



Engaging and Assessing Noncustodial or Unadjudicated Parents: A Child Welfare Practice Guide

04/01/2025



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Introduction

This practice guide supports the phase-in implementation of the Minnesota African American Family Preservation and Child Welfare Disproportionality Act.

Parents provide for their child's safety and well-being and may need support or services to do so, at times. When a responsible social services agency¹ (agency) becomes involved in a child's life, agency staff identify and engage noncustodial parents regardless of legal and custody status. Agency staff assess noncustodial parents' willingness and capacity to provide day-to-day care of their children at the beginning of and throughout agency involvement with the family. This practice guide addresses:

- Achieving equity within the child welfare system by using individualized, culturally specific responses tailored to parents, children, youth and families
- Preventing foster care by having children and youth in the care of noncustodial parents
- Attaining better outcomes through continuous engagement, assessment and support of noncustodial parents throughout the case.

The term noncustodial parent when used in this practice guide, includes noncustodial parents who are not adjudicated, alleged parents and presumed parents. Putative fathers are a subset of alleged fathers for purposes of this practice guide.²

Purpose and background

When providing child welfare services agency staff identify, engage, assess and may provide services to noncustodial parents. Engagement, assessment and services, if needed, to noncustodial parents prior to removal of their children can prevent foster care placement. Ongoing assessment and engagement of noncustodial parents can move children placed in foster care out of foster care. Noncustodial parents can be a source of support to both their children and other parents of their children by helping create, preserve and grow emotional, familial, cultural, community and Tribal connections. Noncustodial parents are irreplaceable figures in the life of their children. Minnesota law requires agency staff identify, locate, engage and case plan with noncustodial parents regardless of legal status or from whose home the agency removed the child.

This practice guide details child welfare policy and best practice for the agency to fulfill its responsibility under Minnesota Statutes, chapters 260C and 260D to engage and assess whether noncustodial parents may provide for the day-to-day care of their children and offer individualized case planning to noncustodial parents. It highlights universal practices when working with noncustodial parents of diverse backgrounds and gender

¹ Minnesota Statutes [260C.007, subd. 27a.](#)

² Minnesota Statutes [259.21, subd. 12.](#)

identities. The intended audience includes county child welfare and child protection staff, county attorneys and Minnesota judicial branch staff.

This practice guide applies to entities subject to Minnesota statutes. It does not apply to Tribal nations or Tribal courts. However, this practice guide does apply when working with families eligible for the protections of the Indian Child Welfare Act (ICWA) and Minnesota Indian Family Preservation Act (MIFPA) under state court jurisdiction. Inquiry of Tribal affiliation and/or Tribal heritage under Minnesota Statutes [260.761, subd. 1](#) is required at the time an agency begins working with every child.

The juvenile court has original and exclusive jurisdiction in proceedings concerning a child alleged to be in need of protection or services or neglected and in foster care,³ court orders for permanency of a child and reviews of voluntary foster care placement of a child.⁴ Permanency for a child under juvenile court jurisdiction cannot be established in family court matters including marriage dissolution,⁵ child support,⁶ paternity actions⁷ and third party custody actions while the juvenile court matter remains open.⁸

Definitions

African American child: A person under 18 years of age having origins in Africa, including a child of two or more races who has at least one parent with origins in Africa. Whether a child or parent has origins in Africa is based upon self-identification or identification of the child's origins by the parent or guardian.⁹

Disproportionately represented child: A person under the age of 18 who is a member of a community whose race, culture, ethnicity, disability status, or low-income socioeconomic status is disproportionately encountered, engaged, or identified in the child welfare system as compared to the representation in the state's total child population. A child's race, culture, or ethnicity is determined based upon child's self-identification or identification of child's race, culture, or ethnicity as reported by child's parent or guardian.¹⁰

³ Minnesota Statutes [260C.101](#).

⁴ Minnesota Statutes [260C.101, subd. 2](#).

⁵ Minnesota Statutes [Chapter 518](#).

⁶ Minnesota Statutes [Chapter 518A](#).

⁷ Minnesota Statutes [257.51](#).

⁸ Rules of Juvenile Protection Procedure [24.01, subd. 3](#).

⁹ Minnesota Statutes [260.63, subd. 4](#).

¹⁰ Minnesota Statutes [260.63, subd. 10](#).

Foster care: Agency has placement and care responsibility for child in 24-hour substitute care who is:

- Placed away from either parent or guardian in foster family home, foster home of relative, group home, emergency shelter, residential facility not excluded in Minnesota Statutes [260C.007, subd. 18\(b\)](#), qualified residential treatment program, childcare institution, and preadoptive home
- Colocated with either parent or guardian in a licensed residential family-based substance use disorder treatment program
- Returned to the care of parent or guardian from whom child was removed under a trial home visit.¹¹

Indian child: An unmarried person under age 18 who is:

- A member of an Indian Tribe, or
- Eligible for membership in an Indian Tribe.

A determination by a Tribe that a child is a member of the Indian Tribe or is eligible for membership in the Indian Tribe is conclusive. Indian child also includes an unmarried person under age 21 who satisfies either of the bullet points above and is in foster care pursuant to Minnesota Statutes [260C.451](#).¹²

Interstate Compact on Placement of Children (ICPC): The ICPC applies, under certain circumstances, to agency staff putting child in the care of parents located in another state. It is a legally binding contract between the sending state and the receiving state.

Legal authority to place child: The agency has legal responsibility for the care and control of child while in foster care. The agency may have legal authority to place child through court order, voluntary placement agreement between the agency and child's parent/s or, in the case of an Indian child, through Tribal court.¹³

Placement: Child's living situation meets the definition of foster care.¹⁴ It does not include a child in the care of parent from whom child was removed unless child is on a trial home visit¹⁵ or co-located with parent in a licensed residential family-based substance use disorder treatment program.¹⁶ Foster care does not include a child in the care of parent or guardian from whom child was not removed unless child is co-located with parent or guardian in a licensed residential family-based substance use disorder treatment program.

¹¹ Minnesota Statutes [260C.007, subd. 18](#).

¹² Minnesota Statutes [260.755, subd. 8](#).

¹³ Minnesota Statutes [260C.007, subd. 21a](#).

¹⁴ Minnesota Statutes [260C.007, subd. 18](#).

¹⁵ Minnesota Statutes [260C.201, subd. 1\(a\)\(3\)](#).

¹⁶ Minnesota Statutes [260C.201, subd. 1\(a\)\(2\)\(ii\)](#).

Protective care: A court order of protective care is an order for foster care placement. The agency has temporary physical custody and control of a child for purposes of foster care placement, and the right and duty to provide the care, food, lodging, training, education, supervision, and treatment for child.¹⁷ The court cannot give the agency legal custody any time prior to adjudication and disposition under Minnesota Statutes [260C.201, subd. 1\(a\)\(2\)\(ii\)](#).¹⁸ Protective care and protective supervision to the agency are not the same. An order for protective care authorizes foster care and has different rights and duties for the agency than an order for protective supervision to the agency.

