

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257.021 [Repealed, 3Sp1981 c 3 s 20]**257.022 RIGHTS OF VISITATION TO UNMARRIED PERSONS.**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. Family court proceedings. In all proceedings for dissolution, custody, legal separation, annulment, or parentage 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, legal separation, annulment, or determination of parentage 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. 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.

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; 1988 c 668 s 4; 1989 c 248 s 1

257.025 CUSTODY DISPUTES.

(a) In any proceeding where two or more parties seek custody of a child the court shall consider and evaluate all relevant factors in determining the best interests of the child, including the following factors:

- (1) the wishes of the party or parties as to custody;
- (2) the reasonable preference of the child, if the court deems the child to be of sufficient age to express preference;
- (3) the child's primary caretaker;
- (4) the intimacy of the relationship between each party and the child;
- (5) the interaction and interrelationship of the child with a party or parties, siblings, and any other person who may significantly affect the child's best interests;
- (6) the child's adjustment to home, school, and community;
- (7) the length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity;
- (8) the permanence, as a family unit, of the existing or proposed custodial home;
- (9) the mental and physical health of all individuals involved; except that a disability, as defined in section 363.01, of a proposed custodian or the child shall not be determinative of the custody of the child, unless the proposed custodial arrangement is not in the best interest of the child;
- (10) the capacity and disposition of the parties to give the child love, affection, and guidance, and to continue educating and raising the child in the child's culture, religion, or creed, if any;
- (11) the child's cultural background; and
- (12) the effect on the child of the actions of an abuser, if related to domestic abuse as defined in section 518B.01, that has occurred between the parents or the parties.

The court may not use one factor to the exclusion of all others. The court must make detailed findings on each of the factors and explain how the factors led to its conclusions and to the determination of the best interests of the child.

(b) 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.

(c) The court shall not consider conduct of a proposed custodian that does not affect the custodian's relationship to the child.

(d) The court shall consider evidence of a violation of section 609.507 in determining the best interests of the child.

(e) A person may seek custody of a child by filing a petition or motion pursuant to section 518.156.

(f) Section 518.619 applies to this section.

History: 1974 c 330 s 1; 1980 c 589 s 29; 1990 c 574 s 2; 1992 c 557 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: (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; 1987 c 403 art 3 s 96; 1989 c 304 s 132*

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, biological 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; 1987 c 403 art 3 s 94*

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. 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; 1991 c 326 s 11*

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*

257.066 RULES.

By December 31, 1989, the commissioner of human services shall revise Minnesota Rules, parts 9545.0750 to 9545.0830, 9560.0010 to 9560.0180, and 9560.0500 to 9560.0670 to ensure that, as conditions of licensure, social services and child-placing agencies meet the requirements of section 257.072, subdivisions 7 and 8, and keep records in compliance with sections 257.01 and 259.46.

History: *1988 c 689 art 2 s 210*

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.

When an agency accepts a child for placement, the agency shall determine whether the child has had a physical examination by or under the direction of a licensed physician within the 12 months immediately preceding the date when the child came into the agency's care. If there is documentation that the child has had such an examination within the last 12 months, the agency is responsible for seeing that the child has another physical examination within one year of the documented examination and annually in subsequent years. If the agency determines that the child has not had a physical examination within the 12 months immediately preceding placement, the agency shall ensure that the child has the examination within 30 days of coming into the agency's care and once a year in subsequent years.

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. In instances where a child from a family of color is placed in a family foster home of a different racial or ethnic background, the local social service agency shall review the placement after 30 days and each 30 days thereafter for the first six months to determine if there is another available placement that would better satisfy the requirements of this subdivision.

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. The case plan must be monitored and updated at each administrative review. 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 subdivisions 3 and 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 12 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.

The case plan must be updated when a petition is filed and must include a specific plan for permanency.

Subd. 4. Review of developmentally disabled and emotionally handicapped 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, or a child diagnosed with an emotional handicap as defined in section 252.27, subdivision 1a, 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 or need for long-term residential treatment or supervision, 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), after the child has been in foster care for 18 months or, in the case of a child with an emotional handicap, after the child has been in a residential facility for six 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. [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 257.3579; 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: 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; 1988 c 514 s 1,2; 1988 c 689 art 2 s 211-214; 1989 c 282 art 2 s 160; 1990 c 426 art 2 s 1; 1991 c 292 art 3 s 19; 1992 c 464 art 1 s 55; 1992 c 557 s 2

257.072 WELFARE OF MINORITY CHILDREN.

Subdivision 1. 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, conducting outreach activities, and increasing the number of minority recruitment staff employed by the agency. The agency may accept any gifts, grants, offers of services, and other contributions to use in making special recruitment efforts.

