Schwartz:

Reference your NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING, signed by Ann Wynia, dated January 12, 1990, (REVISOR) KTH/JC RD1719 for Department of Human Services.

I am requesting that a public hearing be held before changes occur.

Sincerely,

CHARLOTTE MCEVOY
1651 Cumberland #5
St. Paul MN
55117

Michael Jones
722 Penn. Ave. N.
Mpls., Mn. 55411

Ms. Stephanie L. Schwartz
Rules Division
Minnesota Department of Human Services
444 Layfayette Road
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Sincerely,

Jean Wiff
01-24-91

2109 97th NO.
Brooklyn Park, Minn
55444

Ms. Stephanie L. Schwartz
Rules Division
Minnesota Department of Human Services
444 Layfayette Road
St. Paul, Minnesota 55155-3816

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Sincerely,

Carol Ann Schute
4738 Washburn Ave N.
Minneapolis Mn 55430

Ms. Stephanie L. Schwartz
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Minnesota Department of Human Services
444 Layfayette Road
St. Paul, Minnesota 55155-3816

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Sincerely,

Gregory M Olson
10401 Robbie Ave N
Champlin Minn
55316

Ms. Stephanie L. Schwartz
Rules Division
Minnesota Department of Human Services
444 Layfayette Road
St. Paul, Minnesota 55155-3816

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Sincerely,

Wayne M. Ladeshita
986 Lydia Drive
Roseville, Mn. 55113

Ms. Stephanie L. Schwartz
Rules Division
Minnesota Department of Human Services
444 Layfayette Road
St. Paul, Minnesota 55155-3816

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I am requesting that a public hearing be held before changes occur.

Sincerely,

Peggy Brown
4340 Oakland Ave So
Mpls, Mn

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Fax (612) 646-0436

1605 Eustis Street
Saint Paul, MN 55108
(612) 646-7771
Fax (612) 646-8676

February 5, 1991

Stephanie L. Schwartz
Rules Division
Minnesota Department of Human Services
444 Lafayette Road
St. Paul MN 55155-3816

Re: Proposed Rules Governing the Administration of Local Agency Responsibilities for Children Under State Guardianship Who are in Need of Protection or Services, Minnesota Rules, parts 9560.0410 to 9560.0485

Dear Colleague:

I would like to comment on a part of the proposed rule: 9560.0485 Postguardianship Services.

As a private agency which places children who are wards of the commissioner into adoptive homes, we are concerned about some of the wording in this section, as there may be some situations in which we are asked to provide post-adoption services to children who have been state wards prior to adoption. Occasionally, we are also asked by people who have been in foster care to assist them in finding relatives. Currently, our services are based on a statute permitting us to "charge a reasonable fee" for our services. Subp. 3 states that the local agency may charge a "reasonable expense reimbursement based on a former ward's ability to pay..." Should there be situations in which we are asked to provide post-guardianship services, we hope that, since we are not a "local agency," we would be able to maintain our present fee systems, which currently provide for background history information to be provided for a $125.00 fee (however, service is not denied if the client is unable to pay); search assistance, to be provided for a fee of $550.00 or $350.00, depending on whether a current address is in our files (medical emergencies are an exception); and counseling services, which are currently $75.00/hour, with fee adjustments to $55.00 per hour with approval. Thus, certain specific aspects of our service are not deliverable without charge, if the client is unable to pay.

While there may be very few situations such as those described above in which we may be involved, we wanted to bring this issue to your attention.

Sincerely,

M. Mereen

Marjorie Mereen
Director
Child and Family Services Division

MM:lh

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Child & Family Services
2230 Como Ave.
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1605 Eustis St.
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Cedar Riverside Child Care Center
1525 S. 4th St.
Minneapolis, MN 55454
(612) 338-2066

Dakota County Technical College
Child Care Center
1367 145th St. E.
Rosemount, MN 55068
(612) 423-1010

Highwood Hills Child Care Center
363 S. Winthrop
St. Paul, MN 55119
(612) 738-8905

Johnson High School
Child Care Center
1290 Arcade St.
St. Paul, MN 55106
(612) 293-8675

North End Child Care Center
1021 Marion St.
St. Paul, MN 55117
(612) 488-5116

Rochester/Broadway Child Care Center
2645 N. Broadway
Rochester, MN 55904
(507) 285-1167

Rochester Child Care Center
2103 32nd Ave. NW
Rochester, MN 55901
(507) 281-2291

Roseville Child Care Center
1910 W. County Road B
Roseville, MN 55113
(612) 636-4495

Spring Lake Park Child Care Center
8000 Highway 65 NE
Spring Lake Park, MN 55432
(612) 786-8852

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Child Care Center
1406 6th Ave. N.
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ACCREDITED

BUREAU OF SOCIAL SERVICES
A-2303 Government Center
Minneapolis, Minnesota 55487-0232

February 4, 1991

Natalie Haas Steffen, Commissioner
Minnesota Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3815

Attention: Stephanie L. Schwartz

Dear Commissioner Steffen:

We have reviewed the Proposed Rule Governing the Administration of Local Agency Responsibilities for Children Under State Guardianship Who are in Need of Protection or Services, Minnesota Rules, parts 9560.0410 to 9560.0485. We are in substantial agreement with the proposed changes, and believe that they are reflective of current practice and are in the best interests of children.

We would, however, recommend that consideration be given to changing the language in the following instances:

9560.0430 Subp. 8: It is our recommendation that relative be defined in accordance with M.S. 260.181, Subd. 3, which would give a broader definition of relative for purposes of this rule. We believe this will better ensure that children remain with people who have played a significant role in their lives. The requirement that children over the age of 14 be given an option regarding adoption appears contradictory to viewing placement with relatives as an acceptable permanent plan. If children were placed with relatives as a permanent plan before they reach the age of 14, it would be inconsistent to offer them adoption when they reach 14. As a further recommendation, we would like to see a change in the statutes to allow for court-ordered permanent placement, with relatives, of state wards under the age of 14; this is not an option under the current statutes.

9560.0440 Subp. 3 and Subp. 3A: The timelines for development of a social service plan within 90 days and annual review are not synchronized with requirements under M.S. 257.071 Subd. 3 and P.L. 96-272. In order to be in compliance with these laws, we currently must make a new placement plan within 30 days of the termination of parental rights and review it every six months. We recommend that these timelines be used in this rule to minimize confusion.

In addition to the two areas noted above, we would like to note that we particularly agree with the changes in 9560.0470, which outline assistance to children between the ages of 16 and 21. This eliminates the confusion caused by the language in the current rule.

Thank you for your consideration of these recommendations.

Sincerely,

Kevin P. Kenney
Associate County Administrator

lh