Protective supervision to the agency: The agency has the right and duty to monitor the conditions ordered by the court at disposition under Minnesota Statutes [260C.201, subd. 1\(a\)\(1\)](#) to correct child's need for protection or services while child is in the care of the parent.¹⁹ Protective supervision to the agency and protective care are not the same. An order for protective supervision to the agency authorizes different rights and duties for the agency than an order for protective care. An order for protective supervision to the agency does not give the agency legal authority to remove a child.

Culture

Connection to culture improves health and well-being. Connection to culture increases our sense of safety. It is why culture matters.²⁰ A family's existing strengths are grounded in their cultural values. It is why individualized, culturally specific responses tailored to parents, children, youth and families matter. The family's culture will sustain the family following child welfare intervention.

Child welfare interventions occur within the cultural context of the agency. Agency interventions that honor the culture of a family are more successful. Families are more likely to work through what is necessary to bring healing to their families when the agency creates space for the family to be grounded within their own individualized culture as they receive support and services.²¹

¹⁷ Rules of Juvenile Protection Procedure, Rule [2.01\(26\)](#).

¹⁸ Minnesota Statutes [260C.178, subd. 1\(c\)\(2\)](#)

¹⁹ Rules of Juvenile Protection Procedure, Rule [2.01\(27\)](#).

²⁰ Resmaa Menakem, *My Grandmother's Hands: Racialized Trauma and the Pathway to Mending Our Hearts and Bodies*. Central Recovery Press, Las Vegas, NV (2017).

²¹ Achieving Permanency for the Well-being of Children and Youth, ACYF-CB-IM-21-01, p.14 (January 5, 2021). Retrieved from <https://www.acf.hhs.gov/sites/default/files/documents/cb/im2101.pdf>

There are critical aspects of practice that serve to protect and preserve a child's core identity and sense of belonging.²² Child welfare interventions can intersect with race, ethnicity, gender identity, gender expression, LGBTQ+ identity, sexuality, marital status, language, class, religion, faith, spirituality, age, ability, immigration status and other cultural realities.

Active efforts when working with a noncustodial parent

This practice guide does not provide an exhaustive list of active efforts. When active efforts are required, active efforts are required in all aspects of agency involvement. The practice guide discusses active efforts specific to identifying, locating, engaging, assessing and case planning with noncustodial parents.

Active efforts and reasonable efforts

When active efforts are required, agency staff make active and reasonable efforts at the same time. Reasonable efforts require agency staff to identify the noncustodial parent and:

- Engage with the removal parent and noncustodial parent to identify any concerns with child being in noncustodial parent's care
- Assess the noncustodial parent's capacity to provide for the safe care of the child
- Choose culturally appropriate services to address any concerns.²³

Next, agency staff help the noncustodial parent address the concern. When the concern remains unaddressed, the focus becomes what is keeping noncustodial parent from addressing the concern? Agency efforts expand from reasonable to active.

With active efforts, agency staff and noncustodial parent work together to:

- Identify and remove physical and emotional barriers that keep the concern from being addressed
- Identify how noncustodial parent can find the strength and courage to persevere and heal.

In addition, agency staff provide support and services to whoever else needs them to help address the concern.

Agency staff make active efforts to prevent foster care placement by engaging and assessing the noncustodial parent when the child is eligible for protections under the Indian Child Welfare Act,²⁴ the Minnesota Indian

²² Achieving Permanency for the Well-being of Children and Youth, ACYF-CB-IM-21-01. P. 11 (January 5, 2021). Retrieved from <https://www.acf.hhs.gov/sites/default/files/documents/cb/im2101.pdf>

²³ Minnesota Statutes [260.012\(f\)](#).

²⁴ United States Code title 25, sections [1901-1963](#).

Family Preservation Act²⁵ and the Minnesota African American Family Preservation and Child Welfare Disproportionality Act.²⁶

Indian Child Welfare Act (ICWA) and Minnesota Indian Family Preservation Act (MIFPA)

Active efforts to prevent the breakup of the Indian family are required for a child who is entitled to the protections of Indian Child Welfare Act²⁷ or Minnesota Indian Family Preservation Act.²⁸ Active efforts are a rigorous and concerted level of effort to preserve the Indian child's family. Active efforts require the engagement of the Indian child, the Indian child's parents, the Indian custodian, the extended family, and the Tribe in using the prevailing social and cultural values, conditions, and way of life of the Indian child's Tribe to:

- Preserve the Indian child's family
- Prevent placement
- Return the Indian child to child's family at the earliest possible time if placement occurs
- Ensure the Indian child retains meaningful connections to the Indian child's family, extended family, and Tribe when a permanent change in parental rights or custody are necessary.²⁹

Active efforts are culturally informed, strength-based, Tribal and community-involved, and include Tribal and community-based services.

Active efforts are ongoing throughout agency involvement.³⁰ Although active efforts include reasonable efforts, active efforts require a higher standard than reasonable efforts to preserve the family, prevent breakup of the family, and reunify the family.³¹ Active efforts are required for all Indian child placement proceedings and for all voluntary Indian child placements that involve a child-placing agency regardless of whether reasonable efforts would have been relieved under Minnesota Statutes [260.012\(a\)](#).³²

²⁵ Minnesota Statutes [260.751](#).

²⁶ Minnesota Statutes [260.61](#).

²⁷ United States Code title 25, sections [1912\(d\)](#).

²⁸ Minnesota Statutes [260.762](#).

²⁹ Minnesota Statutes [260.755, subd. 1a\(a\)](#).

³⁰ Minnesota Statutes [260.755, subd. 1a](#).

³¹ Minnesota Statutes [260.755, subd. 1a\(b\)](#)].

³² Minnesota Statutes [260.755, subd. 1a\(b\)](#)].

Minnesota African American Family Preservation and Child Welfare Disproportionality Act (MAAFPCWDA)

Active efforts are required for a child entitled to the protections of the Minnesota African American Family Preservation and Child Welfare Disproportionality Act.³³ Active efforts is a rigorous and concerted level of effort made by the agency continuously throughout the time agency staff is involved with an African American or a disproportionately represented child and their family to preserve child's family and prevent out-of-home placement.

Agency staff make active efforts to prevent out-of-home placement, eliminate need for removal, and reunify child with child's family as soon as practicable.³⁴ At each hearing regarding an African American or a disproportionately represented child alleged or adjudicated to be in need of child protective services, the court reviews whether the agency has provided active efforts to child and their family and requires the agency to provide evidence and documentation that the agency is providing culturally informed, strength-based, community-involved, and community-based services to child and their family.³⁵

Active efforts sets a higher standard for the agency than reasonable efforts. Active efforts includes the provision of reasonable efforts.³⁶

Identify, locate and give notice to noncustodial parent

The effort to identify and locate parents depends on the type of agency involvement and varies from maltreatment assessment and investigation, court proceedings and voluntary placement proceedings.

