

of implementing sections 3 to 14. The sum is available March 1, 1981, and until expended.

Subd. 2. The sum of \$150,000 is appropriated from the general fund to the legislative coordinating commission for the development by March 1, 1981, of data processing support for reapportionment. The coordinating commission may obtain bids and proposals from and may enter contracts and agreements with private contractors and state agencies or departments for all or portions of the data processing support in a level that the coordinating commission finds appropriate. For the purpose of this paragraph, "data processing support" includes the purchase or use of computer hardware, software, professional services, including system design consultation, and data entry services. This appropriation is available the day after final enactment and until March 1, 1981. Any amount that remains unobligated on March 1, 1981, is appropriated to the reapportionment commission for implementation of sections 3 to 14, and is available until expended.

Sec. 16. REPEALER. Minnesota Statutes 1978, Sections 2.041 to 2.712 are repealed on the effective date of this section. Minnesota Statutes 1978, Sections 2.731 to 2.811 are repealed on the date of the general election for representatives in congress following the effective date of an apportionment plan pursuant to article XV of the constitution.

Sec. 17. EFFECTIVE DATE. Sections 3 to 14 and 16 are effective on the date the constitutional amendment in section 1 is ratified as provided by the constitution.

Sec. 18. BALLOT QUESTIONS. Notwithstanding any law or rule to the contrary, the ballot question in section 2 shall immediately precede any other ballot questions placed on the ballot and submitted to the people at the 1980 general election. This section is effective the day following final enactment.

Approved April 22, 1980.

CHAPTER 589—S.F.No. 134

An act relating to public welfare; providing pre-trial proceedings and hearings to determine paternity of children; revising Minnesota Statutes to conform with the uniform parentage act; amending Minnesota Statutes 1978, Sections 62A.041; 62C.14, Subdivision 5a; 64A.22, Subdivision 1; 144.215, Subdivision 3; 257.025; 257.175; 257.33; 259.24, Subdivisions 1 and 2; 259.25, Subdivision 1; 259.26, Subdivision 1; 260.231, Subdivision 3; and Minnesota Statutes, 1979 Supplement, Section 259.29, Subdivision 1; repealing Minnesota Statutes 1978, Sections 257.251; 257.252; 257.253; 257.254; 257.255; 257.256; 257.257; 257.258; 257.259; 257.261; 257.262; 257.263; 257.264; 257.27; 257.28; 257.29; 257.30; 257.31; 257.32; and 517.19.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

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Section 1. [257.51] CITATION. Sections 1 to 24 may be cited as the parentage act.

Sec. 2. [257.52] PARENT AND CHILD RELATIONSHIP DEFINED. As used in sections 1 to 24, "parent and child relationship" means the legal relationship existing between a child and his natural or adoptive parents incident to which the law confers or imposes rights, privileges, duties, and obligations. It includes the mother and child relationship and the father and child relationship.

Sec. 3. [257.53] RELATIONSHIP NOT DEPENDENT ON MARRIAGE. The parent and child relationship may exist regardless of the marital status of the parents.

Sec. 4. [257.54] HOW PARENT AND CHILD RELATIONSHIP ESTABLISHED. The parent and child relationship between a child and

(a) the natural mother may be established by proof of her having given birth to the child, or under sections 1 to 24;

(b) the natural father may be established under sections 1 to 24; or

(c) an adoptive parent may be established by proof of adoption.

Sec. 5. [257.55] PRESUMPTION OF PATERNITY. Subdivision 1. A man is presumed to be the natural father of a child if:

(a) He and the child's natural mother are or have been married to each other and the child is born during the marriage, or within 280 days after the marriage is terminated by death, annulment, declaration of invalidity, dissolution, or divorce, or after a decree of legal separation is entered by a court;

(b) Before the child's birth, he and the child's natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared void, voidable, or otherwise invalid, and,

(1) if the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage, or within 280 days after its termination by death, annulment, declaration of invalidity, dissolution or divorce; or

(2) if the attempted marriage is invalid without a court order, the child is born within 280 days after the termination of cohabitation;

(c) After the child's birth, he and the child's natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared void, voidable, or otherwise invalid, and,

(1) he has acknowledged his paternity of the child in writing filed with the district court or the state registrar of vital statistics;

(2) with his consent, he is named as the child's father on the child's birth certificate; or

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(3) he is obligated to support the child under a written voluntary promise or by court order;

(d) While the child is under the age of majority, he receives the child into his home and openly holds out the child as his natural child; or

(e) He acknowledges his paternity of the child in a writing filed with the district court or the state registrar of vital statistics, which shall promptly inform the mother of the filing of the acknowledgment, and she does not within a reasonable time after being informed thereof dispute the acknowledgment in a writing filed with the district court or the state registrar of vital statistics. If another man is presumed under this clause to be the child's father, acknowledgment may be effected only with the written consent of the presumed father or after the presumption has been rebutted.

