

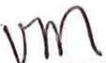
DIVISION OF CHILDREN AND FAMILY SERVICES  
ADMINISTRATIVE MEMO #16-2012

REPLACES:

- Program Memo #2-2004 "Initial and Emergency Placement Approval"
- Administrative memo of September 16, 2004 "Approval of Unlicensed Foster Homes- Non-emergency Placements"

To: All Children and Family Services Staff

From: Christine Hanus, Child Welfare Administrator   
Division of Children and Family Services

Vicki Maca, Deputy Director   
Protection and Safety, Division of Children and Family Services

Signed by: Thomas D. Pristow, Director   
Division of Children and Family Services  
Department of Health and Human Services

Date: June 15, 2012

RE: Requirement for Licensure of All Foster Homes Not Related To the Child By Blood, Marriage, or Adoption. Placement requirements with relatives in emergency and non-emergency situations.

Effective: July 1, 2012

Contact: Rita Krusemark, Program Specialist, Children and Family Services, at (402)471-9254, or rita.krusemark@nebraska.gov

**Purpose:** The purpose of this memo is to inform staff of a statutory change that eliminates the option of placing children into approved foster homes unless the foster parent and child are related by blood, marriage, or adoption, and to replace previous memos that address placements of children in non-related, unlicensed foster or adoptive homes. Necessary changes in DHHS Regulations 474 NAC and 390 NAC will be promulgated to comply with the revised statute. Any reference to considering, assessing, or making placement of a child in an unlicensed foster home, unless the child and foster parent are related by blood, marriage, or adoption, in existing administrative memos or Guidebooks is no longer applicable based on the new statute.

**Background:** LB 820, passed by the State Legislature in 2012, changes Neb. Rev. Stat. 71-1902 (1). Prior to this change, the statute stated, "...no person shall furnish or offer to furnish foster care for two or more children from different families without having in full force and effect a written license..." Thus, the statute allowed for DHHS to place children in approved homes, as long as the children placed did not come from more than one family. This statute now states, "No person shall furnish or offer to furnish foster care for one or more children not related to such person by blood, marriage or adoption." Because adoptive homes are covered by the statutory definition of "foster home," the change also applies to them. The Federal Fostering Connections Act of 2008 requires notification of relatives when a child is removed from the family home for possible

placement. Placement with relatives can be considered on an emergency and non-emergency basis as defined below:

**Emergency Placement with a Relative:** Placement must occur immediately based on a safety threat identified in the family home that cannot be controlled with a safety plan.

**Non-Emergency Placement with a Relative:** Placement is being sought based on the child's best interest; the placement is not required to be made immediately due to a safety threat to the child.

**Actions Required:** Beginning July 1, 2012, DHHS will not place children in the home of a foster or adoptive parent who does not have an operational license for foster care unless the foster or adoptive parent is related to the child by blood, marriage, or adoption. This statute applies to emergency and non-emergency placements.

### **Emergency Approval of Relative Homes**

Assessing child safety is the most important factor when making the decision to remove a child from their family home and place with a relative on an emergency basis.

Other factors to consider include:

- Reducing the trauma to the child;
- Reducing the probability of multiple placements;
- Maintaining the child's connections to family and community.

Prior to placing a child with a relative the following actions must be completed:

1. Visit to the home of the potential caregiver, including a face-to-face meeting with at least one of the prospective adult caregivers (If the placement is made by law enforcement, the visit by the worker must be made no later than the following working day);
2. Assurance that there is safe and suitable housing;
3. Assurance that the adult caregiver is able to adequately meet the physical, emotional, and social needs of the child;
4. Completion of background checks on all household members:
  - a. For household members age 13 and older the background check must include:
    - 1) CPS Central Register; and
    - 2) Adult Protective Services Central Registry.
  - b. For household members age 18 and older the background check must include:
    - 1) CPS Central Register check;
    - 2) Adult Protective Services Central Registry check;
    - 3) Sex Offender Registry check;
    - 4) Local law enforcement agency check; and
    - 5) Emergency, name-only check with the NE State Patrol; and
5. Document all of the above in the narrative in the child's file on N-FOCUS, and, as required, under the Organization icon on N-FOCUS, within 2 working days.

