

## COVID-19 Emergency Background Studies: Guidance for Permanency

Governor Walz's [Emergency Executive Order 20-12](#) granted the commissioner of the Minnesota Department of Human Services (department) authority to waive or modify certain requirements in Minnesota Statutes. Effective April 6, 2020, a waiver was granted that modifies background study requirements under Chapter 245C, to provide for emergency background studies for new applicants for child foster care, as well as individuals needing new or updated background studies for adoption home studies. See [Temporary changes to background studies due to the COVID-19 pandemic](#) for more information.

The need for emergency background studies has an impact on adoption and permanency, including Northstar Adoption Assistance and Northstar Kinship Assistance, for three main reasons:

- Emergency background studies do not include fingerprint-based checks of national crime information databases
- According to waiver requirements, applicants who are subjects of emergency background studies are required to submit new background studies with fingerprints once the peacetime emergency is over
- Chapter 259 (adoption), and Chapter 256N (Northstar Care for Children), are not included in the commissioner's waiver and modification authority under the executive order.

The department is issuing guidance for public and private child-placing agencies on using emergency background studies for permanency. **The department strongly recommends child-placing agencies, attorneys, and courts consider children's safety and best interests when making decisions to waive statutory requirements for adoption, based on this guidance.**

Note that families with approved adoption-only home studies or current child foster care licenses, where background studies were completed on all prospective parents and required household members, according to state and federal law, not under the emergency background study waiver authority, are not affected. However, if an adoption-only home study expires during the peacetime emergency, or a child foster care license expires and is not extended under the licensing waiver, this guidance applies.

Questions about this guidance should be directed to: [northstar.benefits@state.mn.us](mailto:northstar.benefits@state.mn.us)

## Making adoptive placements for children under guardianship of the commissioner

To make adoptive placements for children in foster care under guardianship of the commissioner, prospective adoptive parents must have approved adoption home studies in place, including completed background studies that comply with federal law. There is no state-issued waiver for this requirement. **Department staff cannot approve Adoption Placement Agreements (APAs) for children under guardianship of the commissioner when emergency background studies were used to place children with prospective adoptive families.**

## Establishing eligibility for Northstar Adoption Assistance

To be eligible for Northstar Adoption Assistance, whether Title IV-E or non-Title IV-E, prospective adoptive parents and required household members must have federally compliant background studies completed, which includes fingerprint-based checks of national crime information databases. There is no state-issued waiver to this requirement. **The department cannot establish eligibility for Northstar Adoption Assistance when emergency background studies were used.**

Once the peacetime emergency is over, all individuals who were subject to emergency background studies, including prospective adoptive parents and required household members, must complete the fingerprint-based background study process required under state and federal law. Agencies can submit Northstar Adoption Assistance eligibility determinations on behalf of children once prospective adoptive parents comply with state and federal background study requirements.

## Establishing eligibility for Northstar Kinship Assistance

To be eligible for Northstar Kinship Assistance, whether Title IV-E or non-Title IV-E, prospective relative custodians and required household members must have federally compliant background studies completed, which includes fingerprint-based checks of national crime information databases. **The department cannot establish eligibility for Northstar Kinship Assistance when emergency background studies were used.**

Once the peacetime emergency is over, a prospective relative custodian, whose child foster care license was issued using emergency background studies, must complete the fingerprint-based background study process required under state and federal law. This includes all required household members who were subject to emergency background studies. Agencies can submit Northstar Kinship Assistance eligibility determinations on behalf of children once prospective relative custodians comply with state and federal background study requirements.

Title IV-E eligibility cannot be established until a child has been eligible to receive Title IV-E foster care payments for six consecutive months. State law requires both the commissioner and agencies to make every effort to establish Title IV-E eligibility for Northstar Kinship Assistance. Agencies can submit exemption requests to the department if there is a need for immediate permanency that warrants a waiver of this Title IV-E requirement. Children will **not** be eligible for Title IV-E Northstar Kinship Assistance if an exemption to this Title IV-E

requirement is approved. This will impact categorical eligibility to receive Medicaid if they live in, or move to, another state.