Subd. 2. A presumption under this section may be rebutted in an appropriate action only by clear and convincing evidence. If two or more presumptions arise which conflict with each other, the presumption which on the facts is founded on the weightier considerations of policy and logic controls. The presumption is rebutted by a court decree establishing paternity of the child by another man.

Sec. 6. [257.56] ARTIFICIAL INSEMINATION. Subdivision 1. If, under the supervision of a licensed physician and with the consent of her husband, a wife is inseminated artificially with semen donated by a man not her husband, the husband is treated in law as if he were the natural father of a child thereby conceived. The husband's consent must be in writing and signed by him and his wife. The physician shall certify their signatures and the date of the insemination, and file the husband's consent with the commissioner of health, who shall keep it confidential and in a sealed file. However, the physician's failure to file the consent does not affect the father and child relationship.

All papers and records pertaining to the insemination, whether part of the permanent record of a court or of a file held by the supervising physician or elsewhere, are subject to inspection only upon an order of the court for good cause shown.

Subd. 2. The donor of semen provided to a licensed physician for use in artificial insemination of a married woman other than the donor's wife is treated in law as if he were not the natural father of a child thereby conceived.

Sec. 7. [257.57] DETERMINATION OF FATHER AND CHILD RELATIONSHIP; WHO MAY BRING ACTION; WHEN ACTION MAY BE BROUGHT. Subdivision 1. A child, his natural mother, or a man presumed to be his father under section 5, subdivision 1, clauses (a), (b), or (c) may bring an action:

(a) At any time for the purpose of declaring the existence of the father and child relationship presumed under section 5, subdivision 1, clauses (a), (b), or (c); or

(b) For the purpose of declaring the nonexistence of the father and child relationship presumed under section 5, subdivision 1, clauses (a), (b), or (c) only if the action is brought within a reasonable time after the person bringing the action has obtained knowledge of relevant facts, but in no event later than three years after the child's birth. After the presumption has been rebutted, paternity of the child by another man may be determined in the same action, if he has been made a party.

Subd. 2. An action to determine the existence or nonexistence of the father and child relationship presumed under section 5, subdivision 1, clauses (d) or (e) may be brought at any time by the child, the mother or personal representative of the child, the public authority chargeable by law with the support of the child, the personal representative or a parent of the mother if the mother has died or is a minor, a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor.

Subd. 3. An action to determine the existence of the father and child relationship with respect to a child who has no presumed father under section 5 may be brought by the child, the mother or personal representative of the child, the public authority chargeable by law with the support of the child, the personal representative or a parent of the mother if the mother has died or is a minor, a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor.

Subd. 4. Regardless of its terms, an agreement, other than an agreement approved by the court in accordance with section 14, between an alleged or presumed father and the mother, does not bar an action under this section by the child or the public authority chargeable by law with the support of the child.

Subd. 5. If an action under this section is brought before the birth of the child, all proceedings shall be stayed until after the birth, except service of process and the taking of depositions to perpetuate testimony.

Subd. 6. If the child has been adopted, an action may not be brought.

Sec. 8. [257.58] LIMITATION OF ACTIONS; EXCEPTIONS. Except for an action brought by or on behalf of a child whose paternity has not been determined, an action to determine the existence of the father and child relationship as to a child who has no presumed father under section 5 may not be brought later than three years after the birth of the child, or later than three years after the effective date of sections 1 to 24, whichever is later. An action brought by or on behalf of a child whose paternity has not been determined is not barred until one year after the child reaches the age of majority.

Sections 7 and 8 do not extend the time within which a right of inheritance or a right to a succession may be asserted beyond the time provided by law relating to distribution and closing of decedents' estates or to the determination of heirship, or otherwise.

Sec. 9. [257.59] JURISDICTION; VENUE. Subdivision 1. Except in Hennepin and Ramsey counties, the county court has jurisdiction of an action brought under sections 1 to 24. In Hennepin and Ramsey counties, the district court has jurisdiction of an action brought under sections 1 to 24.

Subd. 2. In addition to any other method provided by rule or statute, personal jurisdiction may be acquired by service in accordance with Minnesota Statutes, Section 543.19.

Subd. 3. The action may be brought in the county in which the child or the alleged father resides or is found or, if the father is deceased, in which proceedings for probate of his estate have been or could be commenced.

