Family First Prevention Services Act: Youth victims or at risk of sex trafficking or commercial sexual exploitation; and specialized placements.

TOPIC
Identify youth of sex trafficking, commercial sexual exploitation, or at risk of the above, and placement in specialized residential settings starting Sept. 30, 2021, with implementation of the Family First Act.

PURPOSE
Explain new definitions and child welfare process for identifying sex trafficking, commercial sexual exploitation, or youth at risk of the above, for placement in specialized residential settings.

CONTACT
Sarah Ladd, Human Trafficking Child Protection Coordinator
Child Safety and Prevention Unit, 651-431-4702
Sarah.ladd@state.mn.us or DHS.SafeHarbor@state.mn.us

SIGNED
LISA BAYLEY
Acting Assistant Commissioner
Children and Family Services Administration

TERMINOLOGY NOTICE
The terminology used to describe people we serve has changed over time. The Minnesota Department of Human Services (DHS) supports the use of "People First" language.
I. Introduction and Background

The Family First Prevention Services Act (FFPSA) creates new federal financial support for placement prevention services for eligible children at risk of out-of-home placement. The intent of FFPSA is to reduce out-of-home placement, keeping children and youth in their homes, families and communities. FFPSA does not change criteria for child maltreatment screening, investigation or assessment of reports regarding sex trafficking. FFPSA.

When out-of-home placement is necessary in a children’s residential facility, for a county or tribal agency to claim federal Title IV-E reimbursement for eligible placement costs, a facility must meet new qualified residential treatment program requirements and approved by the department. FFPSA creates specific requirements for qualified residential treatment programs (QRTP), and other specialized residential settings for eligible children/youth, including:

- Pregnant or parenting youth (PPY),
- Survivors or youth at risk of sex trafficking or commercial sexual exploitation (ST/CSE/At Risk), or
- Youth transitioning to adulthood.

The Minnesota Department of Human Services (department) is in the process of determining processes and procedures for facilities to meet new FFPSA requirements so county/tribal agencies can submit claims for Title IV-E reimbursement. The department developed a legislative proposal in 2021 to create licensing certifications for QRTPs, PPY and ST/CSE/At Risk settings, including evaluation and monitoring of the above requirements. If enacted, residential service providers will obtain relevant licensing certifications, and collaborate with county agencies to submit requests to the department for Title IV-E approval. Facilities currently approved for Title IV-E need to meet new requirements to maintain Title IV-E approval status for placements after Sept. 30, 2021. A more detailed process is forthcoming. See department Bulletin #21-68-01 for information about fiscal impacts of Family First for county and tribal agencies.

Comprehensive guidance about child welfare response to human trafficking and exploitation in Minnesota is in the department’s best practice guide, Minnesota’s Best Practice Response to Human Trafficking and Exploitation of Children and Youth: A guide for county and tribal child welfare agencies. Child welfare staff can access tools for identifying victims, child protection screening, investigations, assessment, placement, case management, and prevention, in the guide. Staff working with youth victims or at risk of sex trafficking or commercial sexual exploitation should be familiar with how to access statewide, regional and local Safe Harbor resources and services.

This policy bulletin explains new requirements for county and tribal child welfare agencies making out-of-home placements of children and youth who may be victims or at risk of sex trafficking, or commercial sexual exploitation, including how and when to safely identify these youth according to definitions of these terms.

II. Identification of eligible children and youth

Starting Sept. 30, 2021, a child’s or youth’s placement is only eligible for Title IV-E reimbursement for the first 14 days, unless the placement is in a QRTP, specialized settings for PPY, or for children at risk of sex trafficking,
commercial sexual exploitation, or at-risk youth. Federal reimbursement of placement costs are available for specialized ST/CSE/At Risk settings only if a local county or tribal child welfare agency identifies a child or youth as being:

- Sex trafficked,
- Commercially sexually exploited, or
- At risk of being sex trafficked or commercially sexually exploited.

An explanation of the above definitions is below, along with consideration for using these definitions to identify children and youth for placement in a specialized setting. It is important that efforts to identify children and youth as potential victims or at risk for sex trafficking, or commercial sexual exploitation be executed in a way that does not re-traumatize, stigmatize, or violate privacy of child or youth, or their family.

A. Sex trafficking

Sex trafficking is defined in Minnesota as the act of a third party, not the purchaser or the victim, facilitating or profiting from a commercial sex act performed by another person. [Minnesota Statutes, section 609.321-609.322] Sex trafficking is a mandated report and child welfare agencies are required to investigate all allegations regardless of the identity of alleged offender. The department’s tool, Child protection screening of sexual exploitation and sex trafficking, is a flowchart that helps screening teams properly identify allegations at the point of intake.

