

## CHAPTER 257

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## CUSTODY

## 257.01 RECORDS REQUIRED.

Each person or authorized child placing agency permitted by law to receive children, secure homes for children, or care for children, shall keep a record containing the name, age, former residence, legal status, health records, sex, race, and accumulated length of time in foster care, if applicable, of each child received; the name, former residence, occupation, health history, and character, of each genetic parent; the date of reception, placing out, and adoption of each child, and the name, race, occupation, and residence of the person with whom a child is placed; the date of the removal of any child to another home and the reason for removal; the date of termination of the guardianship; the history of each child until the child reaches the age of 18 years, is legally adopted, or is discharged according to law; and further demographic and other information as is required by the commissioner of human services.

**History:** (4560) Ex1919 c 51 s 1; 1951 c 644 s 1; 1973 c 725 s 47; 1983 c 278 s 1; 1984 c 654 art 5 s 58; 1986 c 444

## 257.02 SURRENDER OF PARENTAL RIGHTS.

No person other than the parents or relatives may assume the permanent care and custody of a child under 14 years of age unless authorized so to do by an order or decree

of court. Except in proceedings for adoption, no parent may assign or otherwise transfer to another parental rights or duties with respect to the permanent care and custody of a child under 14 years of age. Any such transfer shall be void.

**History:** (4561) *Ex1919 c 51 s 2; 1986 c 444*

**257.021** [Repealed, 3Sp1981 c 3 s 20]

## **257.022 RIGHTS OF VISITATION TO UNMARRIED PERSONS.**

**Subdivision 1. When parent is deceased.** If a parent of an unmarried minor child is deceased, the parents and grandparents of the deceased parent may be granted reasonable visitation rights to the unmarried minor child during minority by the district or county court upon finding that visitation rights would be in the best interests of the child and would not interfere with the parent child relationship. The court shall consider the amount of personal contact between the parents or grandparents of the deceased parent and the child prior to the application.

**Subd. 2. When parents' marriage is dissolved.** In all proceedings for dissolution, subsequent to the commencement of the proceeding and continuing thereafter 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, during minority if it finds that visitation rights would be in the best interests of the child and 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.

**Subd. 2a. When child has resided with grandparents.** If an unmarried minor has resided with grandparents or great-grandparents for a period of 12 months or more, and is subsequently removed from the home by the minor's parents, the grandparents or great-grandparents may petition the district or county court for an order granting them reasonable visitation rights to the child during minority. The court shall grant the petition if it finds that visitation rights would be in the best interests of the child and would not interfere with the parent and child relationship.

**Subd. 3. Exception for adopted children.** This section shall not apply if the child has been adopted by a person other than a stepparent or grandparent. Any visitation rights granted pursuant to this section prior to the adoption of the child shall be automatically terminated upon such adoption.

**History:** 1976 c 198 s 1; 1977 c 238 s 1,2; 1986 c 444

## **257.025 CUSTODY DISPUTES.**

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

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

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

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

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

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

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

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

(h) The cultural background of the child;

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

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

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

**History:** 1974 c 330 s 1; 1980 c 589 s 29

### **257.03 NOTICE TO COMMISSIONER OF HUMAN SERVICES.**

Any person receiving a child in the person's home with intent to adopt the child or keep the child permanently, except a person receiving a child from an authorized agency, must notify the commissioner of human services in writing within 30 days after the child is received. Notice shall state the true name of the child; the child's last previous address; the name and address of the child's parents or legal guardian and of persons with whom the child last resided; and the names and addresses of persons who placed the child in the home, arranged for, or assisted with arrangements for the child's placement there; and such other facts about the child or the home as the commissioner may require. It is the duty of the commissioner or a designated agent to investigate the circumstances surrounding the child's entry into the home and to take appropriate action to assure for the child, the natural parents, and the foster parents the full protection of all laws of Minnesota relating to custody and foster care of children. Except as provided by section 317.65, no person shall solicit, receive, or accept any payment, promise of payment, or compensation, for placing a child in foster care or for assisting to place a child in foster care. Nor shall any person pay or promise to pay or in any way compensate any person, for placing or for assisting to place a child in foster care.

**History:** (4562) Ex1919 c 51 s 3; 1949 c 227 s 1; 1951 c 644 s 2; 1955 c 587 s 1; 1984 c 654 art 5 s 58; 1986 c 444

### **257.04 INVESTIGATION.**

Upon receipt of the notice provided for in section 257.03 the commissioner of human services or a designated agent of the commissioner shall visit the child and the home and shall continue to visit and supervise the home and the child or take other appropriate action to assure that the welfare of the child, natural parents and foster parents are fully protected.

**History:** (4563) Ex1919 c 51 s 4; 1935 c 112 s 2; 1949 c 227 s 2; 1955 c 587 s 2; 1984 c 654 art 5 s 58; 1986 c 444

### **257.05 IMPORTATION.**

Subdivision 1. No person, except as provided by subdivision 2, shall bring or send into the state any child for the purpose of placing the child out or procuring the child's adoption without first obtaining the consent of the commissioner of human services, and such person shall conform to all rules of the commissioner of human services and laws of the state of Minnesota relating to protection of children in foster care. The person bringing or sending the child shall file with the commissioner of human services a bond to the state, approved by the commissioner of human services, in the penal sum of \$1,000, conditioned that the person will not send or bring into the state any child who is incorrigible or unsound of mind or body and will remove any such child who becomes a public charge or who, in the opinion of the commissioner of human services, becomes a menace to the community prior to adoption or becoming of legal age; provided however, that the commissioner of human services may waive the filing of a bond and accept in lieu thereof a written guarantee of responsibility in such form as the commissioner shall prescribe. Before any child shall be brought or sent into the state for the purpose of being placed in foster care, the person bringing or sending the child into the state shall first notify the commissioner of human services of the person's

intention, and shall obtain from the commissioner of human services a certificate stating that the home in which the child is to be placed is, in the opinion of the commissioner of human services, a suitable adoptive home for the child if legal adoption is contemplated or that the home meets the commissioner's requirements for licensing of foster homes if legal adoption is not contemplated. The commissioner is responsible for protecting the child's interests so long as the child remains within the state and until the child reaches the age of 18 or is legally adopted. Notice to the commissioner shall state the name, age, and personal description of the child, and the name and address of the person with whom the child is to be placed, and such other information about the child and the foster home as may be required by the commissioner.

Subd. 2. A parent, stepparent, grandparent, brother, sister and aunt or uncle in the first degree of the minor child who bring a child into the state for placement within their own home shall be exempt from the provisions of subdivision 1. This relationship may be by blood or marriage.

