



FORMAL CAREGIVERS FAQs

What is foster care?

Foster care is temporary out-of-home care for children with either a non relative or a relative/kin family.

Who are formal caregivers?

Caregivers who are providing care to children receiving child welfare services from a county or tribal human services agency. Foster care requires the agency to place the child in a licensed family foster home or licensed residential facility; however, the agency may make an emergency placement with a relative prior to the licensure.

Additional information on the Basics of Foster Care for Relatives: DHS-3799A-ENG_Ver 10-19_10-10-19 (state.mn.us).

Do I have the right to apply to become a licensed child foster care provider for one of my family members who is in foster care?

Yes, you have the right to apply for a child foster care license. You can either apply with your county of residence or a private foster care agency. Tribal social service agencies license, approve, and certify child foster homes on or near reservations. Prospective foster parents must contact their tribal social service agency for information about this process. When a county, tribe, or private foster care agency receives an application, they are required to process the application. In order to be approved for licensure, you will have to complete and pass a home study assessment, background studies for all household members (age 13 and over), home visits (including meeting home safety requirements), training, and required paperwork. Agencies have the right to request additional assessments if warranted. The agency makes their recommendation for licensure or denial to Minnesota Department of Human Services' Licensing Division staff, and they make final approval decisions. The process typically takes three to six months, the goal is 120 days from the time of application.



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An approved foster care license does not guarantee placement of a child in the home of particular relative or kin.

Additional information:

- Information for Relatives Considering Becoming Foster Parents
- Minnesota Adoption and Child Foster Care Application

As a formal caregiver, what is a background study and can I refuse to do this if I want to be considered for my relative?

A background study is required to determine whether you or any household member have any criminal history that might impact the safety of the child and/or child protection involvement. Providing a background study is a requirement for foster care licensure. If you choose not to complete a background study, it may result in a denial of your application. Please consult with a licensing agency about specific situations. Even if there is criminal history, it may not be considered a current safety concern that would result in a disqualification, or the disqualification might be able to be worked through to still obtain a license.

If I'm told that I have a "licensing barrier", how do I find out what to do?

If you are told that you have a "licensing barrier," ask your licensor or county social worker to explain what it is and request information on the appeal process for a background study disqualification and/or a license denial. If the barrier is your inability to meet some other aspect of the foster care licensing requirements, ask for a variance. Many licensing requirements have the potential for a variance by the licensing agency.

Licensing barriers may result in a denial of a license and when that occurs you will be notified in writing via certified mail and given instructions for how to appeal. Sometimes relatives are told they have been ruled out as a placement option based on an initial background check ran by the involved county. The only way to know if you have a background study disqualification that is a licensing barrier, is to submit a formal Application for Adoption and Foster Care to a county or private foster licensing agency, and have your background study formally ran (this is typically a fingerprint-based study). If you have been told you were ruled out due to an initial



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background check, you still have the right to submit an application for adoption and foster care (refer to response #1 above in this section).

Additional information:

- Minnesota Adoption and Child Foster Care Application

What is a background study disqualification?

See the definition for Disqualification.

What is the difference between a background study disqualification and a permanent bar?

See the definitions above for Background Studies, Permanent Bar.

If I have a background study disqualification, what rights do I have to request reconsideration?

See the definition for Requesting Reconsideration.

If I'm going to request a reconsideration, what information would be helpful for me to have in order to make the request?

See the definition for Requesting Reconsideration.

If I can't be licensed for foster care, can I still be considered for permanency for a relative?

Yes. By law, counties who have placement responsibility for a child must consider placing the child with relatives for foster care and permanency before they consider unrelated individuals.



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and physical custody of the child to you, or through adoption (although adoption does require an approved adoption home study).

- Even if you did not participate in the child’s case before, you can still be considered for permanent placement for the child. You can also change your mind if you initially said you were not interested in being a permanent placement.

Additional information:

- List of private agencies

My grandchild was “adopted out” of the family through foster care, can I see them now?

