

such agreements or arrangements are alleged to constitute a franchise within the meaning of Minnesota Statutes, section 80C.01, subdivision 4. The nonapplicability of section 32, paragraph (h), to those agreements or arrangements subject to litigation pending on the date of enactment shall not evidence any intent nor be construed to mean that they would or would not otherwise constitute a franchise within the meaning of Minnesota Statutes, section 80C.01, subdivision 4.

Sections 4, 6, 7, 42, 43, 46, 48, and 57 are effective the day following final enactment.

Sections 53 and 54 are effective the day following final enactment and apply to causes of action arising from incidents occurring on or after that date.

#### Sec. 2. **EFFECTIVE DATE.**

This act is effective retroactively to May 31, 1997.

Presented to the governor March 31, 1998

Signed by the governor April 2, 1998, 11:10 a.m.

### CHAPTER 354—H.F.No. 3332

*An act relating to adoption; changing provisions in the fathers' adoption registry; modifying conditions for open adoption agreements; amending Minnesota Statutes 1997 Supplement, sections 259.52, subdivisions 1, 4, 9, 10, 11, 12, and by adding a subdivision; and 259.58.*

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

Section 1. Minnesota Statutes 1997 Supplement, section 259.52, subdivision 1, is amended to read:

Subdivision 1. **ESTABLISHMENT OF REGISTRY; PURPOSE; FEES.** (a) The commissioner of health shall establish a putative fathers' adoption registry for the purpose of determining the identity and location of a putative father interested in a minor child who is, or is expected to be, the subject of an adoption proceeding, in order to provide notice of the adoption proceeding to the putative father who is not otherwise entitled to notice under section 259.49, subdivision 1, paragraph (a) or (b), clauses (1) to (7). The commissioner of health may establish informational material and public service announcements necessary to implement this section. Any limitation on a putative father's right to assert an interest in the child as provided in this section applies only in adoption proceedings and only to those putative fathers not entitled to notice and consent under sections 259.24 and 259.49, subdivision 1, paragraph (a) or (b), clauses (1) to (7). The commissioner of health has no independent obligation to gather or update the information to be maintained on the registry. It is the registrant's responsibility to update his personal information on the registry.

(b) The putative fathers' adoption registry must contain the following information:

(1) with respect to the putative father, the:

(i) name, including any other names by which the putative father may be known and that he may provide to the registry;

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

(ii) address at which he may be served with notice of a petition under this chapter, including any change of address;

(iii) social security number, if known;

(iv) date of birth; and

(v) if applicable, a certified copy of an order by a court of another state or territory of the United States adjudicating the putative father to be the father of this child;

(2) with respect to the mother of the child:

(i) name, including all other names known to the putative father by which the mother may be known;

(ii) if known to the putative father, her last address;

(iii) social security number, if known; and

(iv) date of birth;

(3) if known to the putative father, the name, gender, place of birth, and date of birth or anticipated date of birth of the child;

(4) the date that the commissioner of health received the putative father's registration; and

(5) other information the commissioner of health determines by rule to be necessary for the orderly administration of the registry.

(c) The commissioner of health shall notify the mother of the child whenever a putative father has registered with the adoption registry under this section. Notice shall be sent to the name and address submitted by the putative father under paragraph (b), clause (2). If no current address for the mother is submitted by the putative father under paragraph (b), clause (2), the commissioner of health shall not notify the mother. The commissioner of health has no independent obligation to locate the mother. The notice shall be mailed within 14 days of the date that the commissioner received the putative father's adoption registration unless a search has been requested under subdivision 2. There shall be no charge to the birth mother for this notice.

(d) The commissioner of health shall set reasonable fees for the use of the registry; however, a putative father shall not be charged a fee for registering. Revenues generated by the fee must be deposited in the state government special revenue fund and appropriated to the commissioner of health to administer the putative fathers' adoption registry.

Sec. 2. Minnesota Statutes 1997 Supplement, section 259.52, subdivision 4, is amended to read:

Subd. 4. **CLASSIFICATION OF REGISTRY DATA.** Data in the putative fathers' adoption registry are private data on individuals, as defined in section 13.02, subdivision 2. Data in the registry may be released to:

(1) a person who is required to search the registry under subdivision 2, if the data relate to the child who is or may be the subject of the adoption petition; or

New language is indicated by underline, deletions by strikeout.

(2) the mother of the child listed on the putative father's registration form who the commissioner of health is required to notify under subdivision 1, paragraph (c); or

(3) a public authority as provided in subdivision 3.