**History:** (4564) *Ex1919 c 51 s 5; 1949 c 21 s 1; 1955 c 587 s 3; 1965 c 115 s 1; 1973 c 725 s 48; 1984 c 654 art 5 s 58; 1986 c 444*

## 257.06 EXPORTATION.

No person except a parent or guardian may take or send a child out of the state for purposes of placing the child in foster care without first obtaining the approval of the commissioner of human services.

**History:** (4565) *Ex1919 c 51 s 6; 1955 c 587 s 4; 1984 c 654 art 5 s 58; 1986 c 444*

## 257.065 AUTHORIZED CHILD PLACING AGENCY DEFINITION.

For the purposes of this chapter and chapter 259, "authorized child placing agency" means the local social service agency under the authority of the county welfare board or human service board, or any agency licensed by the commissioner of human services or a comparable authority in the state or United States, to place children for foster care or adoption.

**History:** 1983 c 278 s 2; 1984 c 654 art 5 s 58

## 257.07 [Repealed, 1978 c 602 s 13]

## 257.071 CHILDREN IN FOSTER HOMES; PLACEMENT; REVIEW.

Subdivision 1. **Placement; plan.** A case plan shall be prepared within 30 days after any child is placed in a residential facility by court order or by the voluntary release of the child by the parent or parents.

For purposes of this section, a residential facility means any group home, family foster home or other publicly supported out-of-home residential facility, including any out-of-home residential facility under contract with the state, county or other political subdivision, or any agency thereof, to provide those services.

For the purposes of this section, a case plan means a written document which is ordered by the court or which is prepared by the social service agency responsible for the residential facility placement and is signed by the parent or parents, or other custodian, of the child, the child's legal guardian, the social service agency responsible for the residential facility placement, and, if possible, the child. The document shall be explained to all persons involved in its implementation, including the child who has signed the document, and shall set forth:

(1) The specific reasons for the placement of the child in a residential facility, including a description of the problems or conditions in the home of the parent or parents which necessitated removal of the child from home;

(2) The specific actions to be taken by the parent or parents of the child to eliminate or correct the problems or conditions identified in clause (1), and the time period during which the actions are to be taken;

(3) The financial responsibilities and obligations, if any, of the parents for the support of the child during the period the child is in the residential facility;

(4) The visitation rights and obligations of the parent or parents during the period the child is in the residential facility;

(5) The social and other supportive services to be provided to the parent or parents of the child, the child, and the residential facility during the period the child is in the residential facility;

(6) The date on which the child is expected to be returned to the home of the parent or parents;

(7) The nature of the effort to be made by the social service agency responsible for the placement to reunite the family; and

(8) Notice to the parent or parents that placement of the child in foster care may result in termination of parental rights but only after notice and a hearing as provided in chapter 260.

The parent or parents and the child each shall have the right to legal counsel in the preparation of the case plan and shall be informed of the right at the time of placement of the child. The child shall also have the right to a guardian ad litem. If unable to employ counsel from their own resources, the court shall appoint counsel upon the request of the parent or parents or the child or the child's legal guardian. The parent or parents may also receive assistance from any person or social service agency in preparation of the case plan.

After the plan has been agreed upon by the parties involved, the foster parents shall be fully informed of the provisions of the case plan.

**Subd. 1a. Protection of heritage or background.** The authorized child placing agency shall ensure that the child's best interests are met by giving due consideration of the child's race or ethnic heritage in making a family foster care placement. The authorized child placing agency shall place a child, released by court order or by voluntary release by the parent or parents, in a family foster home selected by following the preferences described in section 260.181, subdivision 3.

**Subd. 2. Six month review of placements.** There shall be an administrative review of the case plan of each child placed in a residential facility no later than 180 days after the initial placement of the child in a residential facility and at least every six months thereafter if the child is not returned to the home of the parent or parents within that time. As an alternative to the administrative review, the social service agency responsible for the placement may bring a petition as provided in section 260.131, subdivision 1a, to the court for review of the foster care to determine if placement is in the best interests of the child. This petition must be brought to the court within the applicable six months and is not in lieu of the requirements contained in subdivision 3 or 4.

**Subd. 3. Review of voluntary placements.** Subject to the provisions of subdivision 4, if the child has been placed in a residential facility pursuant to a voluntary release by the parent or parents, and is not returned home within 18 months after initial placement in the residential facility, the social service agency responsible for the placement shall:

(a) Return the child to the home of the parent or parents; or

(b) File an appropriate petition pursuant to section 260.131, subdivision 1, or 260.231, and if the petition is dismissed, petition the court within two years, pursuant to section 260.131, subdivision 1a, to determine if the placement is in the best interests of the child.

**Subd. 4. Review of developmentally disabled child placements.** If a developmentally disabled child, as that term is defined in United States Code, title 42, section 6001 (7), as amended through December 31, 1979, has been placed in a residential facility pursuant to a voluntary release by the child's parent or parents because of the child's handicapping conditions, the social service agency responsible for the placement shall bring a petition for review of the child's foster care status, pursuant to section 260.131, subdivision 1a, rather than a petition as required by subdivision 3, clause (b) of this

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section, after the child has been in foster care for 18 months. Whenever a petition for review is brought pursuant to this subdivision, a guardian ad litem shall be appointed for the child.

**Subd. 5. Rules; children in residential facilities.** The commissioner of human services shall promulgate all rules necessary to carry out the provisions of Public Law Number 96-272 as regards the establishment of a state goal for the reduction of the number of children in residential facilities beyond 24 months.

**Subd. 6. Annual foster care report.** The commissioner of human services shall publish annually a report on children in residential facilities as defined in subdivision 1. The report shall include, by county and statewide, information on legal status, living arrangement, age, sex, race, accumulated length of time in foster care, and other demographic information deemed appropriate on all children placed in residential facilities. The report shall also state the extent to which authorized child placing agencies comply with sections 257.072 and 259.455 and include descriptions of the methods used to comply with those sections.

**History:** 1978 c 602 s 1; 1980 c 555 s 1,2; 1980 c 580 s 2; 1981 c 290 s 1-3; 1982 c 553 s 2; 1983 c 278 s 3-5; 1984 c 654 art 5 s 58; 1986 c 444

## 257.072 RECRUITMENT OF FOSTER FAMILIES.

Each authorized child placing agency shall make special efforts to recruit a foster family from among the child's relatives, except as authorized in section 260.181, subdivision 3, and among families of the same minority racial or minority ethnic heritage. Special efforts include contacting and working with community organizations and religious organizations, utilizing local media and other local resources, and conducting outreach activities. The agency may accept any gifts, grants, offers of services, and other contributions to use in making special recruitment efforts.

