

CHAPTER 259

CHANGE OF NAME, ADOPTION

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259.21 DEFINITIONS.

[For text of subs 1 to 6, see M.S.1986]

Subd. 7. **Petitioner.** "Petitioner" means a person with spouse, if there be one, petitioning for the adoption of any person or persons pursuant to sections 259.21 to 259.32. In the case of adoption by a stepparent, the parent who is the stepparent's spouse shall not be required to join the petition.

History: 1987 c 3 s 1

259.24 CONSENTS.

[For text of subs 1 to 4, see M.S.1986]

Subd. 5. **Execution.** All consents to an adoption, except those by the commissioner, the commissioner's agent, a licensed child-placing agency, an adult adoptee, or the child's parent in a petition for adoption by a stepparent, shall be executed before a representative of the commissioner, the commissioner's agent, or a licensed child-placing agency. In addition all consents to an adoption shall be in writing and shall contain notice to the parent of the substance of subdivision 6a, providing for the right to withdraw consent. The consent must contain the following written notice in all capital letters at least one-eighth inch high:

"This agency will submit your consent to adoption to the court. The consent itself does not terminate your parental rights. Parental rights to a child may be terminated only by an adoption decree or by a court order terminating parental rights. Unless the child is adopted or your parental rights are terminated, you may be asked to support the child."

Consents shall be executed before two competent witnesses and acknowledged by the consenting party. Consents shall be filed in the adoption proceedings at any time before the matter is heard provided, however, that a consent executed and acknowledged outside of this state, either in accordance with the law of this state or in accordance with the law of the place where executed, is valid.

[For text of subs 6a to 8, see M.S.1986]

History: 1987 c 3 s 2; 1987 c 187 s 1

259.25 AGREEMENT CONFERRING AUTHORITY TO PLACE FOR ADOPTION.

Subdivision 1. **Consents required.** The parents and guardian, if there be one, of a child may enter into a written agreement with the commissioner of human services or an agency, giving the commissioner or such agency authority to place the child for adoption. If an unmarried parent is under the age of 18 years the written consent of the parents and guardian, if any, of the minor parent also shall be required; if either or both of the parents are disqualified from giving such consent for any of the reasons enumerated in section 259.24, subdivision 1, then the written consent of the guardian shall be required. The agreement and consent shall be in the form prescribed by the

commissioner and shall contain notice to the parent of the substance of subdivision 2a providing for the right to revoke the agreement. The agreement and consent must contain the following written notice in all capital letters at least one-eighth inch high:

"This agency will submit your consent to adoption to the court. The consent itself does not terminate your parental rights. Parental rights to a child may be terminated only by an adoption decree or by a court order terminating parental rights. Unless the child is adopted or your parental rights are terminated, you may be asked to support the child."

The agreement shall be executed by the commissioner or agency, or one of their authorized agents, and all other necessary parties, and shall be filed, together with the consent, in the proceedings for the adoption of the child.

If, after the execution of an agreement and consent under this section, the child is diagnosed with a medical or psychological condition that may present a substantial barrier to adoption, the child-placing agency shall make reasonable efforts to give notice of this fact to a party to the agreement and consent. If a child is not adopted within two years after an agreement and consent are executed under this subdivision, the agency that executed the agreement shall so notify a parent who was a party to the agreement and request the parent to take custody of the child or to file a petition for termination of parental rights. This notice must be provided to the parent in a personal and confidential manner. A parent who has executed an agreement under this subdivision shall, upon request to the agency, be informed of whether the child has been adopted.

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

History: 1987 c 187 s 2

259.253 NOTIFICATION OF DEATH OR TERMINAL ILLNESS.

Subdivision 1. Death notification. (a) An agency authorized to place a child for adoption shall inform parents who adopt a child on or after August 1, 1987, that they must notify the agency if the child dies. The agency also shall inform the adoptive parents that the adoptive parents of an adopted child under age 19 or an adopted person age 19 or older may maintain a current address on file with the agency and indicate a desire to be notified if the agency receives information of the death of a genetic parent. The agency shall inform genetic parents who are entitled to notice under section 259.26 that the agency will notify them of the child's death and the cause of death, if known, provided that the genetic parents desire notice and maintain current addresses on file with the agency. The agency shall inform genetic parents entitled to notice under section 259.26 that they may designate individuals to notify the agency if a genetic parent dies and that the agency receiving information of the genetic parent's death will share it with adoptive parents, if the adopted person is under age 19, or an adopted person age 19 or older who has indicated a desire to be notified of the death of a genetic parent and who maintains a current address on file with the agency.

(b) Notice to a genetic parent that a child has died or to the adoptive parents or an adopted person age 19 or older that a genetic parent has died shall be provided by an employee of the agency through personal, confidential contact, not by mail.

(c) Adoptive parents residing in this state whose child was adopted through an agency in another state shall, if the child dies, notify the agency of the child's death.

Subd. 2. Terminal illness notification. An agency authorized to place a child for adoption shall inform the adoptive parents and genetic parents of a child who is adopted on or after August 1, 1987, that the genetic parents, the adoptive parents of an adopted person under age 19, or an adopted person age 19 or older may request to be notified if a genetic parent or the child is terminally ill. The agency shall notify the other parties if a request is received under this subdivision and inform them that upon their request the agency will share information regarding a terminal illness with the adoptive or genetic parents or an adopted person age 19 or older.

