

CHAPTER 257

CHILDREN; CUSTODY; LEGITIMACY

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257.33 DUTIES OF COMMISSIONER OF HUMAN SERVICES.

Subdivision 1. Services to pregnant women. 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.

Subd. 2. Minor parents and their children. (a) 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 county social services agency in the county in which the minor mother resides and shall notify the minor that the report has been made. The county social services agency shall contact any minor mother who does not have a case manager who resides in the county and determine whether she has a plan for herself and her child. The plan must consider:

- (1) the age of the minor parent;
- (2) the involvement of the minor's parents or of other adults who provide active, ongoing guidance, support, and supervision;
- (3) the involvement of the father of the minor's child, including steps being taken to establish paternity, if appropriate;
- (4) a decision of the minor to keep and raise her child or place the child for adoption;
- (5) completion of high school or GED;
- (6) current economic support of the minor parent and child and plans for economic self-sufficiency;
- (7) parenting skills of the minor parent;
- (8) living arrangement of the minor parent and child;
- (9) child care and transportation needed for education, training, or employment;
- (10) ongoing health care; and
- (11) other services as needed to address personal or family problems or to facilitate the personal growth and development and economic self-sufficiency of the minor parent and child.

(b) If the minor parent does not have a plan for herself and child, the county social services agency shall work with her to develop a plan and shall provide case management services as needed to assure the resources and services are available to meet the plan requirements.

(c) If the minor parent refuses to plan for herself and her child or fails, without good cause, to follow through on an agreed upon plan, the county social services agency may file a petition under section 260.131 seeking an order for protective supervision under section 260.191, subdivision 1, clause (a), on the grounds that the minor parent's child is dependent due to the state of immaturity of the minor parent. A contract with

a minor parent under section 256.736, subdivision 11(a)(4) is an "agreed upon plan" for purposes of this section.

History: 1987 c 403 art 3 s 44

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, 197.75, and 197.752;

(c) create a presumption that the signatory is the biological father of the child for the purposes of sections 257.51 to 257.74;

(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. [Repealed, 1987 c 403 art 3 s 98]

[For text of subd 3, see M.S.1986]

History: 1987 c 384 art 2 s 64; 1987 c 403 art 3 s 45

257.35 CITATION.

Sections 257.35 to 257.3579 may be cited as the "Minnesota Indian family preservation act."

History: 1987 c 403 art 2 s 110

257.351 DEFINITIONS.

[For text of subds 1 to 3, see M.S.1986]

Subd. 3a. **Commissioner.** "Commissioner" means the commissioner of human services.

[For text of subd 4, see M.S.1986]

Subd. 4a. **Family-based services.** "Family-based services" means intensive family-centered services to families primarily in their own home and for a limited time.

[For text of subds 5 to 8, see M.S.1986]

Subd. 8a. **Indian organization.** "Indian organization" means an organization providing child welfare services that is legally incorporated as a nonprofit organization, is registered with the secretary of state, and is governed by a board of directors having at least a majority of Indian directors.

[For text of subs 9 to 11, see M.S.1986]

Subd. 11a. **Permanency planning.** "Permanency planning" means the systematic process of carrying out, within a short time, a set of goal-oriented activities designed to help children live in families that offer continuity of relationships with nurturing parents or caretakers, and the opportunity to establish lifetime relationships.

Subd. 11b. **Placement prevention and family reunification services.** "Placement prevention and family reunification services" means services designed to help children remain with their families or to reunite children with their parents.

[For text of subs 12 to 14, see M.S.1986]

Subd. 15. **Tribal court.** "Tribal court" means a court with federally recognized 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. Except as provided in section 257.354, subdivision 5, nothing in this chapter shall be construed as conferring jurisdiction on an Indian tribe.

[For text of subs 16 and 17, see M.S.1986]

History: 1987 c 403 art 2 s 111-116

257.354 CHILD PLACEMENT PROCEEDINGS.

[For text of subs 1 to 3, see M.S.1986]

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. Determination of county of financial responsibility for the placement shall be determined by the local social service agency in accordance with section 256E.08. Disputes concerning the county of financial responsibility shall be settled in the manner prescribed in section 256D.18, subdivision 4.

Subd. 5. The commissioner is hereby authorized to enter into agreements with Indian tribes pursuant to United States Code, title 25, section 1919, respecting care and custody of Indian children and jurisdiction over child custody proceedings, including agreements which may provide for orderly transfer of jurisdiction on a case-by-case basis and agreements which provide for concurrent jurisdiction between the state and an Indian tribe.

History: 1987 c 403 art 2 s 117,118

257.3571 INDIAN CHILD WELFARE GRANTS.

Subdivision 1. **Primary support grants.** The commissioner shall establish direct grants to Indian tribes and Indian organizations to provide primary support for Indian child welfare programs to implement the Indian family preservation act.

Subd. 2. **Special focus grants.** The commissioner shall establish direct grants to local social service agencies, tribes, Indian organizations, and other organizations for placement prevention and family reunification services for Indian children.

