

CHAPTER 122—S.F.No. 834

An act relating to adoption; changing requirements and procedures for the putative fathers' adoption registry, communication or contact agreements, and postadoption reports; amending Minnesota Statutes 1998, sections 259.52, subdivisions 1, 4, 7, 9, 10, and 11; 259.58; and 259.60, by adding a subdivision.

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

Section 1. Minnesota Statutes 1998, section 259.52, subdivision 1, is amended to read:

Subdivision 1. **ESTABLISHMENT OF REGISTRY; PURPOSE; FEES.** (a) The commissioner of health shall establish a 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 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;

(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;

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(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, which is the date the registration is postmarked or the date it was delivered by means other than mail to the address on the registration form; 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 father's 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 fathers' adoption registry.

Sec. 2. Minnesota Statutes 1998, section 259.52, subdivision 4, is amended to read:

Subd. 4. **CLASSIFICATION OF REGISTRY DATA.** Data in the fathers' adoption registry, including all data provided in requesting the search of the registry, are private data on individuals, as defined in section 13.02, subdivision 2, and are nonpublic data with respect to data not on individuals, as defined in section 13.02, subdivision 9. 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;

(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; or

(4) an attorney who has signed an affidavit from the commissioner of health attesting that the attorney represents the birth mother or the prospective adoptive parents.

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 1998, section 259.52, subdivision 7, is amended to read:

Subd. 7. **WHEN AND HOW TO REGISTER.** A putative father may register with the department of health before the birth of the child but must register no later than 30 days after the birth of the child. Registrations must be in writing and signed by the putative father. A registration is timely if the date the registration is postmarked or the date it was delivered by means other than mail to the address specified on the registration form is not later than 30 days after the birth of the child.

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Sec. 4. Minnesota Statutes 1998, section 259.52, subdivision 9, is amended to read:

Subd. 9. NOTICE AND SERVICE FOR THOSE ON 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 serve by certified mail a notice to registered putative father, an intent to claim parental rights form, a denial of paternity 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 interested party or that party's attorney shall mail to the putative father, at the address provided to the registry, the copy of the notice to registered putative father, the intent to claim parental rights form, the denial of paternity form, and the consent to adoption form by certified mail, return receipt requested, and shall provide notice of the jurisdiction in which the adoption petition will be filed. 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.

(b) The return receipt, when filed with the court, must be attached to the original notice to registered putative father, the intent to claim parental rights form, the denial of paternity form, and the consent to adoption form and constitutes proof of service.

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

Sec. 5. Minnesota Statutes 1998, section 259.52, subdivision 10, is amended to read:

Subd. 10. RESPONSE TO NOTICE TO REGISTERED PUTATIVE FATHER; LIMITATION OF RIGHTS FOR FAILURE TO RESPOND AND UPON FILING OF DENIAL OF PATERNITY. Within 30 days of receipt of the notice to registered putative father, the intent to claim parental rights form, the denial of paternity 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 in the county in which the adoption petition will be filed as provided by the petitioner, stating that he intends to initiate a paternity action within 30 days of receipt of the 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 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 form and consent to adoption form or who fails to timely file an intent to claim parental rights 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

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(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. 6. Minnesota Statutes 1998, section 259.52, subdivision 11, is amended to read:

Subd. 11. **FORMS.** 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; and
- (5) notice to registered putative father of the county in which the adoption petition will be filed.

Sec. 7. Minnesota Statutes 1998, section 259.58, is amended to read:

259.58 COMMUNICATION OR CONTACT AGREEMENTS.

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

- (1) adoptive parents and a birth parent;
- (2) adoptive parents and any other birth relative or foster parent with whom the child resided before being adopted; or
- (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, adoption, or marriage. For an Indian child, birth relative includes members of the extended family as 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 may be sought at the same any time before a petition for decree of adoption is filed granted. The order must be issued within 30 days of being submitted to the court or by the granting of the decree of adoption, whichever is earlier. 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 or foster parent 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. A birth parent must approve in writing of an agreement be-

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tween adoptive parents and any other birth relative or foster parent, unless an action has been filed against the birth parent by a county under chapter 260. 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. The court shall mail a certified copy of the order to the parties to the agreement or their representatives at the addresses provided by the petitioners.

(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 parties to the agreement; or

(2) exceptional circumstances have arisen since the agreed order was entered that justify modification of the order.

Sec. 8. Minnesota Statutes 1998, section 259.60, is amended by adding a subdivision to read:

Subd. 3. **POSTADOPTION REPORT.** If a child is adopted by a resident of this state under the laws of a foreign country or if a resident of this state brings a child into the state under an IR-3 or IR-4 visa issued for the child by the United States Immigration and Naturalization Service, the postadoption reporting requirements of the country in which the child was adopted, applicable at the time of the child's adoption, must be given full faith and credit by the courts of this state and apply to the adoptive placement of that child.

Presented to the governor April 30, 1999

Signed by the governor May 4, 1999, 11:24 a.m.

CHAPTER 123—S.F.No. 296

An act relating to education; modifying special education provisions; providing for rulemaking; amending Minnesota Statutes 1998, sections 121A.41, subdivision 10; 121A.43; 125A.023; 125A.027; 125A.03; 125A.07; 125A.08; 125A.09, subdivisions 1 and 6; 125A.10; 125A.18;

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