Subd. 2. Duties of commissioner. The commissioner of human services shall:

(1) in cooperation with child-placing agencies, develop a cost-effective campaign using radio and television to recruit minority adoptive and foster families;

(2) require that agency staff people who work in the area of minority adoption and foster family recruitment attend cultural sensitivity training; and

(3) monitor the record keeping, licensing, placement preference, recruitment, review, and reporting requirements of the minority child heritage protection act, Laws 1983, chapter 278.

Subd. 3. Minority recruitment specialist. The commissioner shall designate a permanent professional staff position for a minority recruitment specialist. The minority

recruitment specialist shall provide services to child-placing agencies seeking to recruit minority adoptive and foster care families and qualified minority professional staff. The minority recruitment specialist shall:

- (1) develop materials for use by the agencies in training staff;
- (2) conduct in-service workshops for agency personnel;
- (3) provide consultation, technical assistance, and other appropriate services to agencies wishing to improve service delivery to minority populations;
- (4) conduct workshops for foster care and adoption recruiters to evaluate the effectiveness of techniques for recruiting minority families; and
- (5) perform other duties as assigned by the commissioner to implement the minority child heritage protection act and the Minnesota Indian family preservation act.

Upon recommendation of the minority recruitment specialist, the commissioner may contract for portions of these services.

Subd. 4. Consultation with minority representatives. The commissioner of human services shall, after seeking and considering advice from representatives from the councils established under sections 3.922, 3.9223, 3.9225, and 3.9226:

- (1) review, and where necessary, revise the department of human services social service manual and practice guide to reflect the scope and intent of Laws 1983, chapter 278;
- (2) develop criteria for determining whether a prospective adoptive or foster family is "knowledgeable and appreciative" as the term is used in section 260.181, subdivision 3;
- (3) develop a standardized training curriculum for adoption and foster care workers, family-based providers, and administrators who work with minority and special needs children. Training must address the following subjects:
 - (a) developing and maintaining sensitivity to other cultures;
 - (b) assessing values and their cultural implications; and
 - (c) implementing the minority child heritage protection act, Laws 1983, chapter 278, and the Minnesota Indian family preservation act, sections 257.35 to 257.3579;
- (4) develop a training curriculum for family and extended family members of minority adoptive and foster children. The curriculum must address issues relating to cross-cultural placements as well as issues that arise after a foster or adoptive placement is made; and
- (5) develop and provide to agencies an assessment tool to be used in combination with group interviews and other preplacement activities to evaluate prospective adoptive and foster families of minority children. The tool must assess problem-solving skills; identify parenting skills; and, when required by section 260.181, subdivision 3, evaluate the degree to which the prospective family is knowledgeable and appreciative of racial and ethnic differences.

Subd. 5. Minority placements. Beginning December 1, 1989, the commissioner shall provide to the Indian affairs council, the council on affairs of Spanish-speaking people, the council on Black Minnesotans, and the council on Asian-Pacific Minnesotans the semiannual reports required under section 257.0725.

Subd. 6. Advisory task force. The commissioner of human services may convene and meet periodically with an advisory task force on minority child welfare. The task force may advise the commissioner on issues related to minority child welfare, including, but not limited to, adoption and foster care, the use of citizen review boards, infant mortality in minority communities, and placement prevention. The task force should include minority adoption and foster care workers and minority adoptive and foster parents.

Subd. 7. Duties of child-placing agencies. Each authorized child-placing agency must:

- (1) develop and follow procedures for implementing the order of preference pre-

scribed by section 260.181, subdivision 3, and the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923;

(a) In implementing the order of preference, an authorized child-placing agency may disclose private or confidential data, as defined in section 13.02, to relatives of the child for the purpose of locating a suitable placement. The agency shall disclose only data that is necessary to facilitate implementing the preference. If a parent makes an explicit request that the relative preference not be followed, the agency shall bring the matter to the attention of the court to determine whether the parent's request is consistent with the best interests of the child and the agency shall not contact relatives unless ordered to do so by the juvenile court; and