History: 1987 c 173 s 1

259.257 NOTICE TO ADOPTIVE PARENTS.

Subdivision 1. **Parental responsibilities.** Prior to commencing an investigation of the suitability of proposed adoptive parents, a child-placing agency shall give the individuals the following written notice in all capital letters at least one-eighth inch high:

“Minnesota Statutes, section 259.29, provides that upon legally adopting a child, adoptive parents assume all the rights and responsibilities of birth parents. The responsibilities include providing for the child’s financial support and caring for health, emotional, and behavioral problems. Except for subsidized adoptions under Minnesota Statutes, section 259.40, or any other provisions of law that expressly apply to adoptive parents and children, adoptive parents are not eligible for state or federal financial subsidies besides those that a birth parent would be eligible to receive for a child. Adoptive parents may not terminate their parental rights to a legally adopted child for a reason that would not apply to a birth parent seeking to terminate rights to a child. An individual who takes guardianship of a child for the purpose of adopting the child shall, upon taking guardianship from the child’s country of origin, assume all the rights and responsibilities of birth and adoptive parents as stated in this paragraph.”

Subd. 2. **Referral to foreign agencies.** An agency in this state that refers individuals to an agency or individual in another country for the purpose of adopting a child located in that country shall provide the following information in writing at the time of making the referral:

(1) the name of any government authority in the country where the adoption agency or individual is located that licenses or regulates the adoption agency or individual;

(2) the name of the current director of the adoption agency;

(3) whether the country in which the agency or individual is located requires a legal adoption to take place in that country before a child can be removed from the country; and

(4) the notification required by subdivision 1.

History: 1987 c 187 s 3

259.27 PETITION; INVESTIGATIONS; REPORTS.

[For text of subds 1 and 2, see M.S.1986]

Subd. 3. **Reports and records.** (a) The contents of all reports and records of the commissioner of human services, county welfare board, or child-placing agency bearing on the suitability of the proposed adoptive home and the child to each other shall not be disclosed either directly or indirectly to any person other than the commissioner of human services or a judge of the court having jurisdiction of the matter, except as provided in paragraph (b).

(b) A judge of the court having jurisdiction of the matter shall upon request disclose to a party to the proceedings or the party’s counsel any portion of a report or record that relates only to the suitability of the proposed adoptive parents. In this disclosure, the judge may withhold the identity of individuals providing information in the report or record. When the judge is considering whether to disclose the identity of individuals providing information, the agency with custody of the report or record shall be permitted to present reasons for or against disclosure.

Subd. 3a. **Report to prospective adoptive parents.** Prospective adoptive parents may request and may receive a summary report on their suitability as adoptive parents from any authorized adoption agency at the conclusion of the adoptive study by that agency. The summary report shall not identify sources of information outside of the adoption agency or information about any child to be adopted. This summary report shall be used only for purposes mutually agreed upon by the adoption agency and the prospective adoptive parents. The purposes and the date of the summary report shall be clearly noted on the report.

[For text of subds 4 and 5, see M.S.1986]

History: 1987 c 3 s 3,4

259.40 SUBSIDIZED ADOPTION PROGRAM.

Subdivision 1. Subsidy payments. The commissioner of human services may make subsidy payments as necessary to an adoptive parent or parents who adopt a child who is a Minnesota resident and is under guardianship of the commissioner or of a licensed child placing agency after the final decree of adoption is issued. The subsidy payments and any subsequent modifications to the subsidy payments shall be based on the needs of the adopted person that the commissioner has determined cannot be met using other resources including programs available to the adopted person and the adoptive parent or parents.

Subd. 2. Subsidy agreement. The placing agency shall certify a child as eligible for a subsidy according to rules promulgated by the commissioner. When a parent or parents are found and approved for adoptive placement of a child certified as eligible for a subsidy, and before the final decree of adoption is issued, a written agreement must be entered into by the commissioner, the adoptive parent or parents, and the placing agency. The written agreement must be in the form prescribed by the commissioner and must set forth the responsibilities of all parties, the anticipated duration of the subsidy payments, and the payment terms. The subsidy agreement shall be subject to the commissioner's approval.

The commissioner shall provide adoption subsidies to the adoptive parent or parents according to the terms of the subsidy agreement. The subsidy may include payment for basic maintenance expenses of food, clothing, and shelter; ongoing supplemental maintenance expenses related to the adopted person's special needs; non-medical expenses periodically necessary for purchase of services, items, or equipment related to the special needs; and medical expenses. The placing agency or the adoptive parent or parents shall provide written documentation to support requests for subsidy payments. The commissioner may require periodic reevaluation of subsidy payments. The amount of the subsidy payment may in no case exceed that which would be allowable for the child under foster family care.

Subd. 3. Annual affidavit. When subsidies are for more than one year, the adoptive parents or guardian or conservator shall annually present an affidavit stating whether the adopted person remains under their care and whether the need for subsidy continues to exist. The commissioner may verify the affidavit. The subsidy agreement shall continue in accordance with its terms as long as the need for subsidy continues and the adopted person is under 22 years of age and is the legal or financial dependent of the adoptive parent or parents or guardian or conservator. Termination or modification of the subsidy agreement may be requested by the adoptive parents or subsequent guardian or conservator at any time. When the commissioner determines that a child is eligible for adoption assistance under Title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 676, the commissioner shall modify the subsidy agreement in order to obtain the funds under that act.

[For text of subds 4 to 10, see M.S.1986]

History: 1987 c 370 art 1 s 7-9

259.465 REFERRAL FOR SERVICES.

When a parent contacts a licensed child-placing agency and requests out-of-home placement for a child, the agency shall refer the parent to the local welfare agency if the child-placing agency is not able to arrange a shelter or foster placement for the child as requested by the parent.

History: 1987 c 187 s 4