Sec. 10. [257.60] PARTIES. The child may be made a party to the action. If the child is a minor and is made a party, a general guardian or a guardian ad litem shall be appointed by the court to represent the child. The child's mother or father may not represent the child as guardian or otherwise. The court may appoint the commissioner of public welfare as guardian ad litem for the child. If the child is a minor and the case involves a compromise under section 14, subdivision 1 or a lump sum payment under section 16, subdivision 4, the child shall be made a party and the commissioner of public welfare shall be appointed as guardian ad litem before the court approves a compromise or orders a lump sum payment. The natural mother, each man presumed to be the father under section 5, and each man alleged to be the natural father, shall be made parties or, if not subject to the jurisdiction of the court, shall be given notice of the action in a manner prescribed by the court and shall be given an opportunity to be heard. The court may align the parties.

Sec. 11. [257.61] PRE-TRIAL PROCEEDINGS. As soon as practicable, after an action to declare the existence or nonexistence of the father and child relationship has been brought, a pre-trial hearing shall be held in accordance with the rules of civil procedure. The public shall be barred from the hearing. A record of the proceeding or any portion thereof shall be kept if any party requests, or the court so orders.

Sec. 12. [257.62] BLOOD AND GENETIC TESTS. Subdivision 1. The court may, and upon request of a party shall, require the child, mother, or alleged father to submit to blood tests or genetic tests, or both. The tests shall be performed by a qualified expert appointed by the court.

Subd. 2. The court, upon reasonable request by a party, shall order that independent tests be performed by other qualified experts.

Subd. 3. In all cases, the court shall determine the number and qualifications of the experts.

Subd. 4. The refusal to submit to blood tests or genetic tests, or both, may be admitted into evidence and is subject to the sanctions within the jurisdiction of the court.

Sec. 13. [257.63] EVIDENCE RELATING TO PATERNITY. Subdivision 1. Evidence relating to paternity may include:

(a) Evidence of sexual intercourse between the mother and alleged father at any possible time of conception;

(b) An expert's opinion concerning the statistical probability of the alleged father's paternity based upon the duration of the mother's pregnancy;

(c) Genetic and blood test results, weighed in accordance with evidence, if available, of the statistical probability of the alleged father's paternity;

(d) Medical or anthropological evidence relating to the alleged father's paternity of the child based on tests performed by experts. If a man has been identified as a possible father of the child, the court may, and upon request of a party shall, require the child, the mother, and the man to submit to appropriate tests; and

(e) All other evidence relevant to the issue of paternity of the child.

Subd. 2. Upon refusal of a witness, including a party, to testify under oath or produce evidence, the court may order him to testify under oath and produce evidence concerning all relevant facts. If the refusal is upon the grounds that his testimony or evidence might tend to incriminate him, the court may grant him immunity from all criminal liability on account of the testimony or evidence he is required to produce. An order granting immunity bars prosecution of the witness for any offense shown, in whole or in part, by testimony or evidence which he is required to produce, except for perjury committed in his testimony. The refusal of a witness, who has been granted immunity, to obey an order to testify or produce evidence is subject to the sanctions within the jurisdiction of the court.

Subd. 3. Testimony of a physician concerning the medical circumstances of the pregnancy itself and the condition and characteristics of the child upon birth is not privileged.

Sec. 14. [257.64] PRETRIAL RECOMMENDATIONS. Subdivision 1. On the basis of the information produced at the pretrial hearing, the court may, and if requested by a party, shall evaluate the probability of determining the existence or nonexistence of the father and child relationship in a trial and whether a judicial declaration would be in the best interest of the child. On the basis of the evaluation, an appropriate recommendation for settlement shall be made to the parties, which may include any of the following:

(a) That the action dismissed with or without prejudice;

(b) That the alleged father voluntarily acknowledge his paternity of the child;

(c) That the matter be compromised by an agreement among the alleged father, the mother, and the child, in which the father and child relationship is not determined but in which a defined economic obligation is undertaken by the alleged father in favor of the child and, if appropriate, in favor of the mother,

subject to approval by the court. In reviewing the obligation undertaken by the alleged father in a compromise agreement, the court shall consider the best interest of the child, in the light of the applicable factors enumerated in section 518.17, subdivision 3, discounted by the improbability, as it appears to the court, of establishing the alleged father's paternity or nonpaternity of the child in a trial of the action. In the best interest of the child, the court may order that the alleged father's identity be kept confidential. In that case, the court may designate a person or agency to receive from the alleged father and disburse on behalf of the child all amounts paid by the alleged father in fulfillment of obligations imposed on him. When the child reaches 21 years of age or older he may petition the court to disclose the alleged father's identity. The court shall grant the petition if after considering the interests of all known persons involved, the court determines that disclosure of the information would be of greater benefit than nondisclosure.