Prior to an adoption occurring, a contact agreement may be created that outlines contact arrangements between family members and children. If you have an existing contact agreement, you can modify it through the courts if the court finds the proposed modification to be in the best interest of the child who is the subject of the agreement, and that either both parties to the agreement agree to the modification or exceptional circumstances exist that justify the modification.

However, if you do not have an existing contact agreement that was entered into before your grandchild was adopted, it is up to the child’s adoptive parents to determine contact arrangements.

You can also consult with an attorney to determine if other options exist.

Additional information:

- Communication or Contact Agreements

I’m considering adopting or obtaining custody of my relative. Can I expect funding assistance?

It depends.



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If the child is in foster care and a Minnesota county or tribe is legally responsible for their placement, you may be able to receive Northstar Kinship Assistance if you and the child meet eligibility criteria, and you accept a transfer of permanent legal and physical custody (or tribal equivalent). This includes having the child placed in your home for at least six consecutive months, while you are licensed for child foster care.

It is not possible to receive Northstar Kinship Assistance if the child was never in foster care, and you obtain custody through a private family court matter.

If the child is under guardianship of the commissioner, you may be able to receive Northstar Adoption Assistance if you and the child meet eligibility criteria, and you adopt the child. This also applies to children who are tribal wards and adopted via customary adoption through tribal court. One of the main eligibility requirements is that a child must meet the special needs determination, which may or may not include a disability.

In rare circumstances, you may be able to receive Northstar Adoption Assistance even if the child you are adopting is not in foster care. Consult with an attorney or adoption agency for more information.

For both Northstar Adoption Assistance and Northstar Kinship Assistance, the child will receive Medicaid (MA), and the amount of funding assistance will be the same as the amount the child received as a foster child, unless you sign the benefit agreement when the child is age 5 or younger. In that instance, the amount is half of what the child would have received in foster care. Additionally, for Northstar Adoption Assistance only, the child must meet specific criteria regarding sibling group or disability to receive funding assistance. If the child does not meet this criteria, but are considered at risk of developing a disability during childhood, they will have a zero-dollar agreement with MA. However, if the child ends up developing a disability, you can request renegotiation to receive a payment.

For families that had been receiving assistance as a foster parent, they often will lose benefits they may have been previously receiving for the child, based on the child being in foster care; free school lunches, WIC and food support are some benefits that the child may no longer be categorically eligible to receive. However, it may be possible to continue receiving these benefits, depending on the family income.

Additional information:

- Adoption of children in foster care
- Transfer of permanent legal and physical custody of children in foster care
- Northstar Adoption Assistance
- Northstar Kinship Assistance



Once I adopt or get custody of my relative child, what can I expect?

If you have a Northstar Adoption Assistance or Northstar Kinship Assistance benefit agreement in place, the child will receive those payments until age 18 along with Medicaid (MA). Prior to the child's 18th birthday, the state will contact you to see if the child meets requirements to extend the assistance. Extensions may be granted in various increments, up to age 21, at which point the assistance must terminate by state and federal law.

If the child is receiving Social Security benefits from a birth parent, you should contact the Social Security Administration (SSA) to become the Representative Payee for the child's benefits. For newly adoptive parents who receive Social Security benefits for themselves, you should contact the SSA as the child will most likely be eligible to get Dependent Benefits off your benefits, as the child's adoptive parent.

If you adopted the child, look at your taxes the next time you file to see if you can use the Federal Adoption Tax Credit.

Additional information:

- Adoption Tax Credits
- Tax related adoption assistance

This tool is not considered legal advice.



KINSHIP TERMS AND DEFINITIONS

Adoption

A legal parent-child relationship is established between adoptive parent and child. Adoptive parents have all rights and responsibilities that birth parents originally had. Adoption involves terminating legal parent(s)' rights through a court process. This is a legal relationship that is ongoing throughout the child's life.