Efforts during family assessments/investigations and case management without court involvement

When the agency receives a report alleging maltreatment within the family unit, agency staff make reasonable efforts to locate and interview parents.³⁷ If, after reasonable effort, agency staff are unable to locate a parent,

³³ Minnesota Statutes [260.64, subd. 1.](#)

³⁴ Minnesota Statutes [260.64, subd. 1.](#)

³⁵ Minnesota Statutes [260.64, subd. 3.](#)

³⁶ Minnesota Statutes [260.63, subd. 2.](#)

³⁷ Minnesota Rules [9560.0220](#), subpart 4.

the requirement to interview the parent is waived.³⁸ Agency staff interview parents to collect available and relevant information to determine whether maltreatment occurred.³⁹

When the agency conducts an assessment or investigation that may involve an Indian child, the agency provides notice to the Tribe within 24 hours.⁴⁰ The agency's notice to the Tribe includes the full names and dates of birth of the child's biological parents.⁴¹ When the agency provides services to a child that may be an Indian child, the agency gives notice to the Tribe within seven days of receiving information that the child may be an Indian child.⁴² The notice includes the full names and dates of birth of the child's biological parents.⁴³ If the father is unknown, notice to the Tribe believed to be the child's Tribe includes the possible identity, Tribal affiliation or location of the birth father.⁴⁴

Prior to the removal of an African American or a disproportionately represented child from their home, agency staff make active efforts to identify and locate child's noncustodial parent.⁴⁵ The notice to the parent includes a list of legal resources.⁴⁶

Efforts required for 260C proceedings

Agency staff make diligent efforts to identify and locate all parents of a child who is the subject of a proceeding under Minnesota Statutes chapter 260C.⁴⁷ Agency staff efforts to identify and locate noncustodial parents must be individualized to align with each noncustodial parent's culture. Families often have diverse means of identifying parents and making custody arrangements based upon their own family needs. A child could have several individuals who are considered by child and family to be child's parents. Agency staff are required to identify all parents, assess their needs and provide adequate and appropriate services when needed. Agency staff are best equipped to help when they understand the dynamics of the family. Best practice is to support

³⁸ Minnesota Rules [9560.0220](#), subpart 4.

³⁹ Minnesota Rules [9560.0220](#), subpart 1.

⁴⁰ Minnesota Statutes [260E.18](#).

⁴¹ Minnesota Statutes [260.761, subd. 2\(a\)](#).

⁴² Minnesota Statutes [260.761, subd. 2\(b\)](#).

⁴³ Minnesota Statutes [260.761, subd. 2\(b\)](#).

⁴⁴ Minnesota Statutes [260.761, subd. 4](#)

⁴⁵ Minnesota Statutes [260.65\(a\)](#).

⁴⁶ Minnesota Statutes [260.65\(a\)](#).

⁴⁷ Minnesota Statutes [260C.150, Subd. 3\(a\)](#).

each family's ability to meet their needs. Because dynamics of each family are different, flexibility is necessary when working with noncustodial parents and their families.

Diligent efforts to identify and locate parents includes asking the known parent to identify child's noncustodial parent or provide information to help identify noncustodial parent, including:

- Noncustodial parent's name, birth date (or approximate age), and address
- Whereabouts of relatives of noncustodial parent
- Noncustodial parent's social security number
- Noncustodial parent's last known whereabouts
- Date and place of child's birth
- Date and location of marriage and divorce
- Date and location of paternity proceedings.⁴⁸

Known parent's identification of noncustodial parent creates an opportunity to expand resources for the child.

If known parent is uncooperative in identifying noncustodial parent, agency staff try to learn the reason for the lack of cooperation. If known parent expresses safety concerns about having noncustodial parent contacted, agency staff document concerns and consult their county attorney. These situations may include domestic violence, history of sexual abuse, or other significant safety issues for either child or parent. When the child remains in the care of custodial parent and the court finds it in the child's best interests, the court may waive notice to noncustodial parent if providing notice would endanger custodial parent, child, or another family member.⁴⁹

Agency staff may disclose data which is otherwise private under Minnesota Statutes [13.46](#) or chapter [260E](#) to carry out its diligent efforts to identify and locate both parents⁵⁰ including:

- Checking the Minnesota child support enforcement system ([DHS Shared Master Index](#))⁵¹
- Searching the Minnesota Fathers' Adoption Registry (MFAR) 30 days after child's birth⁵²
- Other reasonable means to identify and locate parents⁵³ which may include:
 - Family court records
 - Prior child protection records
 - MAXIS
 - MNCIS

⁴⁸ Minnesota Statutes [260C.150, subd. 3\(a\)\(1\)](#).

⁴⁹ Minnesota Statutes [260C.150, subd. 5](#).

⁵⁰ Minnesota Statutes [260C.150, subd. 3\(b\)](#).

⁵¹ Minnesota Statutes [260C.150, subd. 3\(a\)\(2\)](#).

⁵² Minnesota Statutes [260C.150, subd. 3\(a\)\(3\)](#).

⁵³ Minnesota Statutes [260C.150, subd. 3\(a\)\(4\)](#).

- MGA
- Social media
- SSIS
- Tribal records
- SENECA (relative search program)
- Newspapers
- Jail roster.

As soon as possible, but not later than the first review hearing, the agency reports to the court its diligent efforts to locate a parent who remains unknown or has not been located.⁵⁴ If the court determines the agency has not made diligent efforts to locate both parents or if both parents of the child have not been served as required by the rules, the court identifies further appropriate, specific efforts and orders the agency to take further steps to identify and locate both parents.⁵⁵ When the court finds the agency made diligent efforts to identify and locate parents and either parent remains unknown or cannot be located, the court may find the agency has made reasonable efforts regarding any parent who remains unknown or cannot be located.⁵⁶

At the first hearing regarding the petition and subsequent hearings, as appropriate, the court inquires of the parties whether the identities and whereabouts of both parents of the child are known and correctly reflected in the petition filed with the court.⁵⁷ If either the identity or whereabouts of a parent is not known, the court inquires on the record of any party or participant present the identity and whereabouts of the unknown parent of the child.⁵⁸

One purpose of laws relating to juvenile protection proceedings is to ensure appropriate permanency planning for children in foster care by identifying, locating, and assessing both parents of the child as soon as possible and offering reunification services to both parents.⁵⁹ When a child is in foster care, the agency makes diligent efforts to identify, locate, and, where appropriate, offer services to both parents of the child.⁶⁰ When the court orders a child into foster care and the removal parent refuses to give information to the agency about child's other

⁵⁴ Minnesota Statutes [260C.150, subd. 6](#).

⁵⁵ Minnesota Statutes [260C.150, subd. 6](#).

⁵⁶ Minnesota Statutes [260C.150, subd. 7](#).

⁵⁷ Minnesota Statutes [260C.150, subd. 4](#).

⁵⁸ Minnesota Statutes [260C.150, subd. 4](#).

⁵⁹ Minnesota Statutes [260C.001, subd. 2\(b\)\(7\)\(ii\)](#).

