

CHAPTER 257

CHILDREN; CUSTODY; LEGITIMACY

257.022	Rights of visitation to unmarried persons.	257.357	Repealed.
257.03	Notice to commissioner of human services.	257.3575	Payments; required reports.
257.071	Children in foster homes; placement; review.	257.55	Presumption of paternity.
257.354	Child placement proceedings.	257.57	Determination of father and child relationship; who may bring action; when action may be brought.
		257.62	Blood and genetic tests.

257.022 RIGHTS OF VISITATION TO UNMARRIED PERSONS.

[For text of subds 1 to 2a, see M.S.1988]

Subd. 2b. **When child has resided with other person.** If an unmarried minor has resided in a household with a person, other than a foster parent, for two years or more and no longer resides with the person, the person may petition the district court for an order granting the person reasonable visitation rights to the child during the child's minority. The court shall grant the petition if it finds that:

- (1) visitation rights would be in the best interests of the child;
- (2) the petitioner and child had established emotional ties creating a parent and child relationship; and
- (3) visitation rights would not interfere with the relationship between the custodial parent and the child.

The court shall consider the reasonable preference of the child, if the court considers the child to be of sufficient age to express a preference.

[For text of subd 3, see M.S.1988]

History: 1989 c 248 s 1

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 biological 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 317A.907, 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: 1989 c 304 s 132

NOTE: This section, as amended by Laws 1989, chapter 304, section 132, is effective January 1, 1991. See Laws 1989, chapter 304, section 140.

257.071 CHILDREN IN FOSTER HOMES; PLACEMENT; REVIEW.

[For text of subds 1 to 5, see M.S.1988]

Subd. 6. [Repealed, 1988 c 689 art 2 s 269 subd 1]

Subd. 7. **Rules.** By December 31, 1989, the commissioner shall revise Minnesota Rules, parts 9545.0010 to 9545.0260, the rules setting standards for family and group family foster care. The commissioner shall:

(1) require that, as a condition of licensure, foster care providers attend training on the importance of protecting cultural heritage within the meaning of Laws 1983, chapter 278, the Indian Child Welfare Act, Public Law Number 95-608, and the Minnesota Indian family preservation act, sections 257.35 to 257.357; and

(2) review and, where necessary, revise foster care rules to reflect sensitivity to cultural diversity and differing lifestyles. Specifically, the commissioner shall examine whether space and other requirements discriminate against single-parent, minority, or low-income families who may be able to provide quality foster care reflecting the values of their own respective cultures.

History: 1989 c 282 art 2 s 160

257.354 CHILD PLACEMENT PROCEEDINGS.

[For text of subs 1 to 3, see M.S.1988]

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 256G.02, subdivision 4. Disputes concerning the county of financial responsibility shall be settled in the manner prescribed in section 256G.09.

[For text of subd 5, see M.S.1988]

History: 1989 c 209 art 2 s 29

257.357 [Repealed, 1989 c 155 s 5]

257.3575 PAYMENTS; REQUIRED REPORTS.

[For text of subd 1, see M.S.1988]

Subd. 2. **Quarterly report.** The commissioner shall specify requirements for reports, including quarterly fiscal reports, according to section 256.01, subdivision 2, paragraph (17). 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 30 days after the end of each quarter of the state fiscal year.

[For text of subd 3, see M.S.1988]

History: 1989 c 89 s 23

257.55 PRESUMPTION OF PATERNITY.

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

(a) He and the child's biological 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 biological 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 biological 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 biological child; or

(e) He and the child's biological 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.

(f) Evidence of statistical probability of paternity based on blood testing establishes that the likelihood that the man is the father of the child, calculated with a prior probability of no more than 0.5 (50 percent), is 99 percent or greater.

[For text of subd 2, see M.S.1988]

History: 1989 c 282 art 2 s 161

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

Subdivision 1. A child, the child's biological 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) Within three years after the child's birth 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). However, if the presumed father was divorced from the child's mother after service by publication, and, if, on or before the 280th day after the judgment and decree of divorce or dissolution became final, he did not know that the child was born during the marriage or within 280 days after the marriage was terminated, the action is not barred until one year after the child reaches the age of majority. 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.

[For text of subds 2 to 6, see M.S.1988]

History: 1989 c 282 art 2 s 162

257.62 BLOOD AND GENETIC TESTS.

[For text of subds 1 to 3, see M.S.1988]

Subd. 5. Positive test results. (a) If the results of blood tests completed in a laboratory accredited by the American Association of Blood Banks indicate that the likelihood of the alleged father's paternity, calculated with a prior probability of no more than 0.5 (50 percent), is 92 percent or greater, 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.

(b) If the results of blood tests completed in a laboratory accredited by the American Association of Blood Banks indicate that likelihood of the alleged father's paternity, calculated with a prior probability of no more than 0.5 (50 percent), is 99 percent or greater, the alleged father is presumed to be the parent and the party opposing the establishment of the alleged father's paternity has the burden of proving by clear and convincing evidence that the alleged father is not the father of the child.

[For text of subd 6, see M.S.1988]

History: 1989 c 282 art 2 s 163