A person who receives data under this subdivision may use the data only for purposes authorized under this section or other law.

Sec. 3. Minnesota Statutes 1997 Supplement, section 259.52, subdivision 9, is amended to read:

Subd. 9. **NOTICE AND SERVICE FOR THOSE ON PUTATIVE FATHERS' ADOPTION REGISTRY WHO ARE NOT OTHERWISE ENTITLED TO NOTICE.** Any time after conception, an interested party, including persons intending to adopt a child, a child welfare agency with whom the mother has placed or has given written notice of her intention to place a child for adoption, the mother of a child, or any attorney representing an interested party, may file with the court administrator a written request that the putative fathers on the registry who have registered in relation to the child be served with serve by certified mail a putative fathers' adoption registry notice to registered putative father, an intent to claim parental rights with entry of appearance form, and a denial of paternity with entry of appearance form, and a consent to adoption form pursuant to subdivision 11. These documents may be served on a putative father in the same manner as a summons is served in other civil proceedings, or, in lieu of personal service, service may be made as follows:

(a) The person requesting notice shall pay to the court administrator a mailing fee plus the cost of United States postage for certified or registered mail and furnish to the court administrator an original and one copy of the putative fathers' adoption registry notice, the intent to claim parental rights with entry of appearance form, and the denial of paternity with entry of appearance and consent to adoption form together with an affidavit setting forth the putative father's last known address. The original putative fathers' adoption registry notice, the intent to claim parental rights with entry of appearance form, and the denial of paternity with entry of appearance and consent to adoption form must be retained by the court administrator.

(b) The court administrator The interested party or that party's attorney shall mail to the putative father, at the address appearing in the affidavit provided to the registry, the copy of the putative fathers' adoption registry notice to registered putative father, the intent to claim parental rights with entry of appearance form, and the denial of paternity with entry of appearance form, and the consent to adoption form by certified mail, return receipt requested. The envelope and return receipt must bear the return address of the court administrator. The receipt for certified mail must state the name and address of the addressee and the date of mailing and must be attached to the original notice.

(c) The return receipt, when returned to the court administrator filed with the court, must be attached to the original putative fathers' adoption registry notice to registered putative father, the intent to claim parental rights with entry of appearance form, and the denial of paternity with entry of appearance form, and the consent to adoption form and constitutes proof of service.

(d) The court administrator shall note the fact of service in a permanent record.

Sec. 4. Minnesota Statutes 1997 Supplement, section 259.52, subdivision 10, is amended to read:

New language is indicated by underline, deletions by strikeout.

Subd. 10. **RESPONSE TO PUTATIVE FATHERS' ADOPTION REGISTRY NOTICE TO REGISTERED PUTATIVE FATHER; LIMITATION OF RIGHTS FOR FAILURE TO RESPOND AND UPON FILING OF DISCLAIMER DENIAL OF PATERNITY.** Within 30 days of receipt of the putative fathers' adoption registry notice to registered putative father, the intent to claim parental rights with entry of appearance form, and the denial of paternity with entry of appearance form, and the consent to adoption form, the putative father must file a completed intent to claim parental rights with entry of appearance form with the court administrator stating that he intends to initiate a paternity action within 30 days of receipt of the putative fathers' adoption registry notice to registered putative father in order to preserve the right to maintain an interest in the child and receive notice during the pending adoption proceeding. Failure to initiate a paternity action within 30 days of receipt of the putative fathers' adoption registry notice to registered putative father does not act as a bar to receiving notice under section 259.49. If good cause is shown, the putative father must be allowed more time to initiate the paternity action. A putative father who files a completed denial of paternity with entry of appearance form and consent to adoption form or who fails to timely file an intent to claim parental rights with entry of appearance form with the court:

(1) is barred from later bringing or maintaining an action to assert any interest in the child during the pending adoption proceeding concerning the child;

(2) is considered to have waived and surrendered a right to notice of a hearing in any judicial proceeding for adoption of the child, and consent of that person to the adoption of the child is not required; and

(3) is considered to have abandoned the child.

Failure to register is prima facie evidence of sufficient grounds to support termination of the putative father's parental rights.