(b) In implementing the order of preference, the authorized child-placing agency shall develop written standards for determining the suitability of proposed placements. The standards need not meet all requirements for foster care licensing, but must ensure that the safety, health, and welfare of the child is safeguarded. In the case of an Indian child, the standards to be applied must be the prevailing social and cultural standards of the Indian child's community, and the agency shall defer to tribal judgment as to suitability of a particular home when the tribe has intervened pursuant to the Indian Child Welfare Act;

(2) have a written plan for recruiting minority adoptive and foster families. The plan must include (a) strategies for using existing resources in minority communities, (b) use of minority outreach staff wherever possible, (c) use of minority foster homes for placements after birth and before adoption, and (d) other techniques as appropriate;

(3) have a written plan for training adoptive and foster families of minority children;

(4) if located in an area with a significant minority population, have a written plan for employing minority social workers in adoption and foster care. The plan must include staffing goals and objectives;

(5) ensure that adoption and foster care workers attend training offered or approved by the department of human services regarding cultural diversity and the needs of special needs children; and

(6) develop and implement procedures for implementing the requirements of the Indian Child Welfare Act and the Minnesota Indian family preservation act.

Subd. 8. Reporting requirements. Each authorized child-placing agency shall provide to the commissioner of human services all data needed by the commissioner for the report required by section 257.0725. The agency shall provide the data within 60 days of the end of the six-month period for which the data is applicable.

History: 1983 c 278 s 6; 1988 c 689 art 2 s 215; 1991 c 199 art 2 s 1; 1992 c 557 s

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257.0725 SEMIANNUAL REPORT.

The commissioner of human services shall publish a semiannual report on children in out-of-home placement. The report shall include, by county and statewide, information on legal status, living arrangement, age, sex, race, accumulated length of time in placement, reason for most recent placement, race of family with whom placed, number of families from the child's own culture in the placement pool during the period for which data is provided, and other demographic information deemed appropriate on all children in out-of-home placement. The commissioner shall provide the required data for children who entered placement during the previous quarter and for children who are in placement at the end of the quarter. Out-of-home placement includes placement in any facility by an authorized child-placing agency. By December 1, 1989, and by December 1 of each successive year, the commissioner shall publish a report covering the first six months of the calendar year. By June 1, 1990, and by June 1 of each successive year, the commissioner shall publish a report covering the last six months of the calendar year.

History: 1988 c 689 art 2 s 216

257.075 GRANTS FOR SUPPORT SERVICES.

The commissioner of human services may make grants to authorized child-placing agencies that provide services to minority children in out-of-home placements. Support services may include, but are not limited to:

- (1) development of foster and adoptive placement resources, including recruitment, licensing, and support;
- (2) advocacy in working with the county and private social service agencies, and activities to help provide access to agency services;
- (3) family and community involvement strategies to combat child abuse and chronic neglect of children;
- (4) coordinated child welfare and mental health services to minority families;
- (5) preadoption, postadoption, and foster care support groups for minority children and prospective adoptive and foster families;
- (6) the use of minority foster parents as continuing support for children returned to birth homes;
- (7) information, counseling, and support groups to assist minority children approaching age 18 in setting permanent goals for independent living;
- (8) minority adolescent support groups for children in long-term foster care, new adoptive placements, and nonminority homes where identity issues threaten the adoptive relationship and adjustment;
- (9) services listed at section 256F.07; and
- (10) other activities and services approved by the commissioner that further the goals of the minority heritage preservation act.

History: 1988 c 689 art 2 s 217

OMBUDSPERSON FOR FAMILIES**257.0755 OFFICE OF OMBUDSPERSON; CREATION; QUALIFICATIONS; FUNCTION.**

An ombudsperson for families shall be appointed to operate independently but under the auspices of each of the following groups: the Indian Affairs Council, the Spanish-Speaking Affairs Council, the Council on Black Minnesotans, and the Council on Asian-Pacific Minnesotans. Each of these groups shall select its own ombudsperson subject to final approval by the advisory board established under section 257.0768. Each ombudsperson shall serve at the pleasure of the advisory board, shall be in the unclassified service, shall be selected without regard to political affiliation, and shall be a person highly competent and qualified to analyze questions of law, administration, and public policy regarding the protection and placement of children from families of color. In addition, the ombudsperson must be experienced in dealing with communities of color and knowledgeable about the needs of those communities. No individual may serve as ombudsperson while holding any other public office. The ombudsperson shall have the authority to investigate decisions, acts, and other matters of an agency, program, or facility providing protection or placement services to children of color.

History: 1991 c 292 art 3 s 20

257.076 DEFINITIONS.

Subdivision 1. Scope. For the purposes of sections 257.0755 to 257.0768, the following terms shall have the meanings given them in this section.