Subd. 2. If the parties accept a recommendation made in accordance with subdivision 1, judgment shall be entered accordingly. The court shall advise all parties that pre-trial recommendations are not binding and will have no effect if the recommendation is disregarded and the matter is set for trial.

Subd. 3. If a party refuses to accept a recommendation made under subdivision 1 and blood tests have not been taken, the court shall require the parties to submit to blood tests, if practicable. Thereafter the court shall make an appropriate final recommendation. If a party refuses to accept the final recommendation the action shall be set for trial.

Subd. 4. The guardian ad litem may accept or refuse to accept a recommendation under this section.

Subd. 5. The informal hearing may be terminated and the action set for trial if the court finds it unlikely that all parties would accept a recommendation made under subdivisions 1 or 3.

Sec. 15. [257.65] CIVIL ACTION. An action under sections 1 to 24 is a civil action governed by the rules of civil procedure. The mother of the child and the alleged father are competent to testify and may be compelled to testify. Sections 12 and 13 apply to proceedings under this section.

Sec. 16. [257.66] JUDGMENT OR ORDER. Subdivision 1. The judgment or order of the court determining the existence or nonexistence of the parent and child relationship is determinative for all purposes.

Subd. 2. If the judgment or order of the court is at variance with the child's birth certificate, the court shall order that a new birth certificate be issued under section 23.

Subd. 3. The judgment or order shall contain provisions concerning the duty of support, the custody and guardianship of the child, the name of the child, visitation privileges with the child, the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child. These matters and all subsequent motions related to them shall proceed and be

determined in accordance with chapter 518. The judgment or order may direct the appropriate party to pay all or a proportion of the reasonable expenses of the mother's pregnancy and confinement, after consideration of the relevant facts, including the relative financial means of the parents; the earning ability of each parent; and any health insurance policies held by either parent, or by a spouse or parent of the parent, which would provide benefits for the expenses incurred by the mother during her pregnancy and confinement.

Subd. 4. Support judgments or orders ordinarily shall be for periodic payments which may vary in amount. In the best interest of the child, a lump sum payment may be ordered in lieu of periodic payments of support. The court shall limit the parent's liability for past support of the child to the proportion of the expenses that the court deems just, which were incurred in the immediate preceding two years.

Sec. 17. [257.67] ENFORCEMENT OF JUDGMENT OR ORDER. Subdivision 1. If existence of the parent and child relationship is declared, or parentage or a duty of support has been acknowledged or adjudicated under sections 1 to 24 or under prior law, the obligation of the non-custodial parent may be enforced in the same or other proceedings by the custodial parent, the child, the public authority that has furnished or may furnish the reasonable expenses of pregnancy, confinement, education, support, or funeral, or by any other person, including a private agency, to the extent he has furnished or is furnishing these expenses.

Subd. 2. The court may order support payments to be made to the custodial parent, the clerk of the court, or a person, corporation, or agency designated to administer them for the benefit of the child under the supervision of the court.

Subd. 3. Willful failure to obey the judgment or order of the court is a civil contempt of the court. All remedies for the enforcement of judgments apply including those available under sections 518.41 to 518.53 and 256.872 to 256.878.

Sec. 18. [257.68] MODIFICATION OF JUDGMENT OR ORDER. A court entering a judgment or order for the payment of a lump sum under section 16, subdivision 4, may specify that the judgment or order may not be modified or revoked.

Sec. 19. [257.69] RIGHT TO COUNSEL; COSTS; FREE TRANSCRIPT ON APPEAL. Subdivision 1. In all proceedings under sections 1 to 24, any party may be represented by counsel. If the public authority charged by law with support of a child is a party, the county attorney shall represent the public authority. If the child receives public assistance and no conflict of interest exists, the county attorney shall also represent the custodial parent. If a conflict of interest exists, the court shall appoint counsel for the custodial parent at no cost to the parent. If the child does not receive public assistance, the county attorney may represent the custodial parent at the parent's request. The court shall appoint counsel for a party who is unable to pay timely for counsel in proceedings under sections 1 to 24.

Subd. 2. The court may order reasonable counsel, expert witnesses, and guardian ad litem fees, and other costs of the trial and pre-trial proceedings, including appropriate tests, to be paid by the parties in proportions and at times determined by the court. The court shall require a party to pay part of the fees of court-appointed counsel according to the party's ability to pay, but if counsel has been appointed the appropriate agency shall pay the party's proportion of all other fees and costs. When a party bringing an action is represented by the county attorney, no filing fee shall be paid to the clerk of court.