⁶⁰ Minnesota Statutes [260C.219, subd. 1\(a\)](#).

parent, the court may order the removal parent to disclose the name, address, telephone numbers, and other identifying information to the agency.⁶¹

If the removal parent refuses, the county attorney may request the court to have an uncooperative parent sworn to answer questions relevant to the identity of noncustodial parent.⁶² If the known parent testifies that identifying noncustodial parent would endanger them, their child or another family member, the court may make a protective order regarding information necessary to protect the known parent, child or family member.⁶³ Consistent with the protective order the agency works with noncustodial parent to provide resources for child while preserving the safety of the known parent. The Tribe receives the protective order issued by the state court.

Efforts for voluntary placement agreements

Before the agency places a child under a voluntary placement agreement, agency staff must obtain written consent of all parents who have legal authority to make decisions and plans for child, unless placement is in child's best interests and one parent's signature is unobtainable.⁶⁴ If both parents have legal authority to make decisions and only one parent signs the agreement, agency staff document why the other parent with legal authority to make decisions did not sign the agreement.⁶⁵

The agency creates a written plan when the agency and family agree voluntary services are needed.⁶⁶ An out-of-home placement plan is required within 30 days after a child is placed in foster care pursuant to a voluntary placement agreement under Minnesota Statutes [260C.227](#) or chapter [260D](#).⁶⁷ When a child is in foster care, the agency makes diligent efforts to identify, locate, and, where appropriate, offer services to all parents of the child.⁶⁸ Active efforts apply when the child is eligible for protections under the Indian Child Welfare Act, the

⁶¹ Minnesota Statutes [260C.178, subd. 1\(k\)](#).

⁶² Minnesota Statutes [260C.150, subd. 5](#).

⁶³ Minnesota Statutes [260C.150, subd. 5](#).

⁶⁴ Minnesota Rules [9560.0527A](#).

⁶⁵ Minnesota Rules [9560.0527B](#).

⁶⁶ Minnesota Statutes [260E.26](#).

⁶⁷ Minnesota Statutes [260C.212, subd. 1\(a\)](#).

⁶⁸ Minnesota Statutes [260C.219, subd. 1\(a\)](#).

Minnesota Indian Family Preservation Act or the Minnesota African American Family Preservation and Child Welfare Disproportionality Act.⁶⁹

Engage parents

Agency staff engagement of noncustodial parents must be individualized to align with each noncustodial parent's culture. Parent includes:

- Adjudicated and those not adjudicated⁷⁰
- Who have had their legal and physical custody rights permanently transferred to a relative of their child
- Who have reestablished their parental rights after having had their rights terminated⁷¹
- Who live in Minnesota and those who live in other states
- All gender identities.

The agency must identify and engage all parents regardless of custody status, residence or gender to assess willingness and capacity to provide day-to-day care of their child at the beginning of and throughout agency involvement with the family.⁷² Multiple potential parents can be documented in SSIS.

Parents with a legal parent and child relationship

A legal parent and child relationship confers and imposes on the parent legal rights, privileges, duties and obligations.⁷³ A woman can establish a parent and child relationship in three ways:

- Proof of having giving birth to the child⁷⁴
- Under Minnesota Statutes [257.51](#) to [257.74](#) or [257.75](#)⁷⁵

⁶⁹ Minnesota Statutes [260.755, subd. 1a\(b\)](#); [260.65\(a\)](#).

⁷⁰ Minnesota Statutes [260C.219, subd. 1\(b\)](#).

⁷¹ Minnesota Statutes [260C.329](#).

⁷² Minnesota Statutes [260C.219, subd. 1\(b\)](#).

⁷³ Minnesota Statutes [260C.007, subd. 25\(a\)](#); [257.52](#).

⁷⁴ Minnesota Statutes [260C.007, subd. 25\(b\)\(1\)](#).

⁷⁵ Minnesota Statutes [260C.007, subd. 25\(b\)\(1\)](#).

- Proof of having adopted the child⁷⁶ including an Indian person who has adopted a child by Tribal law or custom.⁷⁷

A man with a legal parent and child relationship is recognized by law as the father of the child.⁷⁸ This may or may not be the biological father.⁷⁹ A man can establish a legal parent and child relationship in five ways:

- Marriage or attempted marriage to the biological mother and no action has been taken to declare the nonexistence of the father and child relationship⁸⁰
- Adjudication of paternity by court order⁸¹
- Signing with their child's mother a recognition of parentage having the effect of an adjudication and having filed it with the [Minnesota Office of Vital Records](#)⁸²
- When there is any reason to believe the child may be an Indian child, a father as defined by Tribal law or custom, an unmarried father whose paternity has been established or an unmarried father whose paternity has been acknowledged by the father taking any action to hold himself out as the biological father under Minnesota Statutes [260.755, subd. 14](#),⁸³
- Proof of having adopted the child⁸⁴ including a person who has adopted a child by Tribal law or custom.⁸⁵

Parents who are not adjudicated

Parents who are not adjudicated have no legal parent and child relationship established under the Parentage Act and include the following:

⁷⁶ Minnesota Statutes [260C.007, subd. 25\(b\)\(3\)](#).

⁷⁷ Minnesota Statutes [260.755, subd. 14](#).

⁷⁸ Minnesota Statutes [260C.007, subd. 25\(b\)\(2\)](#).

⁷⁹ [DHS-3393-ENG \(Understanding Child Support-A handbook for parents\) 4/5/24](#) at p. 4.

⁸⁰ Minnesota Statutes [260C.007, subd. 25\(b\)\(2\)\(i\)](#).

⁸¹ Minnesota Statutes [260C.007, subd. 25\(b\)\(2\)\(ii\)-\(iv\),\(vi\)](#).

⁸² Minnesota Statutes [260C.007, subd. 25\(b\)\(2\)\(ii\),\(v\),\(vi\)](#).

⁸³ Minnesota Statutes [260C.007, subd. 25\(b\)\(2\)\(vii\)](#).

⁸⁴ Minnesota Statutes [260C.007, subd. 25\(b\)\(3\)](#).

⁸⁵ Minnesota Statutes [260.755, subd. 14](#).

- Unmarried fathers of an African American or a disproportionately represented child who acknowledge paternity by taking any action to hold themselves out as the biological father⁸⁶
- Alleged,⁸⁷ and presumed⁸⁸ fathers who may be able to establish a legal parent and child relationship are treated as parents unless:
 - Action under Minnesota Statutes [257.57](#) has declared the nonexistence of the father and child relationship
 - Blood or genetic test results did not indicate the likelihood of the father's paternity is 99 percent or greater.⁸⁹
- Blood or genetic test results which indicate likelihood of the father's paternity is 99 percent or greater create a presumption that the individual is the biological father.⁹⁰ The test results do not establish a legal parent and child relationship. The father establishes this relationship by:
 - Adjudication by court order
 - Signing a recognition of parentage with the mother having the effect of adjudication and filing it with the [Minnesota Office of Vital Records](#).⁹¹

Voluntary placement agreement

Before the agency places a child under a voluntary placement agreement, agency staff must obtain written consent of all parents who have legal authority to make decisions and plans for child, unless placement is in child's best interests and one parent's signature is unobtainable.⁹² If both parents have legal authority to make decisions and only one parent signs the agreement, agency staff document why the other parent with legal authority to make decisions did not sign the agreement.⁹³

The agency creates a written plan when the agency and family agree voluntary services are needed.⁹⁴ An out-of-home placement plan is required within 30 days after a child is placed in foster care pursuant to a voluntary

⁸⁶ Minnesota Statutes [260.63, subd. 15](#).

