

financial viability of such projects and produce savings for electric energy consumers in the state.

The analysis must include the extent to which financial participation of public and private institutions can achieve interest savings for the incremental development of biomass energy projects. Financing options to be reviewed must include:

- (1) use of the bonding capacity of existing public financing authorities;
- (2) private financing options for biomass energy facilities;
- (3) establishment of a new development authority to facilitate public financial participation in biomass energy projects;
- (4) issuance of tax exempt or taxable state general obligation bonds to produce interest savings for development of biomass energy facilities; and
- (5) production credit payments for biomass energy production.

In conducting this analysis, the commissioner shall work with the commissioners of finance, public service, and trade and economic development and with stakeholders involved in farm-grown, closed-loop biomass energy projects. The analysis with recommendations must be submitted to the legislature by January 15, 1998.

Presented to the governor May 17, 1997

Signed by the governor May 19, 1997, 7:12 p.m.

CHAPTER 177—S.F.No. 122

An act relating to human services; requiring notification of placement or adoption of a child to the other birth parent; requiring background checks for adoption; requiring affidavits for an emergency order requiring updates to adoption study; defining content of postplacement assessment and report; permitting court-ordered grandparent visitation with an adopted child; recognition of adoption which occurred in a foreign country; defining when adoption records shall become public records; amending Minnesota Statutes 1996, sections 245A.04, subdivision 10; 257.022, subdivision 2, and by adding a subdivision; 259.20, subdivision 2; 259.22, subdivisions 2 and 4; 259.24, subdivision 2a; 259.41; 259.47, subdivisions 3, 6, 7, 8, and 10; 259.53, subdivisions 1 and 2; 259.55, subdivision 1; 259.59, subdivision 1; 259.61; 259.67, subdivision 7; 259.79, subdivision 3; and 259.83, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 259; repealing Minnesota Statutes 1996, section 259.47, subdivision 9.

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

Section 1. Minnesota Statutes 1996, section 245A.04, subdivision 10, is amended to read:

Subd. 10. **ADOPTION AGENCY; ADDITIONAL REQUIREMENTS.** In addition to the other requirements of this section, an individual, corporation, partnership, voluntary association, other organization, or controlling individual applying for a license to place children for adoption must:

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- (1) incorporate as a nonprofit corporation under chapter 317A;
- (2) file with the application for licensure a copy of the disclosure form required under section 259.37, subdivision 2;
- (3) provide evidence that a bond has been obtained and will be continuously maintained in favor of the commissioner throughout the entire operating period of the agency, to cover the cost of transfer of records to and storage of records by the agency which has agreed, according to rule established by the commissioner, to receive the applicant agency's records if the applicant agency voluntarily or involuntarily ceases operation and fails to provide for proper transfer of the records in order to comply with the requirements of section 259.79. The bond must be made in favor of the agency which has agreed to receive the records; and
- (4) submit a certified audit to the commissioner each year the license is renewed as required under section 245A.03, subdivision 1.

Sec. 2. Minnesota Statutes 1996, section 257.022, subdivision 2, is amended to read:

Subd. 2. **FAMILY COURT PROCEEDINGS.** (a) In all proceedings for dissolution, custody, legal separation, annulment, or parentage, after the commencement of the proceeding, or at any time after completion of the proceedings, and continuing during the minority of the child, the court may, upon the request of the parent or grandparent of a party, grant reasonable visitation rights to the unmarried minor child, after dissolution of marriage, legal separation, annulment, or determination of parentage during minority if it finds that: (1) visitation rights would be in the best interests of the child; and (2) such visitation would not interfere with the parent-child relationship. The court shall consider the amount of personal contact between the parents or grandparents of the party and the child prior to the application.

(b) If a motion for grandparent visitation has been heard and denied, unless agreed to in writing by the parties, no subsequent motion may be filed within six months after disposition of a prior motion on its merits.

Sec. 3. Minnesota Statutes 1996, section 257.022, is amended by adding a subdivision to read:

Subd. 3a. **GRANDPARENT VISITATION WITH AN ADOPTED CHILD.** (a) A grandparent of a child adopted by a stepparent may petition and a court may grant an order setting visitation with the child if:

- (1) the grandparent is the parent of:
 - (i) a deceased parent of the child; or
 - (ii) a parent of the child whose parental relationship was terminated by a decree of adoption according to section 259.57, subdivision 1; and
 - (2) the court determines that the requested visitation:
 - (i) is in the best interests of the child; and
 - (ii) would not interfere with the parent and child relationship.
- (b) Failure to comply with the terms of an order for visitation granted under this subdivision is not a basis for revoking, setting aside, or otherwise challenging the validity of a consent, relinquishment, or adoption of a child.

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Sec. 4. Minnesota Statutes 1996, section 259.20, subdivision 2, is amended to read:

Subd. 2. Portions of chapters 245A, 257, 260, and 317A may also affect the adoption of a particular child. Provisions of the Indian Child Welfare Act, United States Code, title 25, chapter 21, sections 1901-23, may also apply in the adoption of an Indian child, and may preempt specific provisions of this chapter.