Subd. 3. If a party is financially unable to pay the cost of a transcript, the court shall furnish on request a transcript for purposes of appeal.

Sec. 20. **[257.70] HEARINGS AND RECORDS; CONFIDENTIALITY.** Notwithstanding any other law concerning public hearings and records, any hearing or trial held under sections 1 to 24 shall be held in closed court without admittance of any person other than those necessary to the action or proceeding. All papers and records, other than the final judgment, pertaining to the action or proceeding, whether part of the permanent record of the court or of a file in the state department of public welfare or elsewhere, are subject to inspection only upon consent of the court and all interested persons, or in exceptional cases only upon an order of the court for good cause shown.

Sec. 21. **[257.71] ACTION TO DECLARE MOTHER AND CHILD RELATIONSHIP.** A child, the father or personal representative of the child, the public authority chargeable by law with the support of the child, the personal representative or a parent of the father if the father has died, a woman alleged or alleging herself to be the mother, or the personal representative or a parent of the alleged mother if the alleged mother has died or is a minor may bring an action to determine the existence or nonexistence of a mother and child relationship. Insofar as practicable, the provisions of sections 1 to 24 applicable to the father and child relationship apply.

Sec. 22. **[257.72] PROMISE TO RENDER SUPPORT.** Subdivision 1. A person's signed promise to furnish support for a child, growing out of a supposed or alleged parent and child relationship, does not require consideration and is enforceable according to its terms, subject to section 7, subdivision 4.

Subd. 2. In the best interest of the child or the custodial parent, the court may, and if a provision of the writing so requires shall, order the promise to be kept in confidence and designate a person or agency to receive and disburse on behalf of the child all amounts paid in performance of the promise.

Sec. 23. **[257.73] BIRTH RECORDS.** Subdivision 1. Upon compliance with the provisions of section 5, subdivision 1, clause (e) or upon order of a court of this state or upon request of a court of another state, the local registrar of vital statistics shall prepare a new certificate of birth consistent with the acknowledgment or the findings of the court and shall substitute the new certificate for the original certificate of birth.

Subd. 2. The fact that the father and child relationship was declared after the child's birth shall not be ascertainable from the new certificate but the actual place and date of birth shall be shown.

Subd. 3. The evidence upon which the new certificate was made and the original birth certificate shall be kept in a sealed and confidential file and be subject to inspection only upon consent of the court and all interested persons, or in exceptional cases only upon an order of the court for good cause shown.

Sec. 24. [257.74] **ADOPTION; TERMINATION PROCEEDINGS.** Subdivision 1. If a mother relinquishes or proposes to relinquish for adoption a child who has

(a) a presumed father under section 5, subdivision 1,

(b) a father whose relationship to the child has been determined by a court, or

(c) a father as to whom the child is a legitimate child under prior law of this state or under the law of another jurisdiction, the father shall be given notice of the adoption proceeding as provided in section 259.26.

Subd. 2. If a mother relinquishes or proposes to relinquish for adoption a child who does not have

(a) a presumed father under section 5, subdivision 1,

(b) a father whose relationship to the child has been determined by a court, or

(c) a father as to whom the child is a legitimate child under prior law of this state or under the law of another jurisdiction, notice of the adoption proceeding shall be given as required by sections 259.26 and 259.261.

Sec. 25. Minnesota Statutes 1978, Section 62A.041, is amended to read:

62A.041 MATERNITY BENEFITS; UNMARRIED WOMEN. Each group policy of accident and health insurance issued or renewed after June 4, 1971, shall provide the same coverage for maternity benefits to unmarried women and minor female dependents that it provides to married women including the wives of employees choosing dependent family coverage. If an unmarried insured is a parent ~~or an acknowledged or adjudicated parent~~ of a dependent ~~illegitimate~~ child, each group policy issued or renewed after July 1, 1976, shall provide the same coverage for that child as that provided for the child of ~~an~~ a married employee choosing dependent family coverage if the insured elects dependent family coverage.

Each individual policy of accident and health insurance shall provide the same coverage for maternity benefits to unmarried women and minor female dependents as that provided for married women. If ~~the~~ an unmarried insured is a parent ~~or an acknowledged or adjudicated parent~~ of a dependent ~~illegitimate~~ child, each individual policy issued or renewed after July 1, 1976, shall also

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provide the same coverage for that child as that provided for the child of ~~an~~ a married insured choosing dependent family coverage if the insured elects dependent family coverage.

For the purposes of this section, the term "maternity benefits" shall not include elective, induced abortion whether performed in a hospital, other abortion facility, or the office of a physician.