Subd. 3. **Request for proposals.** The commissioner shall request proposals for primary support for Indian child welfare programs and special focus programs under subdivisions 1 and 2, and specify the information and criteria required.

History: 1987 c 403 art 2 s 119

257.3572 GRANT APPLICATIONS.

A tribe or Indian organization may apply for primary support grants under section 257.3571, subdivision 1. A local social service agency, tribe, Indian organization, or other social service organization may apply for special focus grants under section 257.3571, subdivision 2. Application may be made alone or in combination with other tribes or Indian organizations.

History: 1987 c 403 art 2 s 120

257.3573 ELIGIBLE SERVICES.

Subdivision 1. **Types of services.** (a) Eligible Indian child welfare services provided under primary support grants include:

- (1) placement prevention and reunification services;
- (2) family-based services;
- (3) individual and family counseling;
- (4) access to professional individual, group, and family counseling;
- (5) crisis intervention and crisis counseling;
- (6) development of foster and adoptive placement resources, including recruitment, licensing, and support;
- (7) court advocacy;
- (8) training and consultation to county and private social service agencies regarding the Indian child welfare act and the Minnesota Indian family preservation act;
- (9) advocacy in working with the county and private social service agencies, and activities to help provide access to agency services, including but not limited to 24-hour caretaker and homemaker services, day care, emergency shelter care up to 30 days in 12 months, access to emergency financial assistance, and arrangements to provide temporary respite care to a family for up to 72 hours consecutively or 30 days in 12 months.
- (10) transportation services to the child and parents to prevent placement or reunite the family; and
- (11) other activities and services approved by the commissioner that further the goals of the Indian child welfare act and the Indian family preservation act, including but not limited to recruitment of Indian staff for local social service agencies and licensed child placing agencies. The commissioner may specify the priority of an activity and service based on its success in furthering these goals.

(b) Eligible services provided under special focus grants include;

- (1) permanency planning activities that meet the special needs of Indian families;
- (2) teenage pregnancy;
- (3) independent living skills;
- (4) family and community involvement strategies to combat child abuse and chronic neglect of children;
- (5) coordinated child welfare and mental health services to Indian families;
- (6) innovative approaches to assist Indian youth to establish better self-image, decrease isolation, and decrease the suicide rate;
- (7) expanding or improving services by packaging and disseminating information on successful approaches or by implementing models in Indian communities relating to the development or enhancement of social structures that increase family self-reliance and links with existing community resources;
- (8) family retrieval services to help adopted individuals reestablish legal affiliation with the Indian tribe; and
- (9) other activities and services approved by the commissioner that further the goals of the Indian child welfare act and the Indian family preservation act. The commissioner may specify the priority of an activity and service based on its success in furthering these goals.

(c) The commissioner shall give preference to programs that use Indian staff, contract with Indian organizations or tribes, or whose application is a joint effort between the Indian and non-Indian community to achieve the goals of the Indian child welfare act and the Minnesota Indian family preservation act. Programs must have input and support from the Indian community.

Subd. 2. Inappropriate expenditures. Indian child welfare grant money must not be used for:

- (1) child day care necessary solely because of employment or training for employment of a parent or other relative with whom the child is living;
- (2) foster care maintenance or difficulty of care payments;
- (3) residential facility payments;
- (4) adoption assistance payments;
- (5) public assistance payments for aid to families with dependent children, supplemental aid, medical assistance, general assistance, general assistance medical care, or community health services authorized by sections 145.911 to 145.922; or
- (6) administrative costs for income maintenance staff.

History: 1987 c 403 art 2 s 121

257.3574 CONTINUED LEGAL RESPONSIBILITY OF LOCAL SOCIAL SERVICE AGENCIES.

The legal responsibility of local social service agencies to provide Indian child welfare services continues, and existing services must not be reduced because of the availability of these funds.

History: 1987 c 403 art 2 s 122

257.3575 PAYMENTS; REQUIRED REPORTS.

Subdivision 1. Payments. The commissioner shall make grant payments to each approved program in four quarterly installments a year. The commissioner may certify an advance payment for the first quarter of the state fiscal year. Later payments must be made upon receipt by the state of a quarterly report on finances and program activities.

Subd. 2. Quarterly report. Each quarter, an approved program receiving an Indian child welfare grant shall submit a report to the commissioner that includes:

- (1) a detailed accounting of grant money expended during the preceding quarter, specifying expenditures by line item and year to date; and
- (2) a description of Indian child welfare activities conducted during the preceding quarter, including the number of clients served and the type of services provided.

The quarterly reports must be submitted no later than 15 days after the end of each quarter of the state fiscal year.

Subd. 3. Final report. A final evaluation report must be submitted by each approved program. It must include client outcomes, cost and effectiveness in meeting the goals of the Indian family preservation act and permanency planning goals.

History: 1987 c 403 art 2 s 123

257.3576 MONITORING AND EVALUATION.

The commissioner shall design and implement methods for monitoring the delivery and evaluating the effectiveness of Indian child welfare services funded through these grants.

History: 1987 c 403 art 2 s 124

257.3577 GRANT FORMULA.

Subdivision 1. Primary support grants. (a) The amount available for grants established under section 257.3571, subdivision 1, to tribes and Indian organization grants is four-fifths of the total annual appropriation for Indian child welfare grants.