Sec. 5. Minnesota Statutes 1997 Supplement, section 259.52, subdivision 11, is amended to read:

Subd. 11. **PUTATIVE FATHERS' ADOPTION REGISTRY NOTICE; INTENT TO CLAIM PARENTAL RIGHTS WITH ENTRY OF APPEARANCE FORM; DENIAL OF PATERNITY WITH ENTRY OF APPEARANCE; AND CONSENT TO ADOPTION FORM FORMS.** (a) The putative father's adoption registry notice sent under subdivision 9 must be substantially as follows:

~~"IN THE MATTER OF NOTICE TO ....., REGISTERED PUTATIVE FATHER.~~

You have signed the putative fathers' adoption registry indicating that you are the father of a child born on the ..... day of ....., ...., (or expected to be born on or about the ..... day of ....., ....):

The mother of the child is .....

The mother has indicated that she intends to place the child for adoption.

As the alleged father of the child by virtue of signing the putative fathers' adoption registry, you have certain legal rights with respect to the child, including the right to notice of the filing of proceedings instituted for the adoption of the child. If you wish to retain your rights with respect to the child, you must file with the court administrator, Court

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

of ..... County, Minnesota, whose address is ....., Minnesota, within 30 days after the date of receipt of this notice, the enclosed intent to claim parental rights with entry of appearance form stating that you are, in fact, the father of the child and that you intend to retain your legal rights with respect to the child by initiating a paternity action within 30 days of receipt of the putative fathers' adoption registry notice.

If you do not file an intent to claim parental rights with entry of appearance form or a request for notice, then whatever legal rights you have with respect to the child, including the right to notice of any future proceedings for the adoption of the child, may be terminated without any further notice to you. When your legal rights with respect to the child are so terminated, you will not be entitled to notice of any proceeding instituted for the adoption of the child.

If you are not the father of the child, you may file with the court administrator the denial of paternity with entry of appearance and consent to adoption form enclosed herewith and you will receive no further notice with respect to the child."

(b) The intent to claim parental rights with entry of appearance form sent under subdivision 9 must be substantially as follows:

**"INTENT TO CLAIM PARENTAL RIGHTS WITH ENTRY OF APPEARANCE**

I, ....., state as follows:

(1) That I am .... years of age; and I reside at ..... in the County of ....., State of .....

(2) That I have been advised that ..... is the mother of a ..... male/female child named ..... born or expected to be born on or about ..... and that such mother has stated that I am the father of this child.

(3) I declare that I am the father of this child.

(4) I understand that the mother of this child wishes to consent to the adoption of this child. I do not consent to the adoption of this child, and I understand that I must return this intent to claim parental rights with entry of appearance form to the court administrator of ..... County, located at ....., within 30 days of receipt of this notice.

(5) I further understand that I am also obligated to initiate a paternity action under the Parentage Act (Minnesota Statutes, sections 257.51 to 257.74) within 30 days of my receiving the putative fathers' adoption registry notice, or, if the child is not yet born, within 30 days after the birth of the child, unless for good cause shown I am unable to do so. That proceeding is separate and distinct from the above mailing of intent to claim parental rights with entry of appearance form; in the paternity action, I must state that I am, in fact, the father of said child for one or more of the reasons stated in Minnesota Statutes, section 257.55, subdivision 1, and that I intend to retain my legal rights with respect to said child, and request to be notified of any further proceedings with respect to custody or adoption of the child.

(6) I hereby enter my appearance in the above entitled cause.

OATH

I have been duly sworn and I say under oath that I have read and understand this intent to claim parental rights with entry of appearance form. The facts that it contains are

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

true and correct to the best of my knowledge, and I understand that by signing this document I admit my paternity. I have signed this document as my free and voluntary act.

.....  
(Signature)

Dated this ..... day of ....., .....

Signed and Sworn Before Me This ..... day of ....., .....

.....  
(notary public)"

(e) The denial of paternity with entry of appearance and consent to adoption form sent under subdivision 9 must be substantially as follows:

**"DENIAL OF PATERNITY WITH ENTRY OF APPEARANCE AND  
CONSENT TO ADOPTION**

I, ....., state as follows:

(1) That I am .... years of age; and I reside at ..... in the County of ....., State of .....

(2) That I have been advised that ..... is the mother of a ..... male/female child named ..... born or expected to be born on or about ..... and that I have registered with the putative fathers' adoption registry stating that I am the father of this child.

(3) I now deny that I am the father of this child. My denial at this time will not subject me to any criminal liability.

(4) I further understand that the mother of this child wishes to consent to the adoption of the child. I hereby consent to the adoption of this child, and waive any rights, remedies, and defenses that I may have now or in the future. This consent is being given in order to facilitate the adoption of the child and so that the court may terminate what rights I may have to the child. This consent is not in any manner an admission of paternity.