For additional information:

- Adoption of children from foster care: DHS-7024A-ENG_Ver 5-19_8-15-19 (state.mn.us).
- Adoption of children not in foster care:
- Completing a private, domestic adoption in Minnesota

Background Studies

Background studies are required when someone is applying for a child foster care license. This includes a completed background study for anyone 13 or older who lives in the household or who will have significant contact with children in the home. For example, a boyfriend or girlfriend who lives elsewhere but spends a lot of time in the home or adult children who are away at college and come home often. Tribal social service agencies have a process for background studies. Contact the tribal social service agency making the placement for information about their process.

- **Criminal History Review**

Many individuals who are subject to a background study may have criminal or maltreatment history that does not result in a disqualification for foster care or a barrier to adoption. However, the history is relevant to the licensing assessment process and will be reviewed and assessed by the licensing agencies.

- **Disqualification**

Some criminal history and maltreatment information results in a disqualification for foster care licensing, for a specific period of time (7 years, 10 years, 15 years, etc.). The amount of time depends on the type of crime or social service history involvement, which is specified in MN Statute (245C.15). If relative child foster care applicants or household members are disqualified, the Minnesota Department of Human Services will provide written notice to the individual, as well as to the county or private agency licensing the home. The notice will include information about how to request reconsideration of the disqualification. If a licensing



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disqualification is discovered after children are placed in a relative or kin home, county or tribal social service agency staff may need to remove children from the home and may return them only after a disqualification is set aside, or a variance is granted by the Minnesota Department of Human Services.

- **Permanent Bar Disqualifications**

Some disqualifications, such as felony domestic assault, felony crimes against children, criminal sexual conduct, and others, permanently prohibit a person from providing direct contact services to children in foster care. A request for reconsideration on a permanent bar can only be done on the basis of correctness – if the person believes the information used to disqualify them is incorrect. If you have a permanent bar, you likely will not be able to get licensed for foster care.

- **Reconsideration**

If you have a background study disqualification, you have the right to request reconsideration. For example, you can request reconsideration by sharing why your history does not pose a risk of harm to providing foster care services. In some cases, Minnesota Department of Human Services may be able to set aside or grant a variance to a disqualification if relatives show that they are not a risk to children's safety or well-being. When you receive your background study disqualification from Minnesota Department of Human Services, they will provide instructions on how to request reconsideration. The letter will indicate the timeline for you to submit this information to your licensing county/agency. It is very important to pay attention to the deadline listed in the letter. If you do not request reconsideration within that time frame, you will not be able to do so later, and your foster care license may be denied. If your foster care license was denied, you would need to wait two years before you can apply for another foster care license. It is helpful to provide the following documents (if applicable): police reports, court documents, probation information and order discharging from probation, any required probation requirements that were completed (completion of diversion or de novo programs), and documentation of treatment or rehabilitation completed. In addition, you can provide additional information such as references (personal or professional) if you would like to. Additional information on Background Study Disqualification.

CPS (Child Protection Services)

Child Protection conducts investigations and alternative response assessments of child maltreatment reports when a child's health or welfare may be at risk due to abuse or neglect. On-going child protective services may be provided to ensure the safety and well-being of children and provide effective and culturally appropriate services to children and families to prevent the reoccurrence of child maltreatment.

Additional information on Child Protection Services.

Custody Consent Decree



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A parent may transfer legal and physical custody of a child, by a consent decree, to a relative caregiver. The court may approve this custody arrangement if it is in the best interests of the child and everyone agrees with the arrangement. This is only applicable for families who are not working with child protection.

Additional information on Child Custody.

DOPA (Delegation of Parental Authority)

A DOPA is a document that lets someone take care of your children temporarily (they usually expire after a year). DOPAs are relatively simple documents that don't require going to court. They are helpful because they allow another caregiver to take your child to the doctor or attend school meetings, etc. But they are easily reversible and do not change your legal custody relationship with your child. This is only applicable for families who are not working with child protection.

Additional information on creating a Delegation of Parental Authority (DOPA) (lawhelpmn.org).