⁸⁷ Rules of Juvenile Protection Procedure, [Rule 2.01\(4\)](#).

⁸⁸ Rules of Juvenile Protection Procedure, [Rule 2.01\(25\)](#).

⁸⁹ Minnesota Statutes [257.62, subd. 5\(b\)](#).

⁹⁰ Minnesota Statutes [257.62, subd. 5\(b\)](#).

⁹¹ Minnesota Statutes [260C.007, subd. 25\(b\)\(2\)\(vi\)](#).

⁹² Minnesota Rules [9560.0527A](#).

⁹³ Minnesota Rules [9560.0527B](#).

⁹⁴ Minnesota Statutes [260E.26](#).

placement agreement under Minnesota Statutes [260C.227](#) or chapter [260D](#).⁹⁵ When a child is in foster care, the agency makes diligent efforts to identify, locate, and, where appropriate, offer services to all parents of the child.⁹⁶ Active efforts apply when the child is eligible for protections under the Indian Child Welfare Act, the Minnesota Indian Family Preservation Act or the Minnesota African American Family Preservation and Child Welfare Disproportionality Act.⁹⁷

Court action to establish legal parent and child relationship

There may be cases where a petition may be needed to establish paternity. A petition to establish paternity is filed in family court. The family court either establishes paternity or declares the nonexistence of a parent and child relationship under the Parentage Act.⁹⁸ Each man presumed under Minnesota Statutes [257.55](#)⁹⁹ and each man alleged by a party or participant in the juvenile protection matter to be the father¹⁰⁰ is made a party to the paternity action or, if not subject to the jurisdiction of the court, given notice and opportunity to be heard.¹⁰¹

The parentage matter in family court may be brought at the same time as a juvenile protection matter.¹⁰² The family court has jurisdiction to determine parentage, the child's name, and child support.¹⁰³ The family court cannot make determinations regarding custody or parenting time until the juvenile court makes any of the following orders:

- Guardianship to the Commissioner of Children, Youth, and Families under Minnesota Statutes [260C.515, subd. 3](#), or [260C.325](#), in which case the family court may close the parentage file
- Permanent legal and physical custody to one of the child's parents or a relative under Minnesota Statutes [260C.515, subd. 4](#), in which case the family court may make a determination regarding child support in the parentage matter
- Permanent custody to the agency under Minnesota Statutes [260C.515, subd. 5](#), or temporary custody to the agency under Minnesota Statutes [260C.515, subd. 6](#), in which case the family court may make a determination of child support in the parentage matter

⁹⁵ Minnesota Statutes [260C.212, subd. 1\(a\)](#).

⁹⁶ Minnesota Statutes [260C.219, subd. 1\(a\)](#).

⁹⁷ Minnesota Statutes [260.755, subd. 1a\(b\)](#); [260.65\(a\)](#).

⁹⁸ Minnesota Statutes [257.51](#).

⁹⁹ Rules of Juvenile Protection Procedure, [Rule 2.01\(25\)](#).

¹⁰⁰ Rules of Juvenile Protection Procedure, [Rule 2.01\(4\)](#).

¹⁰¹ Minnesota Statutes [257.60](#).

¹⁰² Rules of Juvenile Protection Procedure [24.01, subd. 1](#).

¹⁰³ Rules of Juvenile Protection Procedure [24.01, subd. 3](#).

- Dismissal of the child from the juvenile protection matter under Minnesota Statutes [260C.193, subd. 1](#), in which case the family court may make determinations regarding child support, legal and physical custody, and parenting time
- Termination of juvenile court jurisdiction over the child under Minnesota Statutes [260C.193, subd. 6](#), in which case the family court may make determinations regarding child support, legal and physical custody, and parenting time
- Any other order required by the juvenile court judicial officer to be filed in the pending parentage matter in family court.¹⁰⁴

The family court parentage matter can be assigned to the same judge assigned to the juvenile protection matter. Hearings in both matters may be calendared at the same time.¹⁰⁵

Whether paternity is established by a recognition of parentage filed with the [Minnesota Office of Vital Records](#) or court order, the child's birth certificate is amended consistent with the recognition of parentage or court order.¹⁰⁶

Assessment of noncustodial parent

Agency's reasonable or active efforts to finalize a permanent plan for a child includes assessment of noncustodial parent's ability to provide day-to-day care for their child and, when necessary, provide services so noncustodial parent can provide care.¹⁰⁷

When the child is entitled to the protections of Indian Child Welfare Act¹⁰⁸ or Minnesota Indian Family Preservation Act,¹⁰⁹ agency staff make active efforts to:

- Engage the Indian child, parents, Indian custodian, extended family and Tribe in using the prevailing social and cultural values, conditions, and way of life of the Indian child's Tribe to prevent placement¹¹⁰
- Provide concrete services and access to both Tribal and non-Tribal services to the noncustodial parent in an ongoing manner throughout the agency's involvement with the Indian family. Services

¹⁰⁴ Rules of Juvenile Protection Procedure [24.01, subd. 3](#); [24.06](#).

¹⁰⁵ Rules of Juvenile Protection Procedure [24.02, subd. 1](#).

¹⁰⁶ Minnesota Statutes [257.73](#).

¹⁰⁷ Minnesota Statutes [260.012\(e\)\(2\)](#).

¹⁰⁸ United States Code title 25, sections [1912\(d\)](#).

¹⁰⁹ Minnesota Statutes [260.762](#).

¹¹⁰ Minnesota Statutes [260.755, subd. 1a](#).

include but are not limited to financial assistance, food, housing, health care, transportation, in-home services, community support services and specialized services.¹¹¹

When the child is an African American or a disproportionately represented child, agency staff make active efforts to:

- Assess the ability of the noncustodial parent to care for the child before placing child in foster care¹¹²
- Assist the noncustodial parent in remedying any issues that may prevent the child from being in their care.¹¹³

When active efforts apply agency staff must make an individualized determination of needs and potential barriers to addressing those needs. What is active for one parent may not be active for another. For example:

- A parent who can consistently make phone calls to schedule an appointment, remembers to attend appointments and has reliable transportation – providing the name and contact information to schedule their appointment may be sufficiently active.
- A parent who is anxious about making phone calls and knowing the right things to say may need the worker to be present when calling.
- A parent who doesn't have reliable transportation and doesn't know how to navigate public transportation will need a ride arranged to attend the appointment.
- A parent who may struggle with organization needed to juggle their schedule or who may forget their appointment may need help planning for the appointment or reminder calls.

Reasonable efforts require agency staff to exercise due diligence to use culturally appropriate and available services to meet the needs of child and child's family.¹¹⁴

A child who is removed from their custodial parent moves to the care of their noncustodial parent as soon as it is safe for child.¹¹⁵ The agency must:

- Assess whether noncustodial parent is willing and capable of providing the day-to-day care of child¹¹⁶

¹¹¹ Minnesota Statutes [260.762, subd. 2a\(b\)\(9\)](#).