## Approving adoption home studies and adoptive placements using emergency background studies

Adoption background studies can be submitted under the waiver. They are considered emergency background studies and do not include fingerprint-based checks of national crime information databases.

**To approve an adoption-only home study**, agencies must document that background studies were completed on all required household members. Agencies also have to assess data and information received from background study results to determine if anyone has a federal barrier crime on their record, and determine effects of any conviction or maltreatment determination on a person's ability to safely parent a child.

**When recommending approval for *both child foster care and adoption as part of a child foster care and adoption home study assessment***, the adoption-only home study requirements identified above still apply.

**To approve *private adoptive placements***, background studies that comply with both state and federal law must be completed on all required household members. These background studies must be completed as part of the adoption home study process. For instances involving emergency court orders granting temporary preadoptive custody under Minnesota Statutes, section 259.47, subdivision 6, consult with legal counsel for guidance.

Because emergency background studies do not provide information needed for agencies to complete the adoption home study assessment process, and emergency background studies do not comply with federal law, **the department strongly recommends that agencies do not approve adoption-only home studies or private adoptive placements using emergency background studies. For child foster care licensure, the department strongly recommends that agencies document in the recommendation section that approval for adoption is pending per completion of the fingerprint-based background study process once Minnesota's peacetime emergency ends.** If an agency chooses to approve an adoption-only home study using emergency background studies, the department recommends agency staff consult with legal counsel for guidance.

## Updating adoption-only home studies using emergency background studies

[A waiver is in place](#) that allows licensing agencies to extend the child foster care licensing expiration date by three months, when a license would otherwise expire during the peacetime emergency. This does not include adoption-only home studies that expire during the peacetime emergency. Adoption-only home studies are valid for 12 months. **The department strongly recommends that an agency consider whether it has all of the information it needs to fulfill adoption-only home study assessment update requirements when using emergency background studies.** If an agency chooses to approve an adoption-only home study assessment update using emergency background studies, the department recommends it consult with legal counsel for guidance.

If an agency determines it can approve an adoption-only home study assessment update using completed emergency background studies, **the department strongly recommends that it does not approve private**

**adoptive placements until federally compliant background studies are completed on all required individuals.** If an agency chooses to approve a private adoptive placement using emergency background studies, the department recommends it consult with legal counsel for guidance.

## Finalizing adoptions

Individuals subject to emergency background studies are required to complete the full background study process by submitting fingerprints once the peacetime emergency is over. In instances involving individuals subject to emergency background studies, to ensure children's safety and best interests, **the department strongly recommends that these adoptions not be finalized until the peacetime emergency is over and individuals subject to emergency background studies can submit fingerprints and complete the full background study process.** If an adoption is finalized using emergency background studies, adoptive parent(s) and all required household members will still need to complete the background study process by submitting fingerprints once the peacetime emergency is over, to comply with state and federal law.

## Finalizing transfers of permanent legal and physical custody to relatives

Child foster care licenses can be issued to individuals when emergency background studies were completed. However, individuals subject to emergency background studies are required to complete the full background study process by submitting fingerprints once the peacetime emergency is over. As identified previously, emergency background studies cannot be used to establish eligibility for Northstar Kinship Assistance. When a relative is willing to accept a transfer of permanent legal and physical custody of a child in their care, and licensed for child foster care using emergency background studies under waiver authority, to ensure children's safety and best interests, **the department strongly recommends that a transfer of permanent legal and physical custody not be finalized until the peacetime emergency is over, and individuals subject to emergency background studies can submit fingerprints and complete the full background study process.** If a transfer of permanent legal and physical custody is finalized using emergency background studies, relative custodian(s) and all required household members will still need to complete the background study process by submitting fingerprints once the peacetime emergency is over, to comply with state and federal law.