**Emergency Placement-Felony Conviction, Sex Offender Registry, or CPS/APS Finding:**

Service Area Administrators (SAA's) must review and approve all emergency placements with relatives if the background checks result in a finding that a household member:

1. Is identified on the CPS Central Register or APS Central Registry as:
  - a. A perpetrator; or
  - b. Is currently under investigation as an alleged perpetrator; or
2. Has a felony conviction for any crime; or
3. Is listed on the Sex Offender Registry.

The case manager, supervisor, and CFS administrator will staff the case and submit the 'Request for Relative Approval Exception' form to the Service Area Administrator for signature. The form is included as Appendix A.

**Emergency Placement – Other Criminal Convictions/Charges:**

The Children and Family Services Administrator (CFA) must review and approve all emergency placements with relatives if the background checks result in a finding that a household member:

1. Is identified to have a criminal conviction other than a felony; or
2. Person is currently charged, or under indictment for a crime; or

The case manager and supervisor will staff the case and request verbal approval for the initial emergency approval and placement may be made. If verbal approval is given, the worker must obtain written approval from the Children and Family Administrator within two working days of placement.

**Emergency Approval: Actions required within the first 24 hours of placement:**

Within the first 24 hours of placement of a child, the following must be completed and submitted to DHHS Resource Development Staff:

1. IRS W-9 'Request for Taxpayer Identification Number and Certification Form', completed by the potential foster parent;
2. 'Background Check Request Form';
3. 'Contracted Home Study Referral/Request to Load on N-Focus' Form; and
4. Placement documented on N-Focus in narrative section.

**Emergency Approval: Action required within the first 72 hours of placement:**

Placement must be created and documented in Detail Program Case in N-FOCUS per Neb. Rev. Stat. 43-1303.

**Emergency Approval: Action required within 7 calendar days after placement:**

Worker must assure that the potential caregiver and others required to do so have submitted to fingerprinting for the State and National Criminal History Checks.

**Emergency Approval: Action required within 30 calendar days of placement:**

Within 30 days of placement of a child the required home-study must be completed.

**Emergency Approval: Actions required within 60 calendar days of placement:**

By Day 60 following the placement of a child into a relative foster home, National Criminal History Checks should be received from Nebraska State Patrol and all

supporting documentation (as indicated above) of placement should be received by DHHS.

**\*\*Note:** Actions will be taken to update/amend the Home Study if the results of the National Criminal History Checks are not documented in the original home study.

**Emergency Approval: Time Limit:** Emergency approval will not extend beyond sixty days from the date of placement. The single exception to this rule is that if the persons were fingerprinted within 7 calendar days following placement, and the results have not yet been received or the first set of fingerprints were not acceptable, as determined by the NE State Patrol, an extension of 30 calendar days can be authorized by the Service Area Administrator (SAA).

### **Non-Emergency Approval of Relative Homes**

Relatives should become licensed whenever possible. If the relative foster parents are not able to be licensed due to an inability to meet the licensing requirements, or the relative foster parent(s) do not want to be licensed, the following process should be used for the non-emergency approval of the relative placement. (See 474 NAC 6-003.34B regarding the potential to waive training requirements for relatives, on a case-specific basis.)

**Non-Emergency Approval of a relative foster home requires the following prior to placement:**

1. Completion of background checks on all household members:
  - a. For household members age 13 and older the background check must include:
    - 1) CPS Central Register; and
    - 2) Adult Protective Services Central Registry.
  - b. For household members age 18 and older the background check must include:
    - 1) CPS Central Register check;
    - 2) Adult Protective Services Central Registry check;
    - 3) Sex Offender Registry check;
    - 4) Local law enforcement agency check; and
    - 5) Emergency, name-only check with the NE State Patrol; and
    - 6) National Criminal History Checks (Fingerprints)

### **Non-Emergency Placement-Felony Conviction, Sex Offender Registry, or CPS/APS Finding:**

Service Area Administrators (SAA's) must review and approve all non-emergency placements with relatives if the background checks result in a finding that a household member:

1. Is identified on the CPS Central Register or APS Central Registry as:
  - a. A perpetrator; or
  - b. Is currently under investigation as an alleged perpetrator; or
2. Has a felony conviction for any crime; or
3. Is listed on the Sex Offender Registry.