(b) The commissioner shall award tribes at least 70 percent of the amount set in paragraph (a) for primary support grants. Each tribe shall be awarded a base amount of five percent of the total amount set in this paragraph. In addition, each tribe shall be allocated a proportion of the balance of the amount set in this paragraph, less the total base amounts for all reservations. This proportion must equal the ratio of the tribe's on-reservation population to the state's total on-reservation population. Population data must be based on the most recent federal census data according to the state demographer's office.

(c) The commissioner shall award Indian organizations up to 30 percent of the amount set in paragraph (a) for primary support grants. A maximum of four multiservice Indian organizations may be awarded grants under this paragraph. "Multiservice Indian organizations" means Indian organizations recognized by the Indian community as providing a broad continuum of social, educational, or cultural services, including Indian child welfare services designed to meet the unique needs of the Indian communities in Minneapolis, St. Paul, and Duluth. Grants may be awarded to programs that submit acceptable proposals, comply with the goals and the application process of the program, and have budgets that reflect appropriate and efficient use of funds.

Subd. 2. **Special focus grants.** The amount available for grants established under section 257.3571, subdivision 2, for local social service agencies, tribes, Indian organizations, and other social services organizations is one-fifth of the total annual appropriation for Indian child welfare grants. The maximum award under this subdivision is \$100,000 a year for programs approved by the commissioner.

History: 1987 c 403 art 2 s 125

257.3578 UNDISTRIBUTED FUNDS.

Undistributed funds must be reallocated by the department of human services to any other grant categories established under section 257.3571, subdivision 1 or 2, for the goals of this grant process. Undistributed funds are available until expended.

History: 1987 c 403 art 2 s 126

257.3579 AMERICAN INDIAN ADVISORY TASK FORCE.

The commissioner shall appoint an American Indian advisory task force to help formulate policies and procedures relating to Indian child welfare services and to make recommendations regarding approval of grants provided under section 257.3571, subdivisions 1 and 2. The task force shall consist of 17 members appointed by the commissioner and must include representatives of each of the 11 Minnesota reservations who are authorized by tribal resolution, one representative from the Duluth Urban Indian Community, three representatives from the Minneapolis Urban Indian Community, and two representatives from the St. Paul Urban Indian Community. Representatives from the urban Indian communities must be selected through an open appointments process under section 15.0597. The task force shall expire on June 30, 1991. The terms, compensation, and removal of American Indian advisory task force members shall be as provided in section 15.059.

History: 1987 c 403 art 2 s 127

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 consent must be retained by the physician for at least four years after the confirmation of a pregnancy that occurs during the process of artificial insemination.

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.

[For text of subd 2, see M.S.1986]

History: 1987 c 126 s 1

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

[For text of subd 1, see M.S.1986]

Subd. 2. 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 may bring an action:

(1) at any time for the purpose of declaring the existence of the father and child relationship presumed under section 257.55, subdivision 1, clause (d) or (e), or the nonexistence of the father and child relationship presumed under clause (d) of that subdivision; or

(2) for the purpose of declaring the nonexistence of the father and child relationship presumed under section 257.55, subdivision 1, clause (e) only if the action is brought within three years after the date of the execution of the declaration.

[For text of subs 3 to 6, see M.S.1986]

History: 1987 c 403 art 3 s 46

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. The biological mother, each man presumed to be the father under section 257.55, and each man alleged to be the biological 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. The public agency responsible for support enforcement is joined as a party in each case in which rights are assigned under section 256.74, subdivision 5. 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. The child shall be made a party whenever:

(1) 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, in which case the commissioner of human services shall also be made a party; or

(2) the child is a minor and the action is to declare the nonexistence of the father and child relationship; or

(3) an action to declare the existence of the father and child relationship is brought by a man presumed to be the father under section 257.55, or a man who alleges to be the father, and the mother of the child denies the existence of the father and child relationship.

History: 1987 c 403 art 3 s 47

257.62 BLOOD AND GENETIC TESTS.

[For text of subs 1 to 5, see M.S.1986]

Subd. 6. **Tests, evidence admissible.** In any hearing brought under subdivision 5, a certified report of the facts and results of a laboratory analysis or examination of blood or genetic tests, that is performed in a laboratory accredited to meet the Standards for Parentage Testing of the American Association of Blood Banks and is prepared and attested by a qualified expert appointed by the court, shall be admissible

in evidence without proof of the seal, signature, or official character of the person whose name is signed to it, unless a demand is made by a party in a motion or responsive motion made within the time limit for making and filing a responsive motion that the matter be heard on oral testimony before the court.

History: 1987 c 403 art 3 s 48

257.63 EVIDENCE RELATING TO PATERNITY.

[For text of subd 1, see M.S.1986]

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. No testimony or other information compelled under the order, or any information directly or indirectly derived from such testimony or other information, may be used against the witness in any criminal case, 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.

[For text of subd 3, see M.S.1986]

History: 1987 c 403 art 3 s 49