Sec. 5. Minnesota Statutes 1996, section 259.22, subdivision 2, is amended to read:

Subd. 2. No petition for adoption shall be filed unless the child sought to be adopted has been placed by the commissioner of human services, the commissioner's agent, or a licensed child-placing agency. The provisions of this subdivision shall not apply if

(a) the child is over 14 years of age;

(b) the child is sought to be adopted by a stepparent;

~~(e)~~ (e) the child is sought to be adopted by a relative related by blood or marriage within the third degree an individual who is related to the child, as defined by section 245A.02, subdivision 13;

~~(d)~~ (c) the child has been lawfully placed under the laws of another state while the child and petitioner resided in that other state;

~~(e)~~ (d) the court waives the requirement of this subdivision in the best interests of the child or petitioners, provided that the adoption does not involve a placement as defined in section 259.21, subdivision 8; or

~~(f)~~ (e) the child has been lawfully placed under section 259.47.

Sec. 6. Minnesota Statutes 1996, section 259.22, subdivision 4, is amended to read:

Subd. 4. **TIME FOR FILING PETITION.** A petition shall be filed not later than 24 months after a child is placed in a prospective adoptive home. If a petition is not filed by that time, the agency that placed the child, or, in a direct adoptive placement, the agency that prepared the postplacement adoptive study is supervising the placement shall file with the district court in the county where the prospective adoptive parent resides a motion for an order and a report recommending one of the following:

(1) that the time for filing a petition be extended because of the child's special needs as defined under title IV-E of the Social Security Act, United States Code, title 42, section 673; or

(2) that, based on a written plan for completing filing of the petition, including a specific timeline, to which the prospective adoptive parents have agreed, the time for filing a petition be extended long enough to complete the plan because such an extension is in the best interests of the child; or

(3) that the child be removed from the prospective adoptive home.

The prospective adoptive parent must reimburse an agency for the cost of preparing and filing the motion and report under this section, unless the costs are reimbursed by the commissioner under section 259.67 or 259.73.

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Sec. 7. Minnesota Statutes 1996, section 259.24, subdivision 2a, is amended to read:

Subd. 2a. **TIME OF CONSENT; NOTICE OF INTENT TO CONSENT TO ADOPTION.** (a) Not sooner than 72 hours after the birth of a child and not later than 60 days after the child's placement in a prospective adoptive home, a person whose consent is required under this section shall execute a consent.

(b) Unless all birth parents from whom consent is required under this section are involved in making the adoptive placement and intend to consent to the adoption, a birth parent who intends to execute a consent to an adoption must give notice to the child's other birth parent of the intent to consent to the adoption prior to or within 72 hours following the placement of the child, if the other birth parent's consent to the adoption is required under subdivision 1. The birth parent who receives notice shall have 60 days after the placement of the child to either consent or refuse to consent to the adoption. If the birth parent who receives notice fails to take either of these actions, that parent shall be deemed to have irrevocably consented to the child's adoption.

(c) When notice is required under this subdivision, it shall be provided to the other birth parent according to the rules of civil procedure for service of a summons and complaint.

Sec. 8. Minnesota Statutes 1996, section 259.41, is amended to read:

259.41 ADOPTION STUDY.

Subdivision 1. **STUDY REQUIRED BEFORE PLACEMENT; CERTAIN RELATIVES EXCEPTED.** (a) An adoption study and written report must be completed before the child is placed in a prospective adoptive home under this chapter and the study, except as allowed by section 259.47, subdivision 6. In an agency placement, the report must be completed and filed with the court at the time the adoption petition is filed. In a direct adoptive placement, the report must be filed with the court in support of a motion for temporary preadoptive custody under section 259.47, subdivision 3, or, if the study and report are complete, in support of an emergency order under section 259.47, subdivision 6. The study and report shall be completed by a licensed child-placing agency and must be thorough and comprehensive. The study and report shall be paid for by the prospective adoptive parent, except as otherwise required under section 259.67 or 259.73.

(b) A stepparent placement for adoption with an individual who is related to the child, as defined by section 245A.02, subdivision 13, is not subject to this section except as required by section 259.53, subdivision 2, paragraph (c).

Subd. 2. **FORM OF STUDY.** (a) The adoption study must include at least one in-home visit with the prospective adoptive parent. At a minimum, the study must include the following about the prospective adoptive parent:

(1) a background check of criminal conviction data, data on substantiated maltreatment of a child under section 626.556, and domestic violence data of each person over the age of 13 living in the home. The prospective adoptive parents, the bureau of criminal apprehension, and other state, county, and local agencies, after written notice to the subject of the study, shall give the agency completing the adoption study substantiated criminal conviction data and reports about maltreatment of minors and vulnerable adults and domestic violence. The adoption study must also include a check of the juvenile court

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records of each person over the age of 13 living in the home. Notwithstanding provisions of section 260.161 to the contrary, the juvenile court shall release the requested information to the agency completing the adoption study. The study must include as required by subdivision 3, and an evaluation of the effect of a conviction or finding of substantiated maltreatment on the ability to care for a child;

- (2) a medical and social history and assessment of current health;
- (3) an assessment of potential parenting skills;
- (4) an assessment of ability to provide adequate financial support for a child; and
- (5) an assessment of the level of knowledge and awareness of adoption issues including, where appropriate, matters relating to interracial, cross-cultural, and special needs adoptions.