Subd. 2. Agency. "Agency" means the divisions, officials, or employees of the state departments of human services and health and local district courts or a designated county social service agency as defined in section 256G.02, subdivision 7, engaged in providing child protection and placement services for children. "Agency" also means any individual, service, or program providing child protection or placement services in coordination with or under contract to any other entity specified in this subdivision.

Subd. 3. Communities of color. "Communities of color" means the following: American Indian, Hispanic-Latino, Asian-Pacific, African, and African-American communities.

Subd. 4. Compadrazgo. "Compadrazgo" is a kinship institution within the Hispanic-Latino community used as a means of parenting and caring for children from birth to adulthood.

Subd. 5. Family of color. "Family of color" means any family with a child under the age of 18 who is identified by one or both parents or another trusted adult to be of American Indian, Hispanic-Latino, Asian-Pacific, African, or African-American descent.

Subd. 6. Facility. "Facility" means any entity required to be licensed under chapter 245A.

Subd. 7. Trusted adult. "Trusted adult" means an individual recognized by the child's parent or legal guardian, the child's community, or both, as speaking for the child's best interest. The term includes compadrazgo and other individuals with a kinship or community relationship with the child.

History: 1991 c 292 art 3 s 21

257.0761 ORGANIZATION OF OFFICE OF OMBUDSPERSON.

Subdivision 1. Staff; unclassified status; retirement. The ombudsperson for each group specified in section 257.0755 may select, appoint, and compensate out of available funds the assistants and employees as deemed necessary to discharge responsibilities. All employees, except the secretarial and clerical staff, shall serve at the pleasure of the ombudsperson in the unclassified service. The ombudsperson and full-time staff shall be members of the Minnesota state retirement association.

Subd. 2. Delegation to staff. The ombudsperson may delegate to staff members any of the ombudsperson's authority or duties except the duty of formally making recommendations to an administrative agency or reports to the office of the governor, or to the legislature.

History: 1991 c 292 art 3 s 22

257.0762 DUTIES AND POWERS.

Subdivision 1. Duties. (a) Each ombudsperson shall monitor agency compliance with all laws governing child protection and placement, as they impact on children of color. In particular, the ombudsperson shall monitor agency compliance with sections 256F.07, subdivision 3a; 256F.08; 257.072; 257.075; 257.35 to 257.3579; and 260.181, subdivision 3.

(b) The ombudsperson shall work with local state courts to ensure that:

(1) court officials, public policymakers, and service providers are trained in cultural diversity. The ombudsperson shall document and monitor court activities in order to heighten awareness of diverse belief systems and family relationships;

(2) experts from the appropriate community of color including tribal advocates are used as court advocates and are consulted in placement decisions that involve children of color;

(3) guardians ad litem and other individuals from communities of color are recruited, trained, and used in court proceedings to advocate on behalf of children of color; and

(4) training programs for bilingual workers are provided.

Subd. 2. Powers. In carrying out the duties in subdivision 1, each ombudsperson has the power to:

(1) prescribe the methods by which complaints are to be made, reviewed, and acted upon;

(2) determine the scope and manner of investigations to be made;

(3) investigate, upon a complaint or upon personal initiative, any action of any agency;

(4) request and be given access to any information in the possession of any agency deemed necessary for the discharge of responsibilities. The ombudsperson is authorized to set reasonable deadlines within which an agency must respond to requests for information. Data obtained from any agency under this clause shall retain the classification which it had under section 13.02 and shall be maintained and disseminated by the ombudsperson according to chapter 13;

(5) examine the records and documents of an agency;

(6) enter and inspect, during normal business hours, premises within the control of an agency; and

(7) subpoena any agency personnel to appear, testify, or produce documentary or other evidence which the ombudsperson deems relevant to a matter under inquiry, and may petition the appropriate state court to seek enforcement with the subpoena; provided, however, that any witness at a hearing or before an investigation as herein provided, shall possess the same privileges reserved to such a witness in the courts or under the laws of this state. The ombudsperson may compel nonagency individuals to testify or produce evidence according to procedures developed by the advisory board.

History: 1991 c 292 art 3 s 23

257.0763 MATTERS APPROPRIATE FOR REVIEW.

(a) In selecting matters for review, an ombudsperson should give particular attention to actions of an agency, facility, or program that:

(1) may be contrary to law or rule;

(2) may be unreasonable, unfair, oppressive, or inconsistent with a policy or order of an agency, facility, or program;

(3) may result in abuse or neglect of a child;

(4) may disregard the rights of a child or other individual served by an agency or facility; or

(5) may be unclear or inadequately explained, when reasons should have been revealed.