The case manager, supervisor, and CFS administrator will staff the case and submit the 'Request for Relative Approval Exception' form to the Service Area Administrator for signature. The form is included as Appendix A.

**Non-Emergency Placement – Other Criminal Convictions/Charges:**

The Children and Family Services Administrator (CFA) or Service Area Administrator (SAA) must review and approve all non-emergency placements with relatives if the background checks result in a finding that a household member:

1. Is identified to have a criminal conviction other than a felony; or
2. Person is currently charged, or under indictment for a crime; or

The case manager and supervisor will staff the case and submit the 'Request for Relative Approval Exception' form to the Children and Family Services Administrator (CFA) for signature. The form is included as Appendix A.

2. Completion of the appropriate home study.

**Questions and Answers regarding LB 820:**

1. Does LB 820 require licensure if half-sibs are placed, and the foster parent is related to only one of them?  
**Answer:** Yes, because the foster parent would be providing care to a child to whom s/he is not related by blood, marriage, or adoption.
2. Does LB 820 require licensure if a child and his half-sibling are placed with the noncustodial parent of one of the children?  
**Answer:** Yes, because the parent of Child A is also providing care to a child not related to the parent by blood, marriage, or adoption.
3. Does LB 820 require licensure if a child is placed with a stepparent who now is divorced from the child's parent, and who has not adopted the child?  
**Answer:** Yes, because the divorce ended the relationship of stepparent.
4. Does LB 820 require licensure if the child is placed in a Developmentally Disabled extended family home?  
**Answer:** Yes, because this type of placement is a "foster home" under the statutory definition.

## APPENDIX A



### Division of Children and Family Services

State of Nebraska  
 Dave Heineman, Governor

### RELATIVE APPROVAL EXCEPTION FORM

Name of Foster Parent(s): _____		
Address: _____		
CFS Specialist: _____		Local Office: _____
CFS Specialist Telephone: _____		
<b><u>Name of Child(ren) to be placed with Relatives:</u></b>	<b><u>SSN</u></b>	<b><u>DOB</u></b>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
Anticipated Date of Placement: _____	Relationship to Foster Parent: _____	

1. Exceptions will be granted for persons on the CPS, APS, or SO registry as a perpetrator after review and approval by Service Area Administrator.

<input type="checkbox"/> Local Law Enforcement	<input type="checkbox"/> CLEAR	<input type="checkbox"/> RECORD FOUND	_____
<input type="checkbox"/> Nebraska State Patrol	<input type="checkbox"/> CLEAR	<input type="checkbox"/> RECORD FOUND	_____
<input type="checkbox"/> Dept. of Motor Vehicles	<input type="checkbox"/> CLEAR	<input type="checkbox"/> RECORD FOUND	_____
<input type="checkbox"/> National (Fingerprints)	<input type="checkbox"/> CLEAR	<input type="checkbox"/> RECORD FOUND	_____

1. Please explain your assessment of the background check findings and their impact on the caregivers ability to keep the child safe.

<b>SERVICE AREA</b>	
Decision: <input type="checkbox"/> Approved <input type="checkbox"/> Disapproved	<i>Signature of CFS Specialist/Family Permanency Specialist</i> <i>Date</i>
Decision: <input type="checkbox"/> Approved <input type="checkbox"/> Disapproved	<i>Signature of CFS Supervisor/Family Permanency Supervisor</i> <i>Date</i>
	<i>Signature of CFS Administrator/FPS Manager</i> <i>Date</i>

Basis for Approval/Disapproval:

**Signature of Service Area Administrator:** \_\_\_\_\_

Please fax a copy of this exception form to Quality Assurance Staff at:  
402-471-5167