Sec. 26. Minnesota Statutes 1978, Section 62C.14, Subdivision 5a, is amended to read:

Subd. 5a. Any group subscriber's contract delivered or issued for delivery or renewed in this state after August 1, 1973, shall provide the same coverage for maternity benefits to unmarried women and minor female dependents as that provided for married women. If a an unmarried subscriber is a parent ~~or an acknowledged or adjudicated parent~~ of a dependent ~~illegitimate~~ child, each group subscriber's contract delivered or issued for delivery or renewed after July 1, 1976, shall, if the subscriber chooses family coverage, provide the same coverage for that child as that provided for the child of any other subscriber choosing dependent family coverage. Any group contracting for a group subscriber's contract may request that the coverage required by this section be omitted.

An individual subscriber's contract delivered or issued for delivery in this state shall provide the same coverage for maternity benefits to unmarried women and minor female dependents as that provided for married women. If ~~the~~ an unmarried subscriber is a parent ~~or the acknowledged or adjudicated parent~~ of a dependent ~~illegitimate~~ child, each subscriber's individual contract delivered or issued for delivery or renewed after July 1, 1975, shall, if the subscriber chooses dependent family coverage, provide the same coverage for that child as that ~~provided for the child of any other subscriber choosing dependent family coverage.~~

Sec. 27. Minnesota Statutes 1978, Section 64A.22, Subdivision 1, is amended to read:

64A.22 **BENEFICIARIES.** Subdivision 1. **CHANGE; ELIGIBILITY; RIGHTS.** The member shall have the right at all times to change the beneficiary or beneficiaries in accordance with the constitution, laws or rules of the association. Every association by its constitution, laws or rules may limit the scope of beneficiaries and shall provide that no beneficiary shall have or obtain any vested interest in the proceeds of any certificate until the certificate has become due and payable in conformity with the provisions of the insurance contract; except that associations which fail to meet the requirements of section 64A.20, clause (3) shall confine the payment of death benefits to the wife, husband, family, relatives by blood or marriage, including ~~illegitimate~~ children as to whom he is a parent, as defined in sections 1 to 24, parent or child by adoption, affianced husband or wife, a person dependent on the member or on whom the member is dependent, the member's estate, a benevolent, educational, religious, or charitable corporation, or to an incorporated institution for the support of the member. Any association may limit the beneficiaries within the above classes.

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Sec. 28. Minnesota Statutes 1978, Section 144.215, Subdivision 3, is amended to read:

Subd. 3. In any case in which paternity of a child is determined by a court of competent jurisdiction, or upon compliance with the provisions of section 5, subdivision 1, clause (e), the name of the father shall be entered on the birth certificate. If the order of the court declares the name of the child, it shall also be entered on the birth certificate. ~~If the order of the court does not declare the name of the child, or there is no court order,~~ then upon the request of both parents in writing, the surname of the child shall be that of the father.

Sec. 29. Minnesota Statutes 1978, Section 257.025, is amended to read:

257.025 **CUSTODY DISPUTES.** In any proceeding where two or more parties seek custody of a child the court shall determine the best interests of the child by considering and evaluating the following factors:

(a) The love, affection and other emotional ties existing between the competing parties and the child;

(b) The capacity and disposition of competing parties to give the child love, affection and guidance and continuation of the educating and raising of the child in its religion, creed, if any, or culture;

(c) The capacity and disposition of competing parties to provide the child with food, clothing, medical care or other remedial care recognized and permitted under the laws of this state in lieu of medical care, and other material needs;

(d) The length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity;

(e) The permanence, as a family unit, of the existing or proposed custodial home;

(f) The mental and physical health of the competing parties;

(g) The home, school and community record of the child;

(h) The cultural background of the child;

(i) The reasonable preference of the child, if the court deems the child to be of sufficient age to express preference;

(j) Any other factor considered by the court to be relevant to a particular child custody dispute.

The fact that the parents of the child are not or were never married to each other shall not be determinative of the custody of the child.

Sec. 30. Minnesota Statutes 1978, Section 257.175, is amended to read:

257.175 **DUTIES OF COMMISSIONER OF PUBLIC WELFARE.** It shall be the duty of the commissioner of public welfare to promote the enforcement of all laws for the protection of defective, ~~illegitimate,~~ dependent, neglected, and

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delinquent children, to cooperate to this end with juvenile courts and all reputable child-helping and child-placing agencies of a public or private character, and to take the initiative in all matters involving the interests of such children where adequate provision therefor has not already been made. The commissioner may appoint a chief executive officer and such assistants as shall be necessary to carry out the purposes of sections ~~257.175, 257.32, and 257.33~~ this section and section 257.33.