The adoption study must include at least one in-home visit with the prospective adoptive parent.

(b) The adoption study is the basis for completion of a written report. The report must be in a format specified by the commissioner and must contain recommendations regarding the suitability of the subject of the study to be an adoptive parent. An adoption study report is valid for 12 months following its date of completion.

Subd. 3. BACKGROUND CHECK; AFFIDAVIT OF HISTORY. A (a) At the time an adoption study is commenced, each prospective adoptive parent seeking a study under this section must:

(1) authorize access by the agency to any private data needed to complete the study, must;

(2) provide all addresses at which the prospective adoptive parent and anyone in the household over the age of 13 has resided in the previous ten years;

(3) disclose any names used previously other than the name used at the time of the study; and

must (4) provide a set of fingerprints, which shall be forwarded to the bureau of criminal apprehension to facilitate the criminal conviction background check required under clause (1) paragraph (b).

(b) When the requirements of paragraph (a) have been met, the agency shall immediately begin a background check, on each person over the age of 13 living in the home, consisting, at a minimum, of the following:

(1) a check of criminal conviction data with the bureau of criminal apprehension and local law enforcement authorities;

(2) a check for data on substantiated maltreatment of a child or vulnerable adult and domestic violence data with local law enforcement and social services agencies and district courts; and

(3) for those persons under the age of 25, a check of juvenile court records.

Notwithstanding the provisions of section 260.161, the bureau of criminal apprehension, local law enforcement and social services agencies, district courts, and juvenile

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courts shall release the requested information to the agency completing the adoption study.

When paragraph (b) requires checking the data or records of local law enforcement and social services agencies and district and juvenile courts, the agency shall check with the law enforcement and social services agencies and courts whose jurisdictions cover the addresses under paragraph (a), clause (2). In the event that the agency is unable to complete any of the record checks required by paragraph (b), the agency shall document the fact and the agency's efforts to obtain the information.

(c) At any time prior to completion of the background check required under paragraph (b), a prospective adoptive parent may submit to the agency conducting the study a sworn affidavit stating whether they or any person residing in the household have been convicted of a crime. The affidavit shall also state whether the adoptive parent or any other person residing in the household is the subject of an open investigation of, or have been the subject of a substantiated allegation of, child or vulnerable-adult maltreatment within the past ten years. A complete description of the crime, open investigation, or substantiated abuse, and a complete description of any sentence, treatment, or disposition must be included. The affidavit must contain an acknowledgment that if, at any time before the adoption is final, a court receives evidence leading to a conclusion that a prospective adoptive parent knowingly gave false information in the affidavit, it shall be determined that the adoption of the child by the prospective adoptive parent is not in the best interests of the child.

(d) For the purposes of subdivision 1 and section 259.47, subdivisions 3 and 6, an adoption study is complete for placement, even though the background checks required by paragraph (b) have not been completed, if each prospective adoptive parent has completed the affidavit allowed by paragraph (c) and the other requirements of this section have been met. The background checks required by paragraph (b) must be completed before an adoption petition is filed. If an adoption study has been submitted to the court under section 259.47, subdivision 3 or 6 before the background checks required by paragraph (b) were complete, an updated adoption study report which includes the results of the background check must be filed with the adoption petition. In the event that an agency is unable to complete any of the records checks required by paragraph (b), the agency shall submit with the petition to adopt an affidavit documenting the agency's efforts to complete the checks.

Subd. 4. UPDATES TO ADOPTION STUDY; PERIOD OF VALIDITY. An agency may update an adoption study and report as needed, regardless of when the original study and report or most recent update was completed. An update must be in a format specified by the commissioner and must verify the continuing accuracy of the elements of the original report and document any changes to elements of the original report. An update to a study and report not originally completed under this section must ensure that the study and report, as updated, meet the requirements of this section. An adoption study is valid if the report has been completed or updated within the previous 12 months.