¹¹² Minnesota Statutes [260.65\(b\)](#).

¹¹³ Minnesota Statutes [260.65\(b\)](#).

¹¹⁴ Minnesota Statutes [260.012\(f\)](#).

¹¹⁵ Minnesota Statutes [260C.001, subd. 2\(b\)\(7\)\(v\)](#).

¹¹⁶ Minnesota Statutes [260C.219, subd. 1\(b\)](#).

- Provide services to noncustodial parent throughout the child in need of protection and services (CHIPS) proceeding to assist the parent to become capable of providing day-to-day care for their child.¹¹⁷

Doing an assessment

The assessment is an opportunity for agency staff to prepare the noncustodial parent to care for their child. An assessment begins a shared journey of learning by both agency staff and the noncustodial parent. Agency staff learn family culture, dynamics and history. They learn the noncustodial parent's strengths and needs. The noncustodial parent learns what agency staff see as their child's strengths and needs, and agency staff's expectations for their child's caregiver.

An assessment is conducted without any assumption that care by a noncustodial parent poses a safety concern for their child. Assumptions allow biases to enter into the assessment. Equity demands a bias free assessment. Foster care licensing standards are not used to assess whether the noncustodial parent is willing and capable of providing day-to-day care for their child because the child is not in foster care while in the care of noncustodial parent. Noncustodial parents and alleged fathers are not subject to a higher standard than the removal parent when assessing capacity to provide care.

Agency staff gather information from multiple sources to inform their assessment. Agency staff conduct a records review to determine if there is a history of paternity actions, child welfare involvement and family and juvenile court matters. In addition to the records review, agency staff engage in intentional conversations. From these conversations agency staff learn more about any concerns raised during the records review. Agency staff also learn whether any concerns remain unaddressed and what has changed for the noncustodial parent since the reviewed records were created. With each conversation agency staff can listen and learn strengths, protective factors, family and community support and existing resources.

Agency staff explore the impact noncustodial parent's housing, employment, income and childcare options may have, if any, on the noncustodial parent's capability to provide care for their child and help the noncustodial parent identify available resources. The noncustodial parent may identify who could help them feel less isolated throughout the child welfare process. Working with the noncustodial parent and their identified supports gives agency staff a better understanding of the family. A strengths-based approach with active listening fosters cooperation and teamwork between agency staff and the noncustodial parent.

The assessment must be trauma informed. The noncustodial parent will likely have strong emotions about their current circumstance related to their child and/or past circumstances. Agency staff can expect the noncustodial parent to release those emotions to fully participate in the assessment. The assessment process needs to have space for noncustodial parent to express strong emotions without being penalized for having those feelings.

¹¹⁷ Minnesota Statutes [260.012\(e\)\(2\)](#); and [260C.219, subd. 1\(c\)\(1\)](#).

The Department recommends agency staff approach assessment of noncustodial parent with the lens of if this case was opened while child was in the care of noncustodial parent, would agency staff recommend removal from noncustodial parent?

In some cases, agency may request a background study as part of the assessment. However, the agency must have legal authority to request a background study. Answer these questions to determine if the agency has legal authority to request a background study. These questions apply to a noncustodial parent.

1. Has agency received information or a report that may impact health, safety or welfare of a child in noncustodial parent's care?
 - a. **Yes.** Move to question 2.
 - b. **No.** Agency cannot request a background check.¹¹⁸
2. Is information or report specific to noncustodial parent or any member of their household over age 13?
 - a. **Yes.** Move to question 3.
 - b. **No.** Agency cannot request a background check.¹¹⁹
3. Is information or report based upon race, religion, ethnic background, age, class, or lifestyle of noncustodial parent?
 - a. **Yes.** Agency cannot rely upon information based on these characteristics to request a background check.¹²⁰
 - b. **No.** Move to question 4.
4. Does information or report create an articulable suspicion that noncustodial parent or any member of their household over age 13 may pose a risk to health, safety or welfare of the child?
 - a. **Yes.** Agency can access criminal history and history of child and adult maltreatment on noncustodial parent or household member over age 13 who is the subject of information or report received.¹²¹ Move to question 5.
 - b. **No.** Agency must have an articulable suspicion to request a background check.¹²²
5. Does agency intend to use the background study to recommend against putting child with noncustodial parent?
 - a. **Yes.** Agency must provide subject of the background study notice 15 days before the court reviews study.¹²³

¹¹⁸ Minnesota Statutes [260C.209, subd. 1](#). See reasonable cause definition in last paragraph in subd. 1.

¹¹⁹ Minnesota Statutes [260C.209, subd. 1](#). See reasonable cause definition in last paragraph in subd. 1.

¹²⁰ Minnesota Statutes [260C.209, subd. 1](#). See reasonable cause definition in last paragraph in subd. 1.

¹²¹ Minnesota Statutes [260C.209, subd. 1\(1\)](#).

¹²² Minnesota Statutes [260C.209, subd. 1](#). See reasonable cause definition in last paragraph in subd. 1.

¹²³ Minnesota Statutes [260C.219, subd. 1\(c\)\(2\)](#).

Minnesota Statutes, [260C.209](#) gives the agency authority to complete a background study. Results of a background study should be used only when the agency reasonably believes child's health, safety or welfare are endangered in the care of noncustodial parent.¹²⁴

If, after assessment, the agency determines that child cannot be in the day-to-day care of noncustodial parent, the agency shall prepare an out-of-home placement plan addressing the conditions that noncustodial parent must meet before child can be in that parent's day-to-day care.

Noncustodial parent with limited or no previous contact with child

If there is not an established relationship between noncustodial parent and child, agency efforts to finalize a permanent plan for child should include efforts to help establish the relationship or repair and heal a damaged relationship.¹²⁵

When a noncustodial parent has had no or only limited visitation or contact with their child prior to the court order for the child to be in foster care, the agency establishes and the court may order a visitation plan while the agency conducts the assessment of the parent's ability to provide day-to-day care for their child.¹²⁶ If, after assessment, agency determines the child cannot be in the day-to-day care of either parent, the agency prepares an out-of-home placement plan addressing the conditions that each parent must meet before the child can be in that parent's day-to-day care. The visitation plan for the parents is included in the out-of-home placement plan.¹²⁷ The agency may ask the court to defer the agency's duty to develop a visitation plan between a putative father and their child until the paternity is adjudicated or until there is a positive test result, but only if delaying visitation is in the best interests of the child.¹²⁸

For an Indian child, the agency's active efforts includes visitation designed to keep the Indian child in close contact with the Indian child's parents.¹²⁹

¹²⁴ Minnesota Statutes [260C.219, subd. 1\(c\)](#).

¹²⁵ Minnesota Statutes [260.012\(e\)\(2\)](#).

¹²⁶ Minnesota Statutes [260C.178, subd. 3\(c\)](#).