Sec. 31. Minnesota Statutes 1978, Section 257.33, is amended to read:

257.33 DUTIES OF COMMISSIONER OF PUBLIC WELFARE. It shall be the duty of the commissioner of public welfare ~~when notified of a woman who is delivered of an illegitimate child, or pregnant with child likely to be illegitimate when born, to take care that the interests of the child are safeguarded; that appropriate steps are taken to establish his paternity, and that there is secured for him the nearest possible approximation to the care, support, and education that he would be entitled to if born of lawful marriage. For the better accomplishment of these purposes the commissioner of public welfare may initiate such legal or other action as is deemed necessary; may make such provision for the care, maintenance, and education of the child as the best interests of the child may from time to time require, and may offer his aid and protection in such ways as are found wise and expedient to the unmarried woman approaching motherhood to offer appropriate social services to any pregnant woman who is in need of social services under criteria prescribed by rule of the commissioner. The commissioner shall also offer appropriate social services to the woman and her child after the birth of the child.~~

Sec. 32. Minnesota Statutes 1978, Section 259.24, Subdivision 1, is amended to read:

259.24 CONSENTS. Subdivision 1. **EXCEPTIONS.** No child shall be adopted without the consent of his the child's parents and his the child's guardian, if there be one, except in the following instances:

(a) Consent shall not be required of ~~the a parent of an illegitimate child not entitled to notice of the proceedings under either sections 259.26 or 259.261.~~

(b) Consent shall not be required of a parent who has abandoned the child, or of a parent who has lost custody of the child through a divorce decree or a decree of dissolution, and upon whom notice has been served as required by section 259.26.

(c) Consent shall not be required of a parent whose parental rights to the child have been terminated by a juvenile court or who has lost custody of a child through a final commitment of the juvenile court or through a decree in a prior adoption proceeding.

(d) If there be no parent or guardian qualified to consent to the adoption, the consent may be given by the commissioner.

Changes or additions indicated by underline deletions by ~~strikeout~~

(e) The commissioner or agency having authority to place a child for adoption pursuant to section 259.25, subdivision 1, shall have the exclusive right to consent to the adoption of such child.

Sec. 33. Minnesota Statutes 1978, Section 259.24, Subdivision 2, is amended to read:

Subd. 2. **PARENTS, GUARDIAN.** If a an unmarried parent who consents to the adoption of an illegitimate a child is under 18 years of age, the consent of his parents or guardian, if any, also shall be required; if either or both the parents are disqualified for any of the reasons enumerated in subdivision 1, the consent of such parent shall be waived, and the consent of the guardian only shall be sufficient; and, if there be neither parent nor guardian qualified to give such consent, the consent may be given by the commissioner.

Sec. 34. Minnesota Statutes 1978, Section 259.25, Subdivision 1, is amended to read:

259.25 **AGREEMENT CONFERRING AUTHORITY TO PLACE FOR ADOPTION.** Subdivision 1. **CONSENTS REQUIRED.** The parents and guardian, if there be one, of a legitimate child may enter into a written agreement with the commissioner of public welfare or an agency, giving the commissioner or such agency authority to place the child for adoption. ~~The parents of an illegitimate child also may enter into such written agreement; but, if he~~ an unmarried parent is under the age of 18 years the written consent of his parents and guardian, if any, also shall be required; if either or both of the parents are disqualified from giving such consent for any of the reasons enumerated in section 259.24, subdivision 1, then the written consent of the guardian shall be required. ~~Such~~ The agreement and consent shall be in the form prescribed by the commissioner. The agreement shall be executed by the commissioner or agency, or one of their authorized agents, and all other necessary parties, and shall be filed, together with the consent, in the proceedings for the adoption of the child.

Sec. 35. Minnesota Statutes 1978, Section 259.26, Subdivision 1, is amended to read:

259.26 **NOTICE, HEARING ON PETITION.** Subdivision 1. **TO WHOM GIVEN.** Except as provided in subdivision 3, and subject to section 259.261, notice of the hearing upon a petition to adopt a child shall be given to:

- (1) ~~The parents and guardian, if any, of any legitimate child;~~
- (2) ~~The guardian, if any, of an illegitimate a child;~~
- (3) (2) ~~The parent of an illegitimate a child if~~

(a) The person's name appears on the child's birth certificate, as a parent,
or

- (b) The person has substantially supported the child, or

(c) The person either was married to the person designated on the birth certificate as the natural mother within the 325 days before the child's birth or married that person within the ten days after the child's birth, or

(d) The person is openly living with the child or the person designated on the birth certificate as the natural mother of the child, or both, or

(e) The person has been adjudicated the child's parent, or

(f) The person has filed an affidavit pursuant to section 259.261.