Sec. 9. Minnesota Statutes 1996, section 259.47, subdivision 3, is amended to read:

Subd. 3. PREADOPTIVE CUSTODY ORDER. (a) Before a child is placed in a prospective adoptive home by a birth parent or legal guardian, other than an agency, the placement must be approved by the district court in the county where the prospective

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adoptive parent resides. An order under this subdivision or subdivision 6 shall state that the prospective adoptive parent's right to custody of the child is subject to the birth parent's right to custody until the consents to the child's adoption become irrevocable. At the time of placement, prospective adoptive parents must have for the child qualifying existing coverage as defined in section 62L.02, subdivision 24, or other similar comprehensive health care coverage. The prospective adoptive parent must meet the residence requirements of section 259.22, subdivision 1, and must file with the court an affidavit of intent to remain a resident of the state for at least three months after the child is placed in the prospective adoptive home. The prospective adoptive parent shall file with the court a notice of intent to file an adoption petition and submit a written motion seeking an order granting temporary preadoptive custody. The notice and motion required under this subdivision may be considered by the court ex parte, without a hearing. The prospective adoptive parent shall serve a copy of the notice and motion upon any parent whose consent is required under section 259.24 or who is named in the affidavit required under paragraph (b) if that person's mailing address is known. The motion may be filed up to 60 days before the placement is to be made and must include:

(1) the adoption study required under section 259.41;

(2) affidavits from the birth parents indicating their support of the motion, or, if there is no affidavit from the birth father, an affidavit from the birth mother under paragraph (b);

(3) an itemized statement of expenses that have been paid and an estimate of expenses that will be paid by the prospective adoptive parents to the birth parents, any agency, attorney, or other party in connection with the prospective adoption;

(4) the name of counsel for each party, if any;

(5) a statement that the birth parents:

(i) have provided the social and medical history required under section 259.43 to the prospective adoptive parent;

(ii) have received the written statement of their legal rights and responsibilities under section 259.39; and

(iii) have been notified of their right to receive counseling under subdivision 4; and

(6) the name of the agency chosen by the adoptive parent to supervise the adoptive placement and complete the postplacement adoption study assessment required by section 259.53, subdivision 9 2.

The court shall review the expense statement submitted under this subdivision to determine whether payments made or to be made by the prospective adoptive parent are lawful and in accordance with section 259.55, subdivision 1.

(b) If the birth mother submits the affidavit required in paragraph (a), clause (2), but the birth father fails to do so, the birth mother must submit an additional affidavit that describes her good faith efforts or efforts made on her behalf to identify and locate the birth father for purposes of securing his consent. In the following circumstances the birth mother may instead submit an affidavit stating on which ground she is exempt from making efforts to identify and locate the father:

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- (1) the child was conceived as the result of incest or rape;
- (2) efforts to locate the father by the affiant or anyone acting on the affiant's behalf could reasonably result in physical harm to the birth mother or child; or
- (3) efforts to locate the father by the affiant or anyone acting on the affiant's behalf could reasonably result in severe emotional distress of the birth mother or child.

A court shall consider the motion for temporary preadoptive custody within 30 days of receiving the motion or by the anticipated placement date stated in the motion, whichever comes sooner.

Sec. 10. Minnesota Statutes 1996, section 259.47, subdivision 6, is amended to read:

Subd. 6. **EMERGENCY ORDER.** (a) A court may issue an emergency order granting temporary preadoptive custody of a child to a prospective adoptive parent for up to 14 days if the following conditions are met:

(1) the motion is The prospective adoptive parent shall submit a written motion to the court. The motion must be supported by:

(1) affidavits from the prospective adoptive parents and birth parents indicating that an emergency order is needed because of the unexpected premature birth of the child or other specifically described extraordinary circumstances which prevented the completion of the requirements of subdivision 3;

(2) the information required by subdivision 3, paragraph (a), clauses (2) and (5), items (ii) and (iii); and

(3) either:

(i) a completed adoption study report which meets the requirements of section 259.41; or

(ii) the affidavits from each prospective adoptive parent stating whether they or any person residing in the household have been convicted of a crime or are the subject of an open investigation of, or have been the subject of a substantiated allegation of, child or vulnerable-adult abuse within the past ten years. If so, a complete description of the crime, open investigation, or substantiated abuse and a complete description of any sentence, treatment, or disposition must be included. If, at any time before the adoption is final, a court receives evidence leading it to conclude that a prospective adoptive parent knowingly gave false information in this affidavit, it shall be presumed that the placement of the child with the adoptive parent is not in the best interests of the child; and

(iii) the information required by subdivision 3, paragraph (a), clauses (2), and (5), items (ii) and (iii); and

(iv) affidavits from the prospective adoptive parent and birth parent indicating that an emergency order is needed because of the unexpected premature birth of the child or other specifically described extraordinary circumstances which prevented the completion of the requirements of this section; and allowed by section 259.41, subdivision 3, paragraph (c).

(2) The court shall issue the emergency order if it concludes from the record submitted that the emergency order will preserve not compromise the health and or safety of the child.

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(b) An order granting or denying the motion shall be issued under this section within 24 hours of the time it is brought. Notwithstanding section 259.23, any judge of district court may consider a motion brought under this subdivision. An order granting the motion shall direct that an adoption study be commenced immediately, if that has not occurred, and that the agency conducting the study shall supervise the emergency placement.