**History:** 1983 c 278 s 6

**257.08** [Repealed, 1953 c 613 s 4]

**257.081** Subdivision 1. [Repealed, 1976 c 243 s 15]

Subd. 2. [Repealed, 1976 c 243 s 15]

Subd. 3. [Repealed, 1976 c 243 s 15]

Subd. 4. [Repealed, 1976 c 243 s 15]

Subd. 5. [Repealed, 1976 c 243 s 15]

Subd. 6. [Repealed, 1976 c 243 s 15]

Subd. 7. [Repealed, 1976 c 243 s 15]

Subd. 8. [Renumbered 257.082, subd 1]

Subd. 9. [Renumbered 257.082, subd 2]

Subd. 10. [Repealed, 1976 c 243 s 15]

**257.082** [Repealed, 1976 c 243 s 15]

**257.09** [Repealed, 1953 c 613 s 10]

**257.091** [Repealed, 1976 c 243 s 15]

**257.10** [Repealed, 1953 c 613 s 2]

**257.101** [Repealed, 1976 c 243 s 15]

**257.102** [Repealed, 1976 c 243 s 15]

**257.11** [Repealed, 1953 c 613 s 6]

**257.111** Subdivision 1. [Repealed, 1976 c 243 s 15]

Subd. 2. [Repealed, 1971 c 539 s 8]

Subd. 3. [Repealed, 1971 c 539 s 8]

Subd. 4. [Repealed, 1971 c 539 s 8]

Subd. 5. [Repealed, 1971 c 539 s 8]

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Subd. 6. [Repealed, 1971 c 539 s 8]

- 257.12 [Repealed, 1953 c 613 s 6]
- 257.121 [Repealed, 1971 c 539 s 8]
- 257.123 [Repealed, 1976 c 243 s 15]
- 257.124 [Repealed, 1976 c 243 s 15]
- 257.13 [Repealed, 1971 c 539 s 8]
- 257.14 [Repealed, 1971 c 539 s 8]
- 257.15 [Repealed, 1971 c 539 s 8]
- 257.16 [Repealed, 1953 c 613 s 10]
- 257.17 [Repealed, 1953 c 613 s 10]

## 257.175 DUTIES OF COMMISSIONER OF HUMAN SERVICES.

It shall be the duty of the commissioner of human services to promote the enforcement of all laws for the protection of defective, dependent, neglected, and delinquent children, to cooperate to this end with juvenile courts and all reputable child-helping and child-placing agencies of a public or private character, and to take the initiative in all matters involving the interests of such children where adequate provision therefor has not already been made. The commissioner may appoint a chief executive officer and such assistants as shall be necessary to carry out the purposes of this section and section 257.33.

**History:** (4456) 1917 c 194 s 3; 1965 c 45 s 37; 1980 c 589 s 30; 1984 c 654 art 5 s 58

- 257.176 [Repealed, 1959 c 480 s 6]
- 257.177 [Repealed, 1959 c 480 s 6]

## ILLEGITIMACY

- 257.18 [Repealed, 1971 c 143 s 16]
- 257.19 [Repealed, 1971 c 143 s 16]
- 257.20 [Repealed, 1971 c 143 s 16]
- 257.21 [Repealed, 1971 c 143 s 16]
- 257.22 [Repealed, 1971 c 143 s 16]
- 257.23 [Repealed, 1971 c 143 s 16]
- 257.24 [Repealed, 1971 c 143 s 16]
- 257.25 [Repealed, 1971 c 143 s 16]
- 257.251 [Repealed, 1980 c 589 s 38]
- 257.252 [Repealed, 1980 c 589 s 38]
- 257.253 [Repealed, 1980 c 589 s 38]
- 257.254 [Repealed, 1980 c 589 s 38]
- 257.255 [Repealed, 1980 c 589 s 38]
- 257.256 [Repealed, 1980 c 589 s 38]
- 257.257 [Repealed, 1980 c 589 s 38]
- 257.258 [Repealed, 1980 c 589 s 38]
- 257.259 [Repealed, 1980 c 589 s 38]
- 257.26 [Repealed, 1971 c 143 s 16]
- 257.261 [Repealed, 1980 c 589 s 38]
- 257.262 [Repealed, 1980 c 589 s 38]
- 257.263 [Repealed, 1980 c 589 s 38]
- 257.264 [Repealed, 1980 c 589 s 38]
- 257.27 [Repealed, 1980 c 589 s 38]

- 257.28 [Repealed, 1980 c 589 s 38]  
 257.29 [Repealed, 1980 c 589 s 38]  
 257.30 [Repealed, 1980 c 589 s 38]  
 257.31 [Repealed, 1980 c 589 s 38]  
 257.32 [Repealed, 1980 c 589 s 38]

**257.33 DUTIES OF COMMISSIONER OF HUMAN SERVICES.**

It shall be the duty of the commissioner of human services to offer appropriate social services to any pregnant woman who is in need of social services under criteria prescribed by rule of the commissioner. The commissioner shall also offer appropriate social services to the woman and her child after the birth of the child. Every birth to a minor shall be reported by the hospital where the birth occurs, within three working days after the birth. The hospital shall make the report to the commissioner on a form provided by the department of human services and shall notify the minor that the report has been made.

**History:** (4455) 1917 c 194 s 2; 1980 c 589 s 31; 1981 c 257 s 1; 1984 c 654 art 5 s 58

**257.34 DECLARATION OF PARENTAGE.**

Subdivision 1. **Acknowledgment by parents.** The mother and father of a child born to a mother who was not married to the child's father when the child was conceived nor when the child was born may, in a writing signed by both of them before a notary public, declare and acknowledge under oath that they are the biological parents of the child. The declaration may provide that any such child born to the mother at any time before or up to ten months after the date of execution of the declaration is the biological child of the signatories. Execution of the declaration shall:

(a) have the same consequences as an acknowledgment by the signatories of parentage of the child for the purposes of sections 62A.041 and 62C.14, subdivision 5a;

(b) be conclusive evidence that the signatories are parents of the child for the purposes of sections 176.111 and 197.09 to 197.11;

(c) have the same consequences as an acknowledgment by the father of paternity of the child for the purposes of sections 257.57 and 257.66;

(d) when timely filed with the division of vital statistics of the Minnesota department of health as provided in section 259.261, qualify as an affidavit stating the intention of the signatories to retain parental rights as provided in section 259.261 if it contains the information required by section 259.261 or rules promulgated thereunder;

(e) have the same consequences as a writing declaring paternity of the child for the purposes of section 524.2-109; and

(f) be conclusive evidence that the signatories are parents of the child for the purposes of chapter 573.

Subd. 2. The declaration authorized by subdivision 1 shall be conclusive evidence of all the matters stated therein and shall have the same effect as an adjudication of paternity for the purposes of the statutory provisions described in subdivision 1.

Subd. 3. The declaration authorized by subdivision 1 shall not affect the rights or duties arising out of a parent-child relationship of any person not a signatory to the declaration claiming to be the parent of the child nor shall the declaration impair any rights of the child arising out of a parent-child relationship against any person not a signatory to the declaration.