(b) An ombudsperson shall, in selecting matters for review, inform other interested agencies in order to avoid duplicating other investigations or regulatory efforts, including activities undertaken by a tribal organization under the authority of sections 257.35 to 257.3579.

History: 1991 c 292 art 3 s 24

257.0764 COMPLAINTS.

An ombudsperson may receive a complaint from any source concerning an action of an agency, facility, or program. After completing a review, the ombudsperson shall inform the complainant, agency, facility, or program. Services to a child shall not be unfavorably altered as a result of an investigation or complaint. An agency, facility, or program shall not retaliate or take adverse action, as defined in section 626.556, subdivision 4a, paragraph (c), against an individual who, in good faith, makes a complaint or assists in an investigation.

History: 1991 c 292 art 3 s 25

257.0765 RECOMMENDATIONS TO AGENCY.

(a) If, after reviewing a complaint or conducting an investigation and considering the response of an agency, facility, or program and any other pertinent material, the ombudsperson determines that the complaint has merit or the investigation reveals a problem, the ombudsperson may recommend that the agency, facility, or program:

(1) consider the matter further;

- (2) modify or cancel its actions;
- (3) alter a rule, order, or internal policy;
- (4) explain more fully the action in question; or
- (5) take other action as authorized under section 257.0762.

(b) At the ombudsperson's request, the agency, facility, or program shall, within a reasonable time, inform the ombudsperson about the action taken on the recommendation or the reasons for not complying with it.

History: 1991 c 292 art 3 s 26

257.0766 RECOMMENDATIONS AND PUBLIC REPORTS.

Subdivision 1. **Specific reports.** An ombudsperson may send conclusions and suggestions concerning any matter reviewed to the governor and shall provide copies of all reports to the advisory board and to the groups specified in section 257.0768, subdivision 1. Before making public a conclusion or recommendation that expressly or implicitly criticizes an agency, facility, program, or any person, the ombudsperson shall inform the governor and the affected agency, facility, program, or person concerning the conclusion or recommendation. When sending a conclusion or recommendation to the governor that is adverse to an agency, facility, program, or any person, the ombudsperson shall include any statement of reasonable length made by that agency, facility, program, or person in defense or mitigation of the ombudsperson's conclusion or recommendation.

Subd. 2. **General reports.** In addition to whatever conclusions or recommendations the ombudsperson may make to the governor on an ad hoc basis, the ombudsperson shall at the end of each year report to the governor concerning the exercise of the ombudsperson's functions during the preceding year.

History: 1991 c 292 art 3 s 27

257.0767 CIVIL ACTIONS.

The ombudsperson and designees are not civilly liable for any action taken under sections 257.0755 to 257.0768 if the action was taken in good faith, was within the scope of the ombudsperson's authority, and did not constitute willful or reckless misconduct.

History: 1991 c 292 art 3 s 28

257.0768 OMBUDSPERSON'S ADVISORY COMMITTEE.

Subdivision 1. **Membership.** The appointment of each ombudsperson is subject to approval by an advisory committee consisting of no more than 17 members. Members of the advisory committee shall be appointed by the following groups: the Indian Affairs Council; the Spanish-Speaking Affairs Council; the Council on Black Minnesotans; and the Council on Asian-Pacific Minnesotans. The committee shall provide advice and counsel to each ombudsperson.

Subd. 2. **Compensation; chair.** Members do not receive compensation but are entitled to receive reimbursement for reasonable and necessary expenses incurred. The members shall designate four rotating chairs to serve annually at the pleasure of the members.

Subd. 3. **Meetings.** The committee shall meet at least four times a year at the request of its chair or the ombudspersons.

Subd. 4. **Duties.** The committee shall advise and assist the ombudspersons in selecting matters for attention; developing policies, plans, and programs to carry out the ombudspersons' functions and powers; establishing protocols for working with the communities of color; developing procedures for the ombudspersons' use of the subpoena power to compel testimony and evidence from nonagency individuals; and making reports and recommendations for changes designed to improve standards of competence, efficiency, justice, and protection of rights. The committee shall function as an advisory body.

Subd. 5. **Terms, compensation, removal, and expiration.** The membership terms, compensation, and removal of members of the committee and the