(c) An emergency order under this subdivision expires 14 days after it is issued. If the requirements of subdivision 3 are completed and a preadoptive custody motion is filed on or before the expiration of the emergency order, placement may continue until the court rules on the motion. The court shall consider the preadoptive custody motion within seven days of filing.

Sec. 11. Minnesota Statutes 1996, section 259.47, subdivision 7, is amended to read:

Subd. 7. CONSENT; TIME FRAME; HEARING; VENUE; COMMISSIONER'S FORM. Not sooner than 72 hours after the birth of a child and not later than 60 days after the child's placement in a prospective adoptive home under this section, a person whose consent is required under section 259.24 shall execute a consent. A birth parent, whose consent is required under section 259.24 and who has chosen not to receive counseling through a licensed agency or a licensed social services professional trained in adoption issues, shall appear before a judge or judicial officer to sign the written consent to the child's adoption by the prospective adoptive parent who has temporary preadoptive custody of the child. Notwithstanding where the prospective adoptive parent resides, the consent hearing may be held in any county in this state where the birth parent is found. If a consent hearing is held in a county other than where the prospective adoptive parent resides, the court shall forward the executed consent to the district court in the county where the prospective adoptive parent resides. If a birth parent has chosen to receive counseling through a licensed agency or a licensed social services professional trained in adoption issues, the birth parent may choose to execute a written consent under section 259.24, subdivision 5. A person whose consent is required under section 259.24, subdivision 2, may choose to execute consent at a judicial hearing as described in this section or under the procedures in section 259.24, subdivision 5.

The consent becomes irrevocable on the tenth working day after it is given, except that if the consent was obtained by fraud, proceedings to determine the existence of fraud shall be governed by section 259.24, subdivision 6a. Until the consent becomes irrevocable, the child shall be returned to the birth parent upon request.

The written consent under this subdivision must state that:

(1) the birth parent has had the opportunity to consult with independent legal counsel at the expense of the prospective adoptive parent, unless the birth parent knowingly waived the opportunity;

(2) the birth parent was notified of the right to receive counseling at the expense of the prospective adoptive parent and has chosen to exercise or waive that right; and

(3) the birth parent was informed that if the birth parent withdraws consent, the prospective adoptive parent cannot require the birth parent to reimburse any costs the prospective adoptive parent has incurred in connection with the adoption, including payments made to or on behalf of the birth parent.

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If a birth parent has chosen to have legal counsel, the attorney must be present at the execution of consents. If a birth parent waives counsel, the written waiver must be filed with the consent under this subdivision.

The consent signed under this subdivision must be on a form prepared by the commissioner and made available to agencies and court administrators for public distribution.

Sec. 12. Minnesota Statutes 1996, section 259.47, subdivision 8, is amended to read:

Subd. 8. **NOTICE AND CONSENT DEADLINE; CONSENT HEARING; BIRTH PARENT NOT APPEARING FAILURE TO EXECUTE CONSENTS.** (a) With the exception of cases where a person who receives notice under paragraph (b) section 259.24, subdivision 2a, if a birth parent whose consent is required under section 259.24 does not appear at a consent hearing under this section execute a consent by the end of the period specified in section 259.24, subdivision 2a, the agency which is supervising the placement shall notify the court and the court shall issue an order regarding continued placement of the child. The court shall order the local social services agency to determine whether to commence proceedings for termination of parental rights on grounds of abandonment as defined in section 260.221. The court may disregard the six- and 12-month requirements of section 260.221, paragraph (b), clause (1), item (i), in finding abandonment if the birth parent has failed to execute a consent within the time required under this section and has made no effort to obtain custody of the child.

(b) A birth parent who intends to consent to the adoption of a child shall notify the other birth parent of that fact if the other birth parent's consent to the adoption is required under section 259.24, subdivision 1, at the time of placement. Notice shall be provided to the other birth parent by personal service in the manner provided in the rules of civil procedure for service of a summons and complaint within 72 hours of the date on which the child is placed. The notice shall inform the birth parent of the notifying birth parent's intent regarding consent to adoption and shall notify the receiving birth parent that, not later than 60 days after the date of service, the birth parent must either consent or refuse to consent to the adoption. On the 61st day following service of the notice required under this subdivision, a birth parent who fails to take either of these actions, is deemed to have consented to the child's adoption regarding the child.

Sec. 13. Minnesota Statutes 1996, section 259.47, subdivision 10, is amended to read:

Subd. 10. **RECORDS.** All records filed with the court in any adoption completed according to a direct adoptive placement under this section, a record, consisting of the adoption study report and updates required by section 259.41; the birth parent history required by section 259.43; the original birth certificate; and the hospital discharge form, must be permanently maintained by the agency which completed the adoption study supervised the placement. The birth parents, adoptive parents, or their representatives shall provide copies of these documents to the agency upon request. Notwithstanding the provisions of section 259.61, an agency shall, upon request, be given any court records needed to provide postadoption services pursuant according to section 259.83 at the request of adoptive parents, birth parents, or adopted individuals age 19 or older.