**History:** 1980 c 561 s 3; 1981 c 349 s 1; 1983 c 7 s 7; 1983 c 243 s 5 subd 7; 1985 c 250 s 23



**MINNESOTA INDIAN FAMILY  
PRESERVATION ACT**

**257.35 CITATION.**

Sections 257.35 to 257.357 may be cited as the "Minnesota Indian family preservation act."

**History:** 1985 c 111 s 1

**257.351 DEFINITIONS.**

Subdivision 1. **Scope.** As used in sections 257.35 to 257.357, the following terms have the meanings given them.

Subd. 2. **Administrative review.** "Administrative review" means review under section 257.071.

Subd. 3. **Child placement proceeding.** "Child placement proceeding" includes a judicial proceeding which could result in the following:

(a) "Adoptive placement" means the permanent placement of an Indian child for adoption, including an action resulting in a final decree of adoption.

(b) "Involuntary foster care placement" means an action removing an Indian child from its parents or Indian custodian for temporary placement in a foster home, institution, or the home of a guardian. The parent or Indian custodian cannot have the child returned upon demand, but parental rights have not been terminated.

(c) "Preadoptive placement" means the temporary placement of an Indian child in a foster home or institution after the termination of parental rights, before or instead of adoptive placement.

(d) "Termination of parental rights" means an action resulting in the termination of the parent-child relationship under section 260.221.

The terms include placements based upon juvenile status offenses, but do not include a placement based upon an act which if committed by an adult would be deemed a crime, or upon an award of custody in a divorce proceeding to one of the parents.

Subd. 4. **Demand.** "Demand" means a written and notarized statement signed by a parent or Indian custodian of a child which requests the return of the child who has been voluntarily placed in foster care.

Subd. 5. **Indian.** "Indian" means a person who is a member of an Indian tribe or an Alaskan native and a member of a regional corporation as defined in section 7 of the Alaska Native Claims Settlement Act, United States Code, title 43, section 1606.

Subd. 6. **Indian child.** "Indian child" means an unmarried person who is under age 18 and is:

- (1) a member of an Indian tribe; or
- (2) eligible for membership in an Indian tribe.

Subd. 7. **Indian child's tribe.** "Indian child's tribe" means the Indian tribe in which an Indian child is a member or eligible for membership. In the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian child's tribe is the tribe with which the Indian child has the most significant contacts. If that tribe does not express an interest in the outcome of the actions taken under sections 257.35 to 257.357 with respect to the child, any other tribe in which the child is eligible for membership that expresses an interest in the outcome may act as the Indian child's tribe.

Subd. 8. **Indian custodian.** "Indian custodian" means an Indian person who has legal custody of an Indian child under tribal law or custom or under state law, or to whom temporary physical care, custody, and control has been transferred by the parent of the child.

Subd. 9. **Indian tribe.** "Indian tribe" means an Indian tribe, band, nation, or

other organized group or community of Indians recognized as eligible for the services provided to Indians by the secretary because of their status as Indians, including any band under the Alaska Native Claims Settlement Act, United States Code, title 43, section 1602, and exercising tribal governmental powers.

Subd. 10. **Local social service agency.** "Local social service agency" means the local agency under the authority of the county welfare or human services board or county board of commissioners which is responsible for human services.

Subd. 11. **Parent.** "Parent" means the biological parent of an Indian child, or any Indian person who has lawfully adopted an Indian child, including a person who has adopted a child by tribal law or custom. It does not include an unmarried father whose paternity has not been acknowledged or established.

Subd. 12. **Private child placing agency.** "Private child placing agency" means a private organization, association, or corporation providing assistance to children and parents in their own homes and placing children in foster care or for adoption.

Subd. 13. **Reservation.** "Reservation" means Indian country as defined in United States Code, title 18, section 1151 and any lands which are either held by the United States in trust for the benefit of an Indian tribe or individual, or held by an Indian tribe or individual subject to a restriction by the United States against alienation.

Subd. 14. **Secretary.** "Secretary" means the secretary of the United States Department of the Interior.

Subd. 15. **Tribal court.** "Tribal court" means a court with jurisdiction over child custody proceedings which is either a court of Indian offenses, or a court established and operated under the code or custom of an Indian tribe, or the administrative body of a tribe which is vested with authority over child custody proceedings.

Subd. 16. **Tribal social service agency.** "Tribal social service agency" means the unit under authority of the governing body of the Indian tribe which is responsible for human services.

Subd. 17. **Voluntary foster care placement.** "Voluntary foster care placement" means a decision in which there has been participation by a local social service agency or private child placing agency resulting in the temporary placement of an Indian child away from the home of the child's parents or Indian custodian in a foster home, institution, or the home of a guardian, and the parent or Indian custodian may have the child returned upon demand.

**History:** 1985 c 111 s 2; 1986 c 444

## **257.352 SOCIAL SERVICE AGENCY AND PRIVATE LICENSED CHILD PLACING AGENCY NOTICE TO TRIBES.**

Subdivision 1. **Determination of Indian child's tribe.** The local social service agency or private licensed child placing agency shall determine whether a child brought to its attention for the purposes described in this section is an Indian child and the identity of the Indian child's tribe.

Subd. 2. **Agency notice of potential out-of-home placement.** When a local social service agency or private child placing agency determines that an Indian child is in a dependent or other condition that could lead to an out-of-home placement and requires the continued involvement of the agency with the child for a period in excess of 30 days, the agency shall send notice of the condition and of the initial steps taken to remedy it to the Indian child's tribal social service agency within seven days of the determination. At this and any subsequent stage of its involvement with an Indian child, the agency shall, upon request, give the tribal social service agency full cooperation including access to all files concerning the child. If the files contain confidential or private data, the agency may require execution of an agreement with the tribal social service agency that the tribal social service agency shall maintain the data according to statutory provisions applicable to the data.

Subd. 3. **Private child placing agency notice of potential preadoptive or adoptive placement.** When a private child placing agency determines that an Indian child is in

a dependent or other condition that could lead to a preadoptive or adoptive placement, the agency shall send notice of the condition to the Indian child's tribal social service agency within seven days of the determination. The agency shall include in the notice the identity of the birthparents and child absent written objection by the birthparents. The private child placing agency shall inform the birthparents of the Indian child of any services available to the Indian child through the child's tribal social service agency, including child placement services, and shall additionally provide the birthparents of the Indian child with all information sent from the tribal social service agency in response to the notice.

**Subd. 4. Identification of extended family members.** Any agency considering placement of an Indian child shall make reasonable efforts to identify and locate extended family members.

**History:** 1985 c 111 s 3

### **257.353 VOLUNTARY FOSTER CARE PLACEMENT.**

**Subdivision 1. Determination of Indian child's tribe.** The local social service agency or private licensed child placing agency shall determine whether a child brought to its attention for the purposes described in this section is an Indian child and the identity of the Indian child's tribe.