(5) I hereby enter my appearance in the above entitled cause and waive service of summons and other pleading.

**OATH**

I have been duly sworn and I say under oath that I have read and understood this denial of paternity with entry of appearance and consent to adoption. The facts it contains are true and correct to the best of my knowledge, and I understand that by signing this document I have not admitted paternity. I have signed this document as my free and voluntary act in order to facilitate the adoption of the child.

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

\_\_\_\_\_  
 (Signature)

Dated this ..... day of ....., .....

Signed and Sworn Before Me This ..... day of ....., .....

\_\_\_\_\_  
 (notary public)"

**The names of adoptive parents must not be included in the notice.** The office of the state court administrator shall develop the following forms:

- (1) notice to registered putative father;
- (2) intent to claim parental rights;
- (3) denial of paternity; and
- (4) consent to adoption.

Sec. 6. Minnesota Statutes 1997 Supplement, section 259.52, subdivision 12, is amended to read:

Subd. 12. **RIGHT TO COUNSEL AT PUBLIC EXPENSE.** Upon proof of indigency, a putative father who has registered with the fathers' adoption registry, has received a ~~putative fathers' adoption registry~~ notice to registered putative father, and has timely filed an intent to claim paternal rights with ~~entry of appearance~~ form with the court administrator, must have counsel appointed at public expense.

Sec. 7. Minnesota Statutes 1997 Supplement, section 259.52, is amended by adding a subdivision to read:

Subd. 15. INTERNATIONAL ADOPTIONS. This section does not apply to international adoptions.

Sec. 8. Minnesota Statutes 1997 Supplement, section 259.58, is amended to read:  
 259.58 **COMMUNICATION OR CONTACT AGREEMENTS.**

Adoptive parents and a birth relative may enter an agreement regarding communication with or contact between an adopted minor, adoptive parents, and a birth relative under this section. An agreement may be entered between:

- (1) adoptive parents and a birth parent;
- (2) adoptive parents and a any other birth relative with whom the child resided before being adopted; or
- ~~(2)~~ (3) adoptive parents and any other birth relative if the child is adopted by a birth relative upon the death of both birth parents.

For purposes of this section, "birth relative" means a parent, stepparent, grandparent, brother, sister, uncle, or aunt of a minor adoptee. This relationship may be by blood or marriage. For an Indian child, birth relative includes members of the extended family as

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

defined by the law or custom of the Indian child's tribe or, in the absence of laws or custom, nieces, nephews, or first or second cousins, as provided in the Indian Child Welfare Act, United States Code, title 25, section 1903.

(a) An agreement regarding communication with or contact between minor adoptees, adoptive parents, and a birth relative is not legally enforceable unless the terms of the agreement are contained in a written court order entered in accordance with this section. An order must be sought at the same time a petition for adoption is filed. The court shall not enter a proposed order unless the terms of the order have been approved in writing by the prospective adoptive parents, a birth relative who desires to be a party to the agreement, and, if the child is in the custody of or under the guardianship of an agency, a representative of the agency. An agreement under this section need not disclose the identity of the parties to be legally enforceable. The court shall not enter a proposed order unless the court finds that the communication or contact between the minor adoptee, the adoptive parents, and a birth relative as agreed upon and contained in the proposed order would be in the minor adoptee's best interests.

(b) Failure to comply with the terms of an agreed order regarding communication or contact that has been entered by the court under this section is not grounds for:

- (1) setting aside an adoption decree; or
- (2) revocation of a written consent to an adoption after that consent has become irrevocable.

(c) An agreed order entered under this section may be enforced by filing a petition or motion with the family court that includes a certified copy of the order granting the communication, contact, or visitation, but only if the petition or motion is accompanied by an affidavit that the parties have mediated or attempted to mediate any dispute under the agreement or that the parties agree to a proposed modification. The prevailing party may be awarded reasonable attorney's fees and costs. The court shall not modify an agreed order under this section unless it finds that the modification is necessary to serve the best interests of the minor adoptee, and:

- (1) the modification is agreed to by the adoptive parent and the birth relative; or
- (2) exceptional circumstances have arisen since the agreed order was entered that justify modification of the order.

#### Sec. 9. **EFFECTIVE DATE.**

Sections 1 to 7 are effective the day following final enactment. Section 8 is effective retroactive to July 1, 1997, and applies to communication or contact agreements entered into on or after that date.

Presented to the governor April 2, 1998

Signed by the governor April 3, 1998, 11:40 a.m.

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