Sec. 14. Minnesota Statutes 1996, section 259.53, subdivision 1, is amended to read:

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Subdivision 1. **NOTICE TO COMMISSIONER; COUNTY DUTIES REFERRAL FOR POSTPLACEMENT ASSESSMENT.** (a) Upon the filing of a petition for adoption of a child the court administrator shall immediately transmit a copy of the petition to the commissioner of human services, and the local social services agency of the county in which the prospective adoptive parent lives. Except as provided in subdivision 2, the local social services agency shall verify the allegations of the petition, investigate the conditions and antecedents of the child for the purpose of ascertaining whether the child is a proper subject for adoption, whether the proposed adoptive home and the child are suited to each other and whether the proposed adoption meets the preferences described in section 259.57, subdivision 2. The report of the local social services agency shall be confidential, and the records of the local social services agency or the contents of them shall not be disclosed either directly or indirectly to any person other than the commissioner of human services or a judge of the court having jurisdiction of the matter. Within 90 days after the receipt of the copy of the petition the local social services agency shall submit to the court and the commissioner a full report in writing with recommendations as to the granting of the petition. If the report is not returned within the 90 days, without fault of petitioner, the court may hear the petition upon giving the local social services agency five days notice by mail of the time and place of the hearing. If the report disapproves of the adoption of the child, the local social services agency may recommend that the court dismiss the petition.

(b) The court shall immediately refer the petition to the agency specified below for completion of a postplacement assessment and report as required by subdivision 2.

(1) If the child to be adopted has been committed to the guardianship of the commissioner or an agency under section 260.241 or an agency has been given authority to place the child under section 259.25, the court shall refer the petition to that agency, unless another agency is supervising the placement, in which case the court shall refer the petition to the supervising agency.

(2) If the child to be adopted has been placed in the petitioner's home by a direct adoptive placement, the court shall refer the petition to the agency supervising the placement under section 259.47, subdivision 3, paragraph (a), clause (6).

(3) If the child is to be adopted by an individual who is related to the child as defined by section 245A.02, subdivision 13, and in all other instances not described in clause (1) or (2), the court shall refer the petition to the local social services agency of the county in which the prospective adoptive parent lives.

Sec. 15. Minnesota Statutes 1996, section 259.53, subdivision 2, is amended to read:

Subd. 2. ADOPTION AGENCIES; POSTPLACEMENT ASSESSMENT AND REPORT. Notwithstanding the provisions of subdivision 1, if the child to be adopted has been committed to the guardianship of an agency pursuant to section 260.241, or if the child has been surrendered to an agency pursuant to section 259.25, or the child's direct adoptive placement is being supervised by an agency pursuant to section 259.47 the court shall refer the adoption petition to the agency, or, if the adopting parent has a stepparent relationship to the child, to the local social services agency of the county in which the adoption is pending.

(a) The agency or local social services agency, within 90 days of receipt of a copy of the adoption petition, to which the petition has been referred under subdivision 1 shall

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conduct a postplacement assessment and file a report with the court a within 90 days of receipt of a copy of the adoption petition. The agency shall send a copy of the report to the commissioner at the time it files the report with the court. The assessment and report of its investigation of must evaluate the environment and antecedents of the child to be adopted and of, the home of the petitioners, and its determination whether the home of placement with the petitioners meets the preferences needs of the child as described in section 259.57, subdivision 2. The report must include a recommendation to the court as to whether the petition should or should not be granted.

In making evaluations and recommendations, the postplacement assessment and report must, at a minimum, address the following:

- (1) the level of adaptation by the prospective adoptive parents to parenting the child;
- (2) the health and well-being of the child in the prospective adoptive parents' home;
- (3) the level of incorporation by the child into the prospective adoptive parents' home, extended family, and community; and

(4) the level of inclusion of the child's previous history into the prospective adoptive home, such as cultural or ethnic practices, or contact with former foster parents or biological relatives. If the report disapproves of the adoption of the child, the agency or local social services agency may recommend that the court dismiss the petition. In the case of a direct adoptive placement under section 259.47, a postplacement adoption study completed under section 259.47, subdivision 9, shall be considered as meeting the requirement for a report under this section.

(b) A postplacement adoption report is valid for 12 months following its date of completion.

(c) If the petitioner is an individual who is related to the child, as defined by section 245A.02, subdivision 13, the agency, as part of its postplacement assessment and report under paragraph (a), shall conduct a background check meeting the requirements of section 259.41, subdivision 3, paragraph (b). The prospective adoptive parent shall cooperate in the completion of the background check by supplying the information and authorizations described in section 259.41, subdivision 3, paragraph (a).

(d) If the report recommends that the court not grant the petition to adopt the child, the provisions of this paragraph apply. Unless the assessment and report were completed by the local social services agency, the agency completing the report, at the time it files the report with the court under paragraph (a), must provide a copy of the report to the local social services agency in the county where the prospective adoptive parent lives. The agency or local social services agency may recommend that the court dismiss the petition. If the local social services agency determines that continued placement in the home endangers the child's physical or emotional health, the agency shall seek a court order to remove the child from the home.