¹²⁷ Minnesota Statutes [260C.212, subd. 1\(c\)\(5\)](#).

¹²⁸ Minnesota Statutes [260C.178, subd. 3\(d\)](#).

¹²⁹ Minnesota Statutes [260.762, subd. 2a\(b\)\(10\)](#).

Child ordered into care of noncustodial parent

The court can order a child into the care of an individual who has not yet established a legal parent and child relationship including a man who is not adjudicated. At an emergency protective care hearing or any time before adjudication on the CHIPS petition, the court may order the child reunified with the parent from whom child was removed or order the child into the care of a parent from whom child was not removed.¹³⁰ The court orders noncustodial parent to follow conditions to meet the safety, health and welfare of the child.¹³¹ The court's order does not change the legal custody status of either the custodial or noncustodial parent. The child is not in foster care.

When noncustodial parent is willing and capable, with or without services, of providing day-to-day care of their child, the agency may seek authority from custodial parent or the court to have noncustodial parent assume day-to-day care of child.¹³² If noncustodial parent is not adjudicated, the agency can require noncustodial parent to establish paternity. Child can be in the care of noncustodial parent who is not adjudicated during the process of establishing paternity.¹³³

After adjudication on the CHIPS petition, the court can order reunification of the child or order the child into the care of noncustodial parent as part of its disposition.¹³⁴ The court orders the child into the care of the parent under protective supervision to the agency.¹³⁵ The court specifies conditions to address child's need for protection or services including establishment on paternity and can order a parent to follow a case plan individualized to the parent circumstances, as needed.¹³⁶ The agency monitors the court ordered conditions while child is in the care of noncustodial parent.¹³⁷

The court's order under Minnesota Statutes [260C.178, subd. 1\(c\)\(1\)](#) or [260C.201, subd. 1\(a\)\(1\)](#), should address the conditions and requirements appropriate to ensure the safety and care of the child including parameters of contact between the child and removal parent and granting authority to noncustodial parent who is providing

¹³⁰ Minnesota Statutes [260C.178, subd. 1\(c\)\(1\)](#).

¹³¹ Minnesota Statutes [260C.178, subd. 1\(c\)\(1\)](#).

¹³² Minnesota Statutes [260C.219, subd. 1\(b\)](#).

¹³³ Minnesota Statutes [260C.201, subd. 1\(a\)\(1\)\(ii\)](#).

¹³⁴ Minnesota Statutes [260C.201, subd. 1\(a\)\(1\)\(iii\)](#).

¹³⁵ Minnesota Statutes [260C.201, subd. 1\(a\)\(1\)](#).

¹³⁶ Minnesota Statutes [260C.201, subd. 1\(a\)\(1\)\(ii\) and \(iii\)](#).

¹³⁷ Rules of Juvenile Protection Procedure, Rule [2.01\(27\)](#).

care for child on matters needed to meet child's needs. The agency has an ongoing responsibility to assess the family, provide appropriate services and monitor child's safety and wellbeing through a case plan.

Interstate Compact on the Placement of Children (ICPC)

An Interstate Compact on Placement of Children (ICPC) is required if the court orders a child into the care of noncustodial parent who lives in another state. The receiving state staff will conduct monthly face-to-face home visits and may help arrange for local services.

Child with noncustodial parent is not in foster care

When the court determines child cannot be returned to the parent from whom child was removed because child's health or welfare would be immediately endangered, the court has two options, order child into:

- Care of noncustodial parent
- Foster care placement under the legal responsibility and protective care of the agency.¹³⁸

Child is either in the care of noncustodial parent or in foster care. The court cannot order the child into the care of noncustodial parent and order foster care placement at the same time. Some court orders use protective care and protective supervision interchangeably even though the two terms grant different authority to the agency.

Foster care is substitute care for a child who is placed away from child's parents including parents who were not caring for child when the child welfare case opened, are not adjudicated, or do not have legal custody rights. A child in the care of a parent does not meet the definition of foster care unless child is co-located with the parent in a licensed residential family-based substance use disorder treatment program or has been returned to their removal parent under a trial home visit.¹³⁹

Because a child in the care of a parent is not in foster care the:

- Agency does not have legal authority to place the child and cannot remove the child without obtaining a court order at the time of the removal
- Parent providing care for the child is not subject to foster care licensing requirements and cannot receive foster care maintenance payments.

If noncustodial parent who was not adjudicated and has been providing care for child is ruled out as the child's parent, they can be considered a relative to the child and are eligible for benefits relative care givers receive.¹⁴⁰

¹³⁸ Minnesota Statutes [260C.178, subd. 1\(c\)](#).

¹³⁹ Minnesota Statutes [260C.007, subd. 18\(a\)\(1\)](#).

¹⁴⁰ Minnesota Statutes [260C.212, subd. 2\(a\)\(2\)](#)

Child with noncustodial parent can be entered in SSIS as a location

A child in noncustodial parent's care is not entered as a placement in SSIS and is not reported as a placement for AFCARS purposes. An SSIS entry is not required, but the agency may enter it in SSIS as a location. The setting is the home of the parent providing care. While not a placement for SSIS documentation purposes, time ordered into the care of parent from whom child was not removed does count towards permanency timelines.¹⁴¹ Entering a location with the noncustodial parent may assist the agency in tracking time the child has been out of removal parent's care.

Case planning with noncustodial parent

The agency makes reasonable efforts to both parents under Minnesota Statutes [260C.178, subd. 7\(a\) and \(d\)](#). When required, the agency makes active efforts to both parents when case planning.¹⁴² A child in the care of their noncustodial parent is not in placement. Agency staff use the In-home Family Support Plan for case management and service planning. [Best Practice Guide for In-Home Child Protection Case Management](#) provides an overview of policy and guidance for in-home child protection case management. The In-Home Family Support Plan is completed in partnership with family, their identified supports, Tribes, community and service providers.¹⁴³

The In-home Family Support Plan must be filed within 30 days of the filing of the juvenile protection petition.¹⁴⁴ Unless the parent agrees, the court may not order the parent to comply with the provisions of the plan until the court finds the child needs protection or services and orders disposition.¹⁴⁵ The court reviews the In-home Family Support Plan at least every 90 days.¹⁴⁶

If the child is placed in foster care, agency staff use an out-of-home placement plan. The plan includes services provided to the noncustodial parent to assist them to care for their child. The noncustodial parent may decline participation in the out-of-home placement plan without prejudice.

¹⁴¹ Minnesota Statutes [260C.503, subd. 1\(a\)](#).

¹⁴² Minnesota Statutes [260.755, subd. 1a\(a\)](#)(active efforts for an Indian child); [260.63, subd. 2](#)(active efforts for an African American or a disproportionately represented child).

¹⁴³ [Best Practice Guide for In-Home Child Protection Case Management \(state.mn.us\)](#) at page 28.

¹⁴⁴ Minnesota Statutes [260C.178, subd. 7\(a\)](#).

¹⁴⁵ Minnesota Statutes [260C.178, subd. 7\(e\)](#).

¹⁴⁶ Minnesota Statutes [260C.202, subd. 1](#).