Family Court

Family Court oversees court cases involving family matters, such as divorces, parenting time schedules and disputes, child custody issues, child support establishment and modification, and paternity cases. Cases involving child custody go to family court when there is no involvement from the county or state. If there is an open child protection case involving a child, the case will be in juvenile, not family court.

Foster Care or out-of-home care

Foster care (also known as out-of-home care) is a temporary service provided by States for children who a court determines cannot live with their families for a period of time. Children in foster care may live with relatives or with unrelated foster parents. Foster care can also refer to placement settings such as group homes, residential care facilities, emergency shelters, and supervised independent living.

Additional information on Foster care: Temporary out-of-home care for children (state.mn.us).

Juvenile Court

Juvenile Court handles juvenile delinquency, juvenile traffic, child protection, foster care, adoption from foster care, and transfer of permanent legal and physical custody cases. If there is an open child protection case involving a child, issues related to the child's custody will be resolved in the juvenile court, not family court.

Additional information on a Child in Need of Protection or Services (CHIPS) (mncourts.gov).

Legal Custody



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Legal custody refers to the right to make decisions about how to raise the child, including decisions about education, health care and religious training.

Additional information on Child Custody and Parenting Time (mncourts.gov).

Permanency

Permanency for children in foster care is achieved through reunification with birth parent(s), adoption or transfer of permanent legal and physical custody. Family reunification is the preferred option. Concurrent Permanency Planning is a term that describes when a caseworker both pursues family reunification while also developing alternative permanency plans (such as adoption or transfer of permanent legal and physical custody) if safe reunification is not achievable within legal timelines.

Additional information on Permanency Timeline (mncourts.gov).

Physical Custody

Physical custody refers to the right to make decisions about the routine day-to-day activities of the child and where the child lives.

Additional information on Child Custody and Parenting Time (mncourts.gov).

Relative and Kin

In Minnesota, a “relative” means a person:

- Who is related to the child by blood, marriage or adoption
- Who is the legal parent, guardian or custodian of the child’s sibling(s), or
- Who has lived with the child or had significant contact with the child (kin)

In some cases, relatives are also defined by tribal law or custom.

Third-Party Custody

Third-party custody is when a court gives legal and physical custody of a child to someone who is not a biological or adoptive parent. This person is sometimes called the custodian. This is only applicable for families who are not working with child protection. Third-party Custody is started by someone other than a parent, when that person wants to care for the child permanently. Only a court can grant someone third-party custody. This is a legal relationship that ends at age 18.

Additional information: Fact Sheet on Third Party Custody.

TPR (Termination of Parental Rights)

Termination of Parental Rights means that a birth or adoptive parent’s rights as a parent to a child have been ended. The person is not legally the child’s parent anymore. This means that the birth or adoptive parent no longer has rights to care for their child or make decisions about



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their child's life. In some circumstances birth or adoptive parents may be allowed contact with their child. Parental rights may be re-established in certain circumstances. The parent would need to file a petition, and have fixed the issues that caused the termination, and be willing and able to provide care for their child's safety and well-being.

Additional information: Fact Sheet on Termination of Parental Rights (lawhelpmn.org).

TPLPC (Transfer of Permanent Legal and Physical Custody)

For children in foster care, a TPLPC to a relative establishes a legal relationship between a child in foster care and their adult relative, giving that relative permanent decision-making authority for that child. Relative custodians have primary rights and responsibilities for a child's protection, education, care, supervision, and decision making on behalf of a child. Birth parents retain a legal parent-child relationship with their child, but their rights are secondary, subject to limits imposed by relative custodians. Their rights may include visitation, access to information, and notice of accidents or serious illness. The TPLPC ends when the child turns 18.

Additional information on Transfer of Permanent Legal and Physical Custody.

Variance

For families who are caring for a child in foster care and are getting licensed, there are situations in which a variance can be applied to your license. Variances are applied for situations in which the health and safety of a child are not at risk. Variances must be requested by the applicant or license holder to the licensing agency or the Department of Human Services Licensing Unit.