(e) If, through no fault of the petitioner, the agency to whom the petition was referred under subdivision 1, paragraph (b), fails to complete the assessment and file the report within 90 days of the date it received a copy of the adoption petition, the court may hear the petition upon giving the agency and the local social services agency, if different, five days notice by mail of the time and place of the hearing.

New language is indicated by underline, deletions by strikeout.

Sec. 16. Minnesota Statutes 1996, section 259.55, subdivision 1, is amended to read:

Subdivision 1. **AUTHORIZED PAYMENTS.** In any adoption under this chapter, a prospective adoptive parent or anyone acting in concert with, at the direction of, or on behalf of a prospective adoptive parent may pay only the following expenses of the birth parent:

(1) reasonable counseling, medical, and legal fees, which shall be paid directly to the provider of the service;

(2) reasonable expenses for transportation, meals, and lodging incurred for placement of the child or in order to receive counseling, legal, or medical services related to the pregnancy, birth, or placement;

(3) reasonable expenses for adoption services provided by an agency at the request of the birth parent, which shall be paid directly to the agency; and

(4)(i) reasonable living expenses of the birth mother which are needed to maintain an adequate standard of living which the birth mother is unable to otherwise maintain because of loss of income or other support resulting from the pregnancy.

(i) The payments may cover expenses incurred during the pregnancy-related incapacity but not for a period longer than six weeks following delivery, unless the court determines within the six-week period that the birth mother is unable to be employed due to physical limitations relating to the birth of the child;

(ii) the payment shall not be contingent upon placement of the child for adoption, consent to adoption, or cooperation in the completion of the adoption; and

(iii) reasonable living expenses does not include expenses for lost wages, gifts, educational expenses, or other similar expenses of the birth mother.

Sec. 17. Minnesota Statutes 1996, section 259.59, subdivision 1, is amended to read:

Subdivision 1. Upon adoption, the child shall become the legal child of the adopting persons and they shall become the legal parents of the child with all the rights and duties between them of birth parents and legitimate child. By virtue of the adoption the child shall inherit from the adoptive parents or their relatives the same as though the child were the natural child of the parents, and in case of the child's death intestate the adoptive parents and their relatives shall inherit the child's estate as if they had been the child's birth parents and relatives. After a decree of adoption is entered the birth 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 the child's property. The child shall not owe the birth parents or their relatives any legal duty nor shall the child inherit from the birth parents or kindred, except as provided in subdivision 1a and section 257.022, subdivision 3a.

Sec. 18. [259.60] INTERCOUNTRY ADOPTIONS; OBTAINING AMENDED BIRTH CERTIFICATE.

Subdivision 1. **VALIDITY OF INTERCOUNTRY ADOPTION.** The adoption of a child by a resident of this state under the laws of a foreign country is valid and binding under the laws of this state if the validity of the foreign adoption has been verified by the granting of an IR-3 visa for the child by the United States Immigration and Naturalization Service.

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Subd. 2. AMENDED BIRTH CERTIFICATE; PROCEDURE AND ORDER.

(a) Under the procedures in paragraph (b), a person, whose adoption of a child under the laws of a foreign country is valid in this state under subdivision 1, may petition the district court in the county where the adoptive parent resides for a decree confirming and recognizing the adoption and for a new birth certificate for the child.

(b) A court shall issue the decree and birth certificate upon receipt of the following documents:

(1) a petition by the adoptive parent requesting that the court issue a Minnesota birth certificate, and stating that the adoptive parent completed adoption of the child under the laws of a foreign country and that the adoption is valid in this state under subdivision 1. The petition must be in the form of a signed, sworn, and notarized statement;

(2) a copy of the child's original birth certificate, if available;

(3) a copy of the final adoption certificate or equivalent as issued by the foreign jurisdiction;

(4) a copy of the child's passport including the United States visa indicating IR-3 immigration status; and

(5) certified English translations of any of the documents in clauses (2) to (4) that are not written in the English language.

Sec. 19. Minnesota Statutes 1996, section 259.61, is amended to read:

259.61 HEARINGS, CONFIDENTIAL.

All hearings held in proceedings under sections 259.21 to 259.63 shall be confidential and shall be held in closed court without admittance of any persons other than the petitioners, their witnesses, the commissioner of human services or an agency, or their authorized representatives, attorneys, and persons entitled to notice by sections 259.21 to 259.63, except by order of the court. The files and records of the court in adoption proceedings shall not be open to inspection by any person except the commissioner of human services or the commissioner's representatives, an agency acting under section 259.47, subdivision 10, or upon an order of the court expressly so permitting pursuant to a petition setting forth the reasons therefor. In a stepparent adoption, upon receiving a written request from a parent whose parental rights would be or have been severed by the adoption under section 259.59, the court or the commissioner may confirm in writing whether or not an adoption decree has been granted and, if so, the date of the adoption decree.