This notice need not be given to any above named person whose parental rights have been terminated, whose notice of intention to retain parental rights filed pursuant to section 259.261 has been successfully challenged, who ~~have~~ has consented to the adoption or who ~~have~~ has waived notice of the hearing. The notice of the hearing may be waived by a parent, guardian or other interested party by a writing executed before two competent witnesses and duly acknowledged. ~~Such~~ The waiver shall be filed in the adoption proceedings at any time before the matter is heard.

Sec. 36. Minnesota Statutes, 1979 Supplement, Section 259.29, Subdivision 1, is amended to read:

259.29 **EFFECT OF ADOPTION.** Subdivision 1. Upon adoption, the child shall become the legal child of the adopting persons ~~adopting him~~, and they shall become his the legal parents of the child with all the rights and duties between them of natural parents and legitimate child. By virtue of the adoption ~~he the~~ the child shall inherit from his the adoptive parents or their relatives the same as though ~~he the~~ the child were the legitimate natural child of the parents, and in case of his the child's death intestate the adoptive parents and their relatives shall inherit his the child's estate as if they had been his the child's natural parents and relatives. After a decree of adoption is entered the natural parents of an adopted child shall be relieved of all parental responsibilities for the child, and they shall not exercise or have any rights over the adopted child or his the child's property. The child shall not owe his the natural parents or their relatives any legal duty nor shall ~~he the~~ the child inherit from his the natural parents or kindred, except as provided in subdivision 1a.

Subd. 1a. Notwithstanding any other provisions to the contrary in this section, the adoption of a child by his a step-parent shall not in any way change the status of the relationship between the child and his the child's natural parent who is the spouse of the petitioning step-parent.

If a parent dies and a child is subsequently adopted by a step-parent who is the spouse of a surviving parent, any rights of inheritance of the child or the child's issue from or through the deceased parent of the child which exist at the time of the death of that parent shall not be affected by the adoption.

Subd. 2. Notwithstanding the provisions of subdivision 1, the adoption of a child whose natural parent or parents are enrolled in an American Indian tribe shall not change the child's enrollment in that tribe.

Sec. 37, Minnesota Statutes 1978, Section 260.231, Subdivision 3, is amended to read:

Subd. 3. The court shall have notice of the time, place, and purpose of the hearing served on the parents, as defined in sections 1 to 24 or in section 35, subdivision 1, clause (2), in the manner provided in sections 260.135 and 260.141, except that personal service shall be made at least ten days before the day of the hearing ~~provided that in the case of an illegitimate child, notice shall be given to the parent of an illegitimate child meeting the requirements of section 259.26, subdivision 1, clause (3)~~. Published notice shall be made for three weeks, the last publication to be at least ten days before the day of the hearing; and notice sent by certified mail shall be mailed at least 20 days before the day of the hearing. A parent who consents to the termination of parental rights under the provisions of section 260.221, clause (a), may waive in writing the notice required by this subdivision; however, if the parent is a minor or incompetent ~~his~~ the waiver shall be effective only if ~~his~~ the parent's guardian ad litem concurs in writing.

Sec. 38, Minnesota Statutes 1978, Sections 257.251; 257.252; 257.253; 257.254; 257.255; 257.256; 257.257; 257.258; 257.259; 257.261; 257.262; 257.263; 257.264; 257.27; 257.28; 257.29; 257.30; 257.31; 257.32; and 517.19; are repealed.

Approved April 23, 1980.

CHAPTER 590—S.F.No. 630

An act relating to commerce; providing for the licensing and regulation of mobile home dealers; imposing certain duties and prohibiting certain practices; providing penalties; amending Minnesota Statutes 1978, Sections 327.43, Subdivision 1; 327.51, Subdivision 1, and by adding subdivisions; 327.55, Subdivisions 1 and 4; and Chapter 327, by adding sections; and Minnesota Statutes, 1979 Supplement, Sections 327.43, Subdivision 2; and 327.44.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1, Minnesota Statutes 1978, Section 327.43, Subdivision 1, is amended to read:

327.43 ENTRANCE AND TRANSFER FEES PROHIBITED; SECURITY DEPOSITS LIMITED. Subdivision 1. No fee other than the periodic rental payment specified in the lease or rental agreement may be charged to a mobile home park tenant or prospective tenant or any agent of a tenant or prospective tenant for the right to obtain or retain a space or lot, provided that a lessor may impose a reasonable charge for goods and services actually furnished by or at his expense in setting up a mobile home on a space or lot.

Sec. 2, Minnesota Statutes, 1979 Supplement, Section 327.43, Subdivision 2, is amended to read:

Changes or additions indicated by underline deletions by ~~strikeout~~