Removing child from noncustodial parent's care

If a child who has been ordered in to the care of their noncustodial parent needs to be removed, the agency follows the procedure required by Minnesota Statutes [260C.175](#) for taking a child into custody. An emergency protective care hearing is required within 72 hours of the removal for the child to remain out of the noncustodial parent's care. A judicial determination that remaining in the home is contrary to child's welfare is required when the child is moved to foster care placement.

Legal custody of custodial and noncustodial parent

A court order for the noncustodial parent to provide care for their child as a disposition after a CHIPS finding has no effect on the legal custody of either parent.¹⁴⁷ The court can order the child into the care of noncustodial parent who has no legal custody of the child¹⁴⁸ A court order granting protective supervision to the agency has no effect on the legal custody of either parent. If a parent with legal custody is exercising their legal custody in a manner which threatens the ability of the child to remain in the care of a parent with no legal custody rights, the agency can bring a motion¹⁴⁹ asking the court to order the parent with legal custody to follow additional conditions to alleviate the threat and meet the safety, health and welfare of the child while in the care of the other parent.¹⁵⁰

Timing of the permanency hearing

Time a child spends in the care of noncustodial parent pursuant to a court order counts towards permanency.¹⁵¹ A permanency admit deny hearing is required within 12 months of a child being in foster care or in the care of noncustodial parent.¹⁵² During the pendency of a petition alleging a child is in need of protection or services, all time periods when a child is placed in foster care, or in the home of noncustodial parent, are cumulated when calculating the 12 months.¹⁵³ The 12 month calculation begins on whichever of the following dates is the earliest:

- The date the court first ordered child into the home of noncustodial parent

¹⁴⁷ Minnesota Statutes [260C.201, subd. 1\(a\)\(1\)\(i\)](#).

¹⁴⁸ Minnesota Statutes [260C.201, subd. 1\(a\)\(1\)\(i\)](#).

¹⁴⁹ Rules of Juvenile Protection Procedure, [Rule 14](#).

¹⁵⁰ Minnesota Statutes§ [260C.178, subd. 1\(c\)\(1\)](#) and [260C.201, subd. 1\(a\)\(1\)](#).

¹⁵¹ Minnesota Statutes [260C.503, subd. 3\(a\)](#).

¹⁵² Minnesota Statutes [260C.507\(a\)](#).

¹⁵³ Minnesota Statutes [260C.503, subd. 3\(b\)\(1\)](#).

- The date the court first court ordered foster care placement of the child
- Sixty days after the date on which child had been voluntarily placed in foster care¹⁵⁴ except for a child in voluntary placement under Minnesota Statutes Chapter 260D.¹⁵⁵

The permanency timeline for children in foster care pursuant to Minnesota Statutes Chapter 260D is different.¹⁵⁶

Permanency with noncustodial parent

The court can order a transfer of permanent legal and physical custody to noncustodial parent.¹⁵⁷ The only finding by the court is that noncustodial parent understands a transfer of permanent legal and physical custody includes permanent, ongoing responsibility for the protection, education, care, and control of child and decision making on behalf of child until adulthood.¹⁵⁸ Other findings by the court when ordering a transfer of permanent legal and physical custody to a fit and willing relative do not apply to a transfer of permanent legal and physical custody to noncustodial parent. If the removal parent and noncustodial parent shared custody when the agency involvement began, the agency can petition to transfer sole custody to the noncustodial parent.

Trial home visits not applicable

A trial home visit occurs when the removal parent resumes care for their child while the agency retains legal responsibility for the placement, care, and supervision of child.¹⁵⁹ The agency cannot begin a trial home visit until after a CHIPS adjudication and child has been court ordered into foster care.¹⁶⁰ A trial home visit with custodial parent cannot occur when a child is ordered into the care of noncustodial parent. A child on a trial home visit must be in foster care immediately preceding the start of a trial home visit.¹⁶¹ A child ordered into the care of noncustodial parent is not in foster care. Thus, a trial home visit cannot be ordered when a child is in the care of noncustodial parent. Neither can a child in foster care go on a trial home visit with their noncustodial

¹⁵⁴ Minnesota Statutes [260C.503, subd. 3\(a\)](#).

¹⁵⁵ Minnesota Statutes [260C.503, subd. 1\(a\)](#).

¹⁵⁶ Minnesota Statutes [260D.07](#).

¹⁵⁷ Minnesota Statutes [260C.515, subd. 4\(a\)\(1\)](#).

¹⁵⁸ Minnesota Statutes [260C.515, subd. 4\(a\)\(1\)](#).

¹⁵⁹ Minnesota Statutes [260C.201, subd. 1\(a\)\(3\)](#).

¹⁶⁰ Minnesota Statutes [260C.178, subd. 1\(c\)\(2\)](#).

¹⁶¹ Minnesota Statutes [260C.178, subd. 1\(c\)\(2\)](#).

parent. A trial home visit must be with the parent from whom the child was removed.¹⁶² Child retains foster care status during the trial home visit.¹⁶³

Appendix

Types of fathers defined by Minnesota Statutes or Minnesota Rules of Juvenile Protection Procedure

Acknowledged father: An unwed father who has acknowledged his paternity by taking any action to hold himself out as the biological father of an Indian child under Minnesota Statutes [260.755, subd. 14](#), or an African American or a disproportionately represented child under Minnesota Statutes [260.63, subd. 15](#).

Adjudicated father: An individual determined by court order, or pursuant to a recognition of parentage under Minnesota Statutes [257.75](#), to be the biological father of child. Rules of Juvenile Protection Procedure, [Rule 2.01\(2\)](#).

Alleged father: An individual claimed to be the biological father of a child by a party or participant in a juvenile protection proceeding. Rules of Juvenile Protection Procedure, [Rule 2.01\(4\)](#). For the definition of juvenile protection proceeding, see Minnesota Statutes [260C.001, subd. 1\(b\)](#).

Adoptive father: A male individual with a legally recognized parent and child relationship by proof of adoption under Minnesota Statutes [260C.007, subd. 25\(b\)\(3\)](#) including a person who has adopted a child by tribal law or custom under Minnesota Statutes [260.755, subd. 14](#).

Biological father: The man with whom a child's mother became pregnant. [DHS-3393-ENG \(Understanding Child Support-A handbook for parents\) 4/5/24](#) at p. 4.

Presumed father: An individual who is presumed to be child's biological father under Minnesota Statutes [257.55, subd. 1](#) or [260C.150, subd. 2](#). Rules of Juvenile Protection Procedure, [Rule 2.01\(25\)](#)

Putative father: An individual who may be a child's father, but who:

- (1) is not married to child's mother on or before the date that child was or is to be born; and
- (2) has not established paternity under Minnesota Statutes [257.57](#) before the filing of a petition for the adoption of child.

Putative father includes a male who is less than 18 years old.

¹⁶² Minnesota Statutes [260C.201, subd. 1\(a\)\(3\)](#).

¹⁶³ Minnesota Statutes [260C.007, subd. 18\(a\)\(3\)](#).