

# MINNESOTA STATUTES 1953 ANNOTATIONS

## 257.34 CHILDREN; CUSTODY OF, ILLEGITIMATE

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only to the age of 16, even though the father is not punishable in criminal prosecution for failure to support a child after its 16th birthday. *State v Sax*, 231 M 1, 42 NW(2d) 680.

257.34 Renumbered 257.175.

257.35 Renumbered 257.176, subdivision 1.

257.36 Renumbered 257.176, subdivision 2.

257.37 Renumbered 257.176, subdivision 3.

257.38 Renumbered 257.177.

## CHAPTER 259

### CHANGE OF NAME, ADOPTION

259.01-259.09 Repealed, 1951 c 508 s 13.

### CHANGE OF NAME

NOTE: Excepted from Rules of Civil Procedure insofar as inconsistent or in conflict therewith. See Rule 81.01 and appendix A.

#### 259.10 PROCEDURE

HISTORY. Amended, 1951 c 535 s 1.

### ADOPTION

#### 259.21 DEFINITIONS

HISTORY. 1951 c 508 s 1.

Adoptions in Minnesota. 36 MLR 383.

Quasi adoption. 36 MLR 401.

Prior to the enactment of Laws 1951, Chapter 508, an illegitimate child, although adopted by a person not its father, inherited from his natural father just as does a legitimate child. In this action there was no abuse of discretion by the industrial commission in dividing the benefits of its award equally between the widow and the natural child of the deceased employee. A child within the meaning of the Workmen's Compensation Act is any child who is entitled by law to inherit. Minor children, under 16, are conclusively presumed to be wholly dependent. *O'Dell v Hingefeld*, 235 M 223, 50 NW(2d) 476.

A contract to adopt a child must be proved by clear and convincing evidence and if the alleged contract is oral, the proof must be so clear, cogent, and convincing as to leave no reasonable doubt as to its existence and terms. A contract to adopt a child cannot be implied from circumstances and partly where the circumstances are more consistent with the nonexistence of such a contract than with its existence. In *re Berge's Estate*, 234 M 31, 47 NW(2d) 428.

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## CHANGE OF NAME, ADOPTION 259.30

Under the Nebraska statutes, the adoption of an adult is not authorized, and the petition of a 65 year old widower to adopt a 26 year old man was properly denied. In re Ritchie, ..... M ....., 53 NW(2d) 753.

### 259.22 PETITION

HISTORY. 1951 c 508 s 2.

Residence for adoption purposes. 36 MLR 384.

Any substantial compliance with the requirements of the adoption law sustains the validity of the proceedings. This is remedial legislation and is liberally construed. Adoption of Anderson, 535 M 192, 50 NW(2d) 278.

### 259.24 CONSENT

HISTORY. 1951 c 508 s 4.

Consensual aspect of adoption. 36 MLR 387.

Deprivation of parents of custody. 36 MLR 390.

Where a motion to set aside the district court decree of adoption was still pending in the district court at the time when the petitioners appealed, a petition to remand would be granted so as to enable the petitioners to have a determination of their motion pending in the district court; and the granting of the petition to remand was not a suggestion as to the proper determination of the merits of the motion pending in the district court. Adoption of Anderson, 232 M 435, 44 NW(2d) 732.

### 259.25 AGREEMENT CONFERRING AUTHORITY TO PLACE FOR ADOPTION

HISTORY. 1951 c 508 s 5.

Relinquishment of parental rights and obligations. 36 MLR 392.

### 259.26 NOTICE, HEARING ON PETITION

HISTORY. 1951 c 508 s 6.

### 259.27 PETITION, COPY TO COMMISSIONER; DUTIES

HISTORY. 1951 c 508 s 7.

Probational period of residence in proposed adoptive home. 36 MLR 396.

Social inquiry and waiver. 36 MLR 387.

### 259.28 HEARING, DECREE

HISTORY. 1951 c 508 s 8.

Assurance that child will not be left in an unsuitable home. 36 MLR 396.

### 259.29 EFFECT OF ADOPTION

HISTORY. 1951 c 508 s 9.

Effect of joinder of parents with step parent in petition for adoption. Legal consequence of adoption. 36 MLR 399.

### 259.30 DECREE, ANNULMENT

HISTORY. 1951 c 508 s 10.

Setting aside of adoption decree. 36 MLR 398.

## 259.31 CHANGE OF NAME, ADOPTION

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### 259.31 HEARINGS, CONFIDENTIAL

HISTORY. 1951 c 508 s 11.

Adoption as confidential in nature. 36 MLR 397.

### 259.32 APPEALS

HISTORY. 1951 c 508 s 12.

## CHAPTER 260

### DEPENDENT, NEGLECTED, DELINQUENT CHILDREN

#### 260.01 DEFINITIONS

HISTORY. 1897 c 210 s 3, 6; 1905 c 285 s 1; 1907 c 92 s 1, 2; 1907 c 172, 394; 1909 c 172; 1909 c 204 s 1; 1909 c 232, 305, 394, 418; 1911 c 149 s 1; 1911 c 353 s 1; 1913 c 43 s 1; 1913 c 83 s 1-3; 1913 c 260 s 2; 1913 c 364 s 1; GS 1913 s 7162-7196; 1915 c 228; 1917 c 397 s 1; GS 1923 s 8636; 1927 c 192 s 1; MS 1927 s 8636; 1949 c 39 s 1.

Children of divorce. 32 MLR 766.

An abandoned child, or a child in an unfit place for him by reason of his parents' improvidence or neglect, is termed a "neglected child" within the social welfare statutes. Where minor children, domiciled in Lyon county with parents were placed in a home in Martin county after having been adjudged neglected children, and their temporary custody placed in the Lyon county welfare board, the children retained the domicile of the father at the time the parents were found to have neglected them, and their constructive domicile in Lyon county, without actual physical presence therein, was sufficient to meet the requirements of being "residents" of Lyon county. The probate court of such county had jurisdiction of proceedings for the appointment of a general guardian of the children. *Kowalke's Guardianship*, 232 M 292, 46 NW(2d) 275.

The state as *parens patriae*, possesses protective power over dependent and delinquent infants and may exercise it in the manner prescribed by statute. The government must consider the welfare, comfort and interests of a child in regulating its custody. In re adoption of Anderson, 235 M 192, 50 NW(2d) 278.

In order for the recovery of the parent to be barred because of negligence in connection with the supervision of a trespassing child who has suffered injury from an artificial condition maintained on land entered upon, evidence must establish that parent had some knowledge that child was frequenting dangerous area and failed to warn with reference thereto or, to otherwise take adequate precautions to prevent child from going into such area. *Doren v Northwestern Baptist Hospital Ass'n*, ..... M ....., 60 NW(2d) 361.

Before any commitment is made to the commission it should file its certificate as prescribed by subdivision 11, to the effect that it is prepared to discharge its duties and functions. If not prepared to accept all commitments the commission should serve only those it is prepared to properly serve with its present facilities. OAG Oct. 1, 1947 (145-B-1).

The proceeds of a claim for damages for death by wrongful act were divided between the widow and four minor children. The children's money was deposited in a savings bank for the children. The mother having exhausted her funds has applied for relief under the Aid to Delinquent Children Act. The money arising from the claim for wrongful death is not a part of the estate of the deceased. It belongs to the surviving spouse and next of kin. The district court having authority to order the money deposited in a savings account for the children would have power to