**Subd. 2. Notice.** When an Indian child is voluntarily placed in foster care, the local social service agency involved in the decision to place the child shall give notice of the placement to the child's parents, tribal social service agency, and the Indian custodian within seven days of placement, excluding weekends and holidays.

If a private licensed child placing agency makes a temporary voluntary foster care placement pending a decision on adoption by a parent, notice of the placement shall be given to the child's parents, tribal social service agency, and the Indian custodian upon the filing of a petition for termination of parental rights or three months following the temporary placement, whichever occurs first.

At this and any subsequent stage of its involvement with an Indian child, the agency shall, upon request, give the tribal social service agency full cooperation including access to all files concerning the child. If the files contain confidential or private data, the agency may require execution of an agreement with the tribal social service agency that the tribal social service agency shall maintain the data according to statutory provisions applicable to the data.

**Subd. 3. Notice of administrative review.** In an administrative review of a voluntary foster care placement, the tribal social service agency of the child, the Indian custodian, and the parents of the child shall have notice and a right of participation in the review.

**Subd. 4. Return of child in voluntary placement.** Upon demand by the parent or Indian custodian of an Indian child, the local social service agency or private licensed child placing agency shall return the child in voluntary foster care placement to the parent or Indian custodian within 24 hours of the receipt of the demand. If the request for return does not satisfy the requirement of section 257.351, subdivision 4, the local social service agency or private child placing agency shall immediately inform the parent or Indian custodian of the Indian child of the requirement.

**Subd. 5. Identification of extended family members.** Any agency considering placement of an Indian child shall make reasonable efforts to identify and locate extended family members.

**History:** 1985 c 111 s 4

### **257.354 CHILD PLACEMENT PROCEEDINGS.**

**Subdivision 1. Indian tribe jurisdiction.** An Indian tribe with a tribal court has exclusive jurisdiction over a child placement proceeding involving an Indian child who resides within the reservation of such tribe at the commencement of the proceedings. When an Indian child is in the legal custody of a person or agency pursuant to an order

of a tribal court, the Indian tribe retains exclusive jurisdiction, notwithstanding the residence or domicile of the child.

Subd. 2. **Court determination of tribal affiliation of child.** In any child placement proceeding, the court shall establish whether an Indian child is involved and the identity of the Indian child's tribe.

Subd. 3. **Transfer of proceedings.** In a proceeding for the termination of parental rights or involuntary foster care placement of an Indian child not within the jurisdiction of subdivision 1, the court, in the absence of good cause to the contrary, shall transfer the proceeding to the jurisdiction of the tribe absent objection by either parent, upon the petition of either parent or the Indian custodian or the Indian child's tribe. The transfer shall be subject to declination by the tribal court of such tribe.

Subd. 4. **Effect of tribal court placement orders.** To the extent that any child subject to sections 257.35 to 257.357 is otherwise eligible for social services, orders of a tribal court concerning placement of such child shall have the same force and effect as orders of a court of this state. In any case where the tribal court orders placement through a local social service agency, the court shall provide to the local agency notice and an opportunity to be heard regarding the placement. Financial responsibility for the placement shall be determined by the local social service agency and shall be subject to review by the commissioner in accordance with sections 14.01 to 14.69.

**History:** 1985 c 111 s 5

#### 257.355 PLACEMENT RECORDS.

The commissioner of human services shall publish annually an inventory of all Indian children in residential facilities. The inventory shall include, by county and statewide, information on legal status, living arrangement, age, sex, tribe in which the child is a member or eligible for membership, accumulated length of time in foster care, and other demographic information deemed appropriate concerning all Indian children in residential facilities. The report must also state the extent to which authorized child placing agencies comply with the order of preference described in United States Code, title 25, section 1901, et seq.

**History:** 1985 c 111 s 6

#### 257.356 RECORDS; INFORMATION AVAILABILITY.

Subdivision 1. **Court decree information.** A state court entering a final decree or order in an Indian child adoptive placement shall provide the department of human services and the child's tribal social service agency with a copy of the decree or order together with such other information to show:

- (1) the name and tribal affiliation of the child;
- (2) the names and addresses of the biological parents;
- (3) the names and addresses of the adoptive parents; and
- (4) the identity of any agency having files or information relating to the adoptive placement.

If the court records contain an affidavit of the biological or adoptive parent or parents requesting anonymity, the court shall delete the name and address of the biological or adoptive parents from the information sent to the child's tribal social service agency.

Subd. 2. **Disclosure of records.** Upon the request of an adopted Indian person over the age of 18, the adoptive or foster parents of an Indian person, or an Indian tribal social service agency, the department of human services shall disclose to the Indian person's tribe information necessary for membership of an Indian person in the tribe in which the person may be eligible for membership or for determining any rights or benefits associated with that membership. When the documents relating to the person contain an affidavit from the biological or adoptive parent or parents requesting anonymity, the department must use the procedures described in United States Code, title 25, section 1951, paragraph (b).

**History:** 1985 c 111 s 7

**257.357 RULE CHANGE.**

The commissioner of human services shall amend Minnesota Rules, parts 9545.0210 and 9545.0790, to provide that an agency that places Indian children shall cooperate with the Indian child's tribe in securing placement that is consistent with the child's racial or ethnic heritage, as indicated by the policy statements in sections 259.255, and 259.28, subdivision 2. The amendment is not subject to the rulemaking provisions of chapter 14, but the commissioner must comply with section 14.38, subdivision 7, in adopting the amendment.

*History: 1985 c 111 s 8*

**INTERSTATE COMPACT ON THE PLACEMENT  
OF CHILDREN****257.40 INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN.**

The interstate compact on the placement of children is hereby enacted into law and entered into with all other jurisdictions legally joining therein in form substantially as follows:

**ARTICLE 1****Purpose and Policy**

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

(a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(b) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(c) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis on which to evaluate a projected placement before it is made.

(d) Appropriate jurisdictional arrangements for the care of children will be promoted.

**ARTICLE 2****Definitions**

As used in this compact:

(a) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship or similar control.

(b) "Sending agency" means a party state, officer or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency or other entity which sends, brings, or causes to be sent or brought any child to another party state.

(c) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

(d) "Placement" means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective or persons having epilepsy or

any institution primarily educational in character, and any hospital or other medical facility.

### ARTICLE 3

#### Conditions for Placement

(a) No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

(b) Prior to sending, bringing or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

- (1) The name, date and place of birth of the child.
- (2) The identity and address or addresses of the parents or legal guardian.
- (3) The name and address of the person, agency or institution to or with which the sending agency proposes to send, bring, or place the child.
- (4) A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(c) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to paragraph (b) of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

(d) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

### ARTICLE 4

#### Penalty for Illegal Placement

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children.