Sec. 20. Minnesota Statutes 1996, section 259.67, subdivision 7, is amended to read:

Subd. 7. REIMBURSEMENT OF COSTS. (a) Subject to rules of the commissioner, and the provisions of this subdivision a Minnesota-licensed child-placing agency or county local social service services agency shall receive a reimbursement from the commissioner equal to 100 percent of the reasonable and appropriate cost of providing adoption services for a child certified as eligible for adoption assistance. Such assistance may include adoptive family recruitment, counseling, and special training when needed. A Minnesota-licensed child-placing agency shall receive reimbursement for adoption services it purchases for or directly provides to an eligible child. A county local social

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service services agency shall receive such reimbursement only for adoption services it purchases for an eligible child.

(b) A Minnesota-licensed child-placing agency or county local social service services agency seeking reimbursement under this subdivision shall enter into a reimbursement agreement with the commissioner before providing adoption services for which reimbursement is sought. No reimbursement under this subdivision shall be made to an agency for services provided prior to entering a reimbursement agreement. Separate reimbursement agreements shall be made for each child and separate records shall be kept on each child for whom a reimbursement agreement is made. Funds encumbered and obligated under such an agreement for the child remain available until the terms of the agreement are fulfilled or the agreement is terminated.

(c) When a local social services agency uses a purchase of service agreement to provide services reimbursable under a reimbursement agreement, the commissioner may make reimbursement payments directly to the agency providing the service if direct reimbursement is specified by the purchase of service agreement, and if the request for reimbursement is submitted by the local social services agency along with a verification that the service was provided.

Sec. 21. [259.78] **GRANDPARENT VISITATION.**

Grandparent visitation with an adopted child is governed by section 257.022.

Sec. 22. Minnesota Statutes 1996, section 259.79, subdivision 3, is amended to read:

Subd. 3. **RETENTION; RECORDS MADE PUBLIC.** All adoption records shall be retained on a permanent basis under a protected record system which ensures confidentiality and lasting preservation. All adoption records shall become public records on the 100th anniversary of the granting of the adoption decree.

Sec. 23. Minnesota Statutes 1996, section 259.83, subdivision 3, is amended to read:

Subd. 3. **IDENTIFYING INFORMATION.** In agency adoptive placements made on and after August 1, 1982, the agency responsible for or supervising the placement shall obtain from the birth parents named on the original birth certificate an affidavit attesting to the following:

(a) That the birth parent has been informed of the right of the adopted person at the age specified in section 259.89 to request from the agency the name, last known address, birthdate and birthplace of the birth parents named on the adopted person's original birth certificate;

(b) That each birth parent may file in the agency record an affidavit objecting to the release of any or all of the information listed in clause (a) about that birth parent, and that parent only, to the adopted person;

(c) That if the birth parent does not file an affidavit objecting to release of information before the adopted person reaches the age specified in section 259.89, the agency will provide the adopted person with the information upon request;

(d) That notwithstanding the filing of an affidavit, the adopted person may petition the court pursuant according to section 259.61 for release of identifying information about a birth parent;

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(e) That the birth parent shall then have the opportunity to present evidence to the court that nondisclosure of identifying information is of greater benefit to the birth parent than disclosure to the adopted person; and

(f) That any objection filed by the birth parent shall become invalid when withdrawn by the birth parent or when the birth parent dies. Upon receipt of a death certificate for the birth parent, the agency shall release the identifying information to the adopted person if requested.

Sec. 24. REPEALER.

Minnesota Statutes 1996, section 259.47, subdivision 9, is repealed.

Presented to the governor May 17, 1997

Signed by the governor May 19, 1997, 7:16 p.m.

CHAPTER 178—S.F.No. 173

An act relating to commerce; providing for the use, validity, and security of electronic signatures and messages transmitted in commerce; prescribing penalties; proposing coding for new law as Minnesota Statutes, chapter 325K.

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

Section 1. [325K.001] SHORT TITLE.

This chapter may be cited as the Minnesota Electronic Authentication Act.

Sec. 2. [325K.01] DEFINITIONS.

Subdivision 1. SCOPE. Unless the context clearly requires otherwise, the terms used in this chapter have the meanings given them in this section.

Subd. 2. ACCEPT A CERTIFICATE. "Accept a certificate" means either:

(1) to manifest approval of a certificate, while knowing or having notice of its contents; or

(2) to apply to a licensed certification authority for a certificate, without canceling or revoking the application by delivering notice of the cancellation or revocation to the certification authority and obtaining a signed, written receipt from the certification authority, if the certification authority subsequently issues a certificate based on the application.

Subd. 3. ASYMMETRIC CRYPTOSYSTEM. "Asymmetric cryptosystem" means an algorithm or series of algorithms that provide a secure key pair.

Subd. 4. CERTIFICATE. "Certificate" means a computer-based record that:

(1) identifies the certification authority issuing it;

(2) names or identifies its subscriber;

New language is indicated by underline, deletions by ~~strikeout~~.