Sex trafficking is a type of sexual exploitation of youth, included in Minnesota’s child protection laws. [Minn. Stat. § 260C.007, subd. 31 (4)] Child/youth identified as experiencing sex trafficking, currently or in the past, is eligible for reimbursement of placement in a specialized setting for ST/CSE or At Risk youth.

B. Commercial sexual exploitation

Children and youth who currently or previously experienced commercial sexual exploitation are also eligible for placement in a specialized setting for ST/CSE or At Risk youth. Commercial sexual exploitation is the term used in Minnesota for the federal definition of sex trafficking. [22 United States Code 7102 (11)(A) and (12)] Commercial sexual exploitation occurs when a minor engages in sexual activity in exchange for anything of value. It does not include sexual activity, sexual performances or sexual images not exchanged for something of value. The broader definition of sexually exploited youth is in Minnesota Statutes, section 260C.007, subdivision 31.

Commercial sexual exploitation is a mandated report requiring a child protection investigation only when a parent, caregiver or household member is alleged offender.

C. Youth at risk of sex trafficking and commercial sexual exploitation

Family First legislation allows for specialized placements of youth considered to be at risk of sex trafficking or commercial sexual exploitation. This term is not defined in federal or state law. Department staff has worked
with a broad cross-section of stakeholders to define which youth are at risk for sex trafficking or commercial sexual exploitation. The definition below must be used by child welfare agency staff when determining which youth are eligible for placement in a specialized setting for ST/CSE or At Risk youth. This brief guide to the at-risk definition can help workers identify youth. The guide is also found at the end of this bulletin.

The At Risk definition does not determine whether a youth has actually experienced trafficking. It is a combination of risk factors increasing vulnerability for trafficking and exploitation; the definition is not based on assessing indicators or signs of potential trafficking.

The At Risk definition is organized into primary risk factors that indicate a higher level of risk, and secondary risk factors that may indicate risk when two or more are present. Secondary risk factors are not listed in order of priority or level of risk. When using the At Risk definition to assess youth, child welfare workers should evaluate all risk factors and consider additional information justifying a determination that youth is at risk of sex trafficking or commercial sexual exploitation. It is important for child welfare workers to consider the presence of protective factors, culturally specific circumstances, and marginalization of youth that may cause experiences of societal oppression. Avoid making assumptions about whether youth meets the At Risk definition based on their identity; rather, always conduct an individualized assessment of risk for specific youth.

**Children and youth at risk of sex trafficking or commercial sexual exploitation**

Persons under age 21 may be at risk for sex trafficking if they meet primary or secondary risk factors. The existence of any of these factors does not necessarily determine that a person has been sex trafficked under 22 United States Code 7102 11 (A) and (12). When evaluating risk factors for a child, balance these with an individualized assessment of their best interest, as defined in Minnesota Statutes, section 260C.012, as well as current protective factors of family, including minor dependents of youth.

Black, indigenous and other youth of color, as well as those who identify as LGBTQ or gender non-binary, disproportionately experience trafficking and exploitation. When determining whether a youth is at risk, it is important to consider intersectionality of cultural identity and oppression, and how such factors contribute to higher risk for trafficking and exploitation.

A person is at risk for sex trafficking if they have one or more of the following primary risk factors, history of or currently:

1. Experiencing forms of sexual exploitation, including pornography or sexual performance (commercial or non-commercial),
2. Connected to family members or other individuals who are or were sexually exploited, or who buy or sell sex, or
3. Experiencing labor trafficking, labor exploitation or wage theft.
Additional factors for consideration in determining whether a person is at risk of sex trafficking are the following secondary risk factors. **If no primary risk factors are present, a person should have two or more of the following secondary factors to be considered at risk, a history of or currently:**

(4) Alleged to be a victim of child maltreatment as defined by Minnesota Statutes, section 260E, or other similar law (such as sexual or physical abuse, or neglect),

(5) Experiencing trauma such as sexual, physical, or emotional abuse, or intimate partner or caregiver violence,

(6) Experiencing homelessness, including youth kicked out of their home,

(7) Lacking a long-lasting supportive relationship with at least one safe and trustworthy adult,

(8) Prior out-of-home placement (with or without child welfare involvement),

(9) Substance abuse disorders,

(10) Experiencing parental substance use, domestic violence, or other forms of violence in the home, parent or family involvement in the criminal legal system,

(11) Has known or suspected gang affiliation,

(12) Engaging in truancy or running away, or

(13) Involved with juvenile legal system or law enforcement.

### III. Process and documentation requirements

Prior to, or during the first two weeks of out-of-home placement, child welfare workers should use the definitions above to identify whether youth experienced or is at risk for sex trafficking, or commercial sexual exploitation.

Effective Sept. 30, 2021, information about possible exploitation, trafficking and risk is gathered and documented for every child/youth entering out-of-home placement. This information helps the placing agency have a full picture of the needs of youth, and will help agency staff work with them to make the most appropriate placement decisions. It is essential that all local social service agency caseworkers receive training on sex trafficking, sexual exploitation, and risk to identify accurately whether youth meets these definitions.

Agencies are not required to convene a juvenile treatment screening team before making a placement in a residential facility with a ST/CSE/At Risk certification [Minn. Stat. § 260C.157, subd. 3] when a youth is identified as experiencing, or at risk for, sex trafficking or commercial sexual exploitation and specialized placement is recommended. Caseworkers should continue to follow agency protocols in making placement decisions. Information about making individualized placement decisions for trafficked, exploited and at risk youth, is in Minnesota’s Best Practice Response to Human Trafficking and Sexual Exploitation of Children and Youth: A guide for county and tribal child welfare agencies (best practice guide). By Sept. 30, 2021, the definitions will be in the Social Service Information System (SSIS); document all determinations in the designated screen. More guidance regarding documentation will be published in an updated best practice guide in summer 2021.

It is not recommended that staff conduct an interview to screen youth. It is important that staff is able to determine whether youth meets the definitions of sex trafficking, commercial sexual exploitation, or at risk. When identifying youth at risk, staff should assess all primary and secondary risk factors. Caseworkers should
use a combination of reviewing information in Social Service Information System records, collateral contacts, and engaging youth and family informally to learn whether youth may meet definitions. Child welfare workers can find information about previous victimization entered in SSIS in the SEY/STY screen, or in a child maltreatment report with allegations of sex trafficking or sexual exploitation.

To reduce potential trauma for youth, caseworkers should avoid having multiple conversations or interviews with them about potential trafficking, exploitation or risk. Other providers working with youth may have valuable information about factors that may put youth at risk for trafficking or exploitation. Child welfare workers may use information shared by other providers in assessing whether youth meets the At Risk definition, or assessments may be part of a discussion in a multi-disciplinary team.

Information sharing may be subject to informed consent, as well as relevant laws, rules, and policies governing individual confidentiality and practices regarding multi-disciplinary team confidentiality.

Safety and privacy are paramount considerations when identifying a youth as sex trafficked, commercially sexually exploited or at risk. A specialized safety-planning template with considerations for assessing safety is here. The safety plan is in nine languages in the child welfare response section of the DHS Safe Harbor website.

When making safety and placement decisions, keep in mind that many youth may feel shame or stigma about what happened. Identifying youth should not be viewed as a label. Unless a mandated report to child protection intake is required, maintain information in strict confidence. It should only be shared with collaborative partners with a release, and when necessary for service delivery, or safety of youth.

Regardless of whether placement is necessary, or utilizing a specialized setting, whenever identifying a youth as being sex trafficked, commercially sexually exploited or at risk, all youth should be referred to appropriate services, including their Safe Harbor Regional Navigator and supportive services. It is best practice for all youth at risk of sex trafficking or commercial sexual exploitation to have access to human trafficking prevention education through group or individual services. Information about services and education available statewide is on the Safe Harbor service map.

**IV. Training and resources**

Child welfare agency staff may contact the department’s Rapid Consultation at 1-888-234-1138, or the human trafficking child protection coordinators at DHS.Safeharbor@state.mn.us for technical assistance, or information on identifying and responding to trafficking and exploitation.

All staff identifying or working with youth experiencing trafficking or exploitation must receive training. The Child Welfare Training Academy provides training on child welfare system response to human trafficking. Child welfare staff can sign up through TrainLink or contact DHS.safeharbor@state.mn.us with questions.

**Minnesota Department of Health, Safe Harbor.** For information on the Safe Harbor network, see https://www.health.state.mn.us/communities/safeharbor/documents/safeharbormap.pdf. The referral map for services, regional navigators, shelter and housing, is on the website. The Minnesota Day One Crisis Hotline is 1-866-223-1111.
Minnesota Department of Human Services, Safe Harbor response. Visit www.mn.gov/dhs/safe-harbor for information on the response to trafficking and exploitation of youth, or contact DHS.Safeharbor@State.mn.us.

**Americans with Disabilities Act (ADA) Advisory**

This information is available in accessible formats for people with disabilities by calling (651) 431-4670 (voice), writing to DHS.Info@state.mn.us, or by using your preferred relay service. For other information on disability rights and protections, contact the agency’s ADA coordinator.