### ARTICLE 5

#### Retention of Jurisdiction

(a) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is dis-

charged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

(b) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of such case by the latter as agent for the sending agency.

(c) Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph (a) hereof.

## ARTICLE 6

### Institutional Care of Delinquent Children

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to his being sent to such other party jurisdiction for institutional care and the court finds that:

1. Equivalent facilities for the child are not available in the sending agency's jurisdiction; and
2. Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

## ARTICLE 7

### Compact Administrator

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in his jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

## ARTICLE 8

### Limitations

This compact shall not apply to:

(a) The sending or bringing of a child into a receiving state by his parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with any such relative or nonagency guardian in the receiving state.

(b) Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

## ARTICLE 9

## Enactment and Withdrawal

This compact shall be open to joinder by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the Government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.

## ARTICLE 10

## Construction and Severability

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

**History:** 1973 c 227 s 1; 1983 c 10 s 1

**257.41 FINANCIAL RESPONSIBILITY.**

Financial responsibility for any child placed pursuant to the provisions of the interstate compact on the placement of children shall be determined in accordance with the provisions of article 5 thereof in the first instance. However, in the event of partial or complete default of performance thereunder, the provisions of sections 518.41 to 518.53 also may be invoked.

**History:** 1973 c 227 s 2

**257.42 APPROPRIATE PUBLIC AUTHORITY DEFINED.**

The "appropriate public authorities" as used in article 3 of the interstate compact on the placement of children shall, with reference to this state, mean the Minnesota department of human services and said department of human services shall receive and act with reference to notices required by said article 3.

**History:** 1973 c 227 s 3; 1984 c 654 art 5 s 58

**257.43 APPROPRIATE AUTHORITY IN RECEIVING STATE DEFINED.**

As used in paragraph (a) of article 5 of the interstate compact on the placement of children, the phrase "appropriate authority in the receiving state" with reference to this state shall mean the commissioner of human services.

**History:** 1973 c 227 s 4; 1984 c 654 art 5 s 58

**257.44 AGREEMENTS.**

The officers and agencies of this state and its subdivisions having authority to place



children are hereby empowered to enter into agreements with appropriate officers or agencies of or in other party states pursuant to paragraph (b) of article 5 of the interstate compact on the placement of children. Any such agreement which contains a financial commitment or imposes a financial obligation on this state or subdivision or agency thereof shall not be binding unless it has the approval in writing of the commissioner of human services in the case of the state and of the chief local fiscal officer in the case of a subdivision of the state.

**History:** 1973 c 227 s 5; 1984 c 654 art 5 s 58

## **257.45 REQUIREMENTS FOR VISITATION; SUPERVISION.**

Any requirements for visitation, inspection or supervision of children, homes, institutions or other agencies in another party state which may apply under section 257.07 shall be deemed to be met if performed pursuant to an agreement entered into by appropriate officers or agencies of this state or a subdivision thereof as contemplated by paragraph (b) of article 5 of the interstate compact on the placement of children.

**History:** 1973 c 227 s 6

## **257.46 CERTAIN LAWS NOT APPLICABLE.**

The provisions of section 257.06 shall not apply to placements made pursuant to the interstate compact on the placement of children.

**History:** 1973 c 227 s 7

## **257.47 COURT JURISDICTION RETAINED.**

Any court having jurisdiction to place delinquent children may place such a child in an institution or in another state pursuant to article 6 of the interstate compact on the placement of children and shall retain jurisdiction as provided in article 5 thereof.

**History:** 1973 c 227 s 8

## **257.48 EXECUTIVE HEAD DEFINED.**

As used in article 7 of the interstate compact on the placement of children, the term "executive head" means the governor. The governor is hereby authorized to appoint a compact administrator in accordance with the terms of said article 7.

**History:** 1973 c 227 s 9

# **PARENTAGE ACT**

## **257.51 CITATION.**

Sections 257.51 to 257.74 may be cited as the parentage act.

**History:** 1980 c 589 s 1

## **257.52 PARENT AND CHILD RELATIONSHIP DEFINED.**

As used in sections 257.51 to 257.74, "parent and child relationship" means the legal relationship existing between a child and the child's natural or adoptive parents incident to which the law confers or imposes rights, privileges, duties, and obligations. It includes the mother and child relationship and the father and child relationship.

**History:** 1980 c 589 s 2; 1986 c 444

## **257.53 RELATIONSHIP NOT DEPENDENT ON MARRIAGE.**

The parent and child relationship may exist regardless of the marital status of the parents.

**History:** 1980 c 589 s 3

## **257.54 HOW PARENT AND CHILD RELATIONSHIP ESTABLISHED.**

The parent and child relationship between a child and

- (a) the natural mother may be established by proof of her having given birth to the child, or under sections 257.51 to 257.74;
- (b) the natural father may be established under sections 257.51 to 257.74; or
- (c) an adoptive parent may be established by proof of adoption.

**History:** 1980 c 589 s 4

## **257.541 CUSTODY AND VISITATION OF CHILDREN BORN OUTSIDE OF MARRIAGE.**

**Subdivision 1. Mother's right to custody.** The natural mother of a child born to a mother who was not married to the child's father neither when the child was born nor when the child was conceived has sole custody of the child until paternity has been established.

**Subd. 2. Father's right to visitation.** (a) If paternity has been acknowledged under section 257.34 and paternity has been established under sections 257.51 to 257.74, the father's rights of visitation or custody are determined under sections 518.17 and 518.175.

(b) If paternity has not been acknowledged under section 257.34 and paternity has been established under sections 257.51 to 257.74, the natural father may petition for rights of visitation or custody in a separate proceeding under section 518.156.

**History:** 1983 c 308 s 3

## **257.55 PRESUMPTION OF PATERNITY.**

**Subdivision 1. Presumption.** A man is presumed to be the natural father of a child if:

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

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

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

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

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

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

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

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

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

(e) He and the child's natural mother acknowledge his paternity of the child in a writing signed by both of them under section 257.34 and filed with the state registrar

of vital statistics. If another man is presumed under this clause to be the child's father, acknowledgment may be effected only with the written consent of the presumed father or after the presumption has been rebutted.

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

**History:** 1980 c 589 s 5; 1983 c 308 s 4

#### **257.56 ARTIFICIAL INSEMINATION.**

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

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

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

**History:** 1980 c 589 s 6

#### **257.57 DETERMINATION OF FATHER AND CHILD RELATIONSHIP; WHO MAY BRING ACTION; WHEN ACTION MAY BE BROUGHT.**

Subdivision 1. A child, the child's natural mother, or a man presumed to be the child's father under section 257.55, subdivision 1, clause (a), (b), or (c) may bring an action:

(a) At any time for the purpose of declaring the existence of the father and child relationship presumed under section 257.55, subdivision 1, clause (a), (b), or (c); or

(b) For the purpose of declaring the nonexistence of the father and child relationship presumed under section 257.55, subdivision 1, clause (a), (b), or (c) only if the action is brought within a reasonable time after the person bringing the action has obtained knowledge of relevant facts, but in no event later than three years after the child's birth. After the presumption has been rebutted, paternity of the child by another man may be determined in the same action, if he has been made a party.

Subd. 2. An action to determine the existence or nonexistence of the father and child relationship presumed under section 257.55, subdivision 1, clause (d) or (e) may be brought at any time by the child, the mother or personal representative of the child, the public authority chargeable by law with the support of the child, the personal representative or a parent of the mother if the mother has died or is a minor, a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor.

Subd. 3. An action to determine the existence of the father and child relationship with respect to a child who has no presumed father under section 257.55 may be brought by the child, the mother or personal representative of the child, the public authority chargeable by law with the support of the child, the personal representative or a parent of the mother if the mother has died or is a minor, a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor.

Subd. 4. Regardless of its terms, an agreement, other than an agreement approved

by the court in accordance with section 257.64, between an alleged or presumed father and the mother, does not bar an action under this section by the child or the public authority chargeable by law with the support of the child.

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

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

**History:** 1980 c 589 s 7; 1986 c 444

## **257.58 LIMITATION OF ACTIONS; EXCEPTIONS.**

Subdivision 1. **Actions for children without a presumed father.** An action to determine the existence of the father and child relationship as to a child who has no presumed father under section 257.55 is not barred until one year after the child reaches the age of majority.

Subd. 2. **Heirship.** Section 257.57 and this section do not extend the time within which a right of inheritance or a right to a succession may be asserted beyond the time provided by law relating to distribution and closing of decedents' estates or to the determination of heirship, or otherwise.

**History:** 1980 c 589 s 8; 1983 c 308 s 5; 1985 c 131 s 5

## **257.59 JURISDICTION; VENUE.**

Subdivision 1. **Court jurisdiction.** Except in Hennepin and Ramsey counties, the county court has jurisdiction of an action brought under sections 257.51 to 257.74. In Hennepin and Ramsey counties, the district court has jurisdiction of an action brought under sections 257.51 to 257.74. The action may be joined with an action for dissolution, annulment, legal separation, custody under chapter 518, or reciprocal enforcement of support.

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

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

**History:** 1980 c 589 s 9; 1983 c 308 s 6

## **257.60 PARTIES.**

The child may be made a party to the action. If the child is a minor and is made a party, a general guardian or a guardian ad litem shall be appointed by the court to represent the child. The child's mother or father may not represent the child as guardian or otherwise. If the child is a minor and the case involves a compromise under section 257.64, subdivision 1 or a lump sum payment under section 257.66, subdivision 4, the child and the commissioner of human services shall each be made a party before the court approves a compromise or orders a lump sum payment. The natural mother, each man presumed to be the father under section 257.55, and each man alleged to be the natural father, shall be made parties or, if not subject to the jurisdiction of the court, shall be given notice of the action in a manner prescribed by the court and shall be given an opportunity to be heard. A person who may bring an action under section 257.57 may be made a party to the action. The court may align the parties.

**History:** 1980 c 589 s 10; 1983 c 308 s 7; 1984 c 654 art 5 s 58

## **257.61 PRETRIAL PROCEEDINGS.**

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

**History:** 1980 c 589 s 11

**257.62 BLOOD AND GENETIC TESTS.**

Subdivision 1. **Blood tests required.** The court may, and upon request of a party shall, require the child, mother, or alleged father to submit to blood tests. If the alleged father is dead, the court may, and upon request of a party shall, require the decedent's parents or brothers and sisters or both to submit to blood tests. However, in a case involving these relatives of an alleged father, who is deceased, the court may refuse to order blood tests if the court makes an express finding that submitting to the tests presents a danger to the health of one or more of these relatives that outweighs the child's interest in having the tests performed. Unless the person gives consent to the use, the results of any blood tests of the decedent's parents, brothers, or sisters may be used only to establish the right of the child to public assistance including but not limited to social security and veterans' benefits. The tests shall be performed by a qualified expert appointed by the court.

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

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

Subd. 4. [Repealed, 1985 c 131 s 15]

Subd. 5. **Positive test results.** If the results of the blood tests indicate that the likelihood of the alleged father's paternity is more than 92 percent, upon motion the court shall order the alleged father to pay temporary child support determined according to chapter 518. The alleged father shall pay the support money into court pursuant to the rules of civil procedure to await the results of the paternity proceedings.

**History:** 1980 c 589 s 12; 1983 c 308 s 8,9

**257.63 EVIDENCE RELATING TO PATERNITY.**

Subdivision 1. Evidence relating to paternity may include:

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

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

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

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

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

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

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

**History:** 1980 c 589 s 13; 1986 c 444

**257.64 PRETRIAL ORDERS AND RECOMMENDATIONS.**

Subdivision 1. On the basis of the information produced at the pretrial hearing, including information as to the financial status of the parties, the court may:

(a) recommend that the alleged father voluntarily acknowledge his paternity of the child if the parties have agreed on a financial settlement; or

(b) recommend that the matter be compromised by an agreement among the alleged father, the mother, and the child, in which the father and child relationship is not determined but in which a defined economic obligation is undertaken by the alleged father in favor of the child and, if appropriate, in favor of the mother, subject to approval by the court. In reviewing the obligation undertaken by the alleged father in a compromise agreement, the court shall consider the best interest of the child, in the light of the applicable factors enumerated in section 518.17, subdivision 3, discounted by the improbability, as it appears to the court, of establishing the alleged father's paternity or nonpaternity of the child in a trial of the action. In the best interest of the child, the court may order that the alleged father's identity be kept confidential. In that case, the court may designate a person or agency to receive from the alleged father and disburse on behalf of the child all amounts paid by the alleged father in fulfillment of obligations imposed on him. The child, on reaching 21 years of age or older, may petition the court to disclose the alleged father's identity. The court shall grant the petition if after considering the interests of all known persons involved, the court determines that disclosure of the information would be of greater benefit than nondisclosure.

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

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

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

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

**History:** 1980 c 589 s 14; 1Sp1981 c 4 art 2 s 26; 1983 c 308 s 10; 1986 c 444

**257.65 CIVIL ACTION.**

An action under sections 257.51 to 257.74 is a civil action governed by the rules of civil procedure. The mother of the child and the alleged father are competent to testify and may be compelled to testify. Sections 257.62 and 257.63 apply to proceedings under this section.

**History:** 1980 c 589 s 15

**257.66 JUDGMENT OR ORDER.**

Subdivision 1. The judgment or order of the court determining the existence or nonexistence of the parent and child relationship is determinative for all purposes.

Subd. 2. If the judgment or order of the court is at variance with the child's birth certificate, the court shall order that a new birth certificate be issued under section 257.73.

Subd. 3. **Judgment; order.** The judgment or order shall contain provisions concerning the duty of support, the custody of the child, the name of the child, visitation privileges with the child, the furnishing of bond or other security for the

payment of the judgment, or any other matter in the best interest of the child. Custody and visitation and all subsequent motions related to them shall proceed and be determined under section 257.541. The remaining matters and all subsequent motions related to them shall proceed and be determined in accordance with chapter 518. The judgment or order may direct the appropriate party to pay all or a proportion of the reasonable expenses of the mother's pregnancy and confinement, after consideration of the relevant facts, including the relative financial means of the parents; the earning ability of each parent; and any health insurance policies held by either parent, or by a spouse or parent of the parent, which would provide benefits for the expenses incurred by the mother during her pregnancy and confinement.

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

**Subd. 5. Notice of docketing judgment.** Any order for support or maintenance issued under this section shall provide for a conspicuous notice that, if the obligor fails to make the support payments, the obligee or a public agency responsible for support enforcement may obtain docketing of a judgment for the unpaid amounts under the provisions of section 548.091. The notice shall enumerate the conditions that must be met before the judgment can be docketed.

**History:** 1980 c 589 s 16; 1983 c 308 s 11,12; 1984 c 547 s 3

#### **257.67 ENFORCEMENT OF JUDGMENT OR ORDER.**

**Subdivision 1.** If existence of the parent and child relationship is declared, or parentage or a duty of support has been acknowledged or adjudicated under sections 257.51 to 257.74 or under prior law, the obligation of the noncustodial parent may be enforced in the same or other proceedings by the custodial parent, the child, the public authority that has furnished or may furnish the reasonable expenses of pregnancy, confinement, education, support, or funeral, or by any other person, including a private agency, to the extent that person has furnished or is furnishing these expenses.

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

**Subd. 3.** Willful failure to obey the judgment or order of the court is a civil contempt of the court. All remedies for the enforcement of judgments apply including those available under sections 518C.01 to 518C.36 and 256.872 to 256.878.

**History:** 1980 c 589 s 17; 1985 c 248 s 41; 1986 c 444; 1Sp1986 c 3 art 1 s 82

#### **257.68 MODIFICATION OF JUDGMENT OR ORDER.**

A court entering a judgment or order for the payment of a lump sum under section 257.66, subdivision 4, may specify that the judgment or order may not be modified or revoked.

**History:** 1980 c 589 s 18

#### **257.69 RIGHT TO COUNSEL; COSTS; FREE TRANSCRIPT ON APPEAL.**

**Subdivision 1.** In all proceedings under sections 257.51 to 257.74, any party may be represented by counsel. If the public authority charged by law with support of a child is a party, the county attorney shall represent the public authority. If the child receives public assistance and no conflict of interest exists, the county attorney shall also represent the custodial parent. If a conflict of interest exists, the court shall appoint counsel for the custodial parent at no cost to the parent. If the child does not receive public assistance, the county attorney may represent the custodial parent at the parent's request. The court shall appoint counsel for a party who is unable to pay timely for counsel in proceedings under sections 257.51 to 257.74.

Subd. 2. **Guardian; legal fees.** The court may order expert witness and guardian ad litem fees and other costs of the trial and pretrial proceedings, including appropriate tests, to be paid by the parties in proportions and at times determined by the court. The court shall require a party to pay part of the fees of court-appointed counsel according to the party's ability to pay, but if counsel has been appointed the appropriate agency shall pay the party's proportion of all other fees and costs. The agency responsible for child support enforcement shall pay the fees and costs for blood tests in a proceeding in which it is a party, is the real party in interest, or is acting on behalf of the child. However, at the close of a proceeding in which paternity has been established under sections 257.51 to 257.74, the court shall order the adjudicated father to reimburse the public agency, if the court finds he has sufficient resources to pay the costs of the blood tests. When a party bringing an action is represented by the county attorney, no filing fee shall be paid to the court administrator.

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

**History:** 1980 c 589 s 19; 1983 c 308 s 13; 1Sp1986 c 3 art 1 s 82

## **257.70 HEARINGS AND RECORDS; CONFIDENTIALITY.**

Notwithstanding any other law concerning public hearings and records, any hearing or trial held under sections 257.51 to 257.74 shall be held in closed court without admittance of any person other than those necessary to the action or proceeding. All papers and records, other than the final judgment, pertaining to the action or proceeding, whether part of the permanent record of the court or of a file in the state department of human services or elsewhere, are subject to inspection only upon consent of the court and all interested persons, or in exceptional cases only upon an order of the court for good cause shown.

**History:** 1980 c 589 s 20; 1984 c 654 art 5 s 58

## **257.71 ACTION TO DECLARE MOTHER AND CHILD RELATIONSHIP.**

A child, the father or personal representative of the child, the public authority chargeable by law with the support of the child, the personal representative or a parent of the father if the father has died, a woman alleged or alleging herself to be the mother, or the personal representative or a parent of the alleged mother if the alleged mother has died or is a minor may bring an action to determine the existence or nonexistence of a mother and child relationship. Insofar as practicable, the provisions of sections 257.51 to 257.74 applicable to the father and child relationship apply.

**History:** 1980 c 589 s 21

## **257.72 PROMISE TO RENDER SUPPORT.**

Subdivision 1. A person's signed promise to furnish support for a child, growing out of a supposed or alleged parent and child relationship, does not require consideration and is enforceable according to its terms, subject to section 257.57, subdivision 4.

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

**History:** 1980 c 589 s 22

## **257.73 BIRTH RECORDS.**

Subdivision 1. Upon compliance with the provisions of section 257.55, subdivision 1, clause (e) or upon order of a court of this state or upon request of a court of another state, the local registrar of vital statistics shall prepare a new certificate of birth consistent with the acknowledgment or the findings of the court and shall substitute the new certificate for the original certificate of birth.



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

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

**History:** 1980 c 589 s 23

## 257.74 ADOPTION; TERMINATION PROCEEDINGS.

Subdivision 1. If a mother relinquishes or proposes to relinquish for adoption a child who has

- (a) a presumed father under section 257.55, subdivision 1,
- (b) a father whose relationship to the child has been determined by a court, or
- (c) a father as to whom the child is a legitimate child under prior law of this state or under the law of another jurisdiction, the father shall be given notice of the adoption proceeding as provided in section 259.26.

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

- (a) a presumed father under section 257.55, subdivision 1,
- (b) a father whose relationship to the child has been determined by a court, or
- (c) a father as to whom the child is a legitimate child under prior law of this state or under the law of another jurisdiction, notice of the adoption proceeding shall be given as required by sections 259.26 and 259.261.

**History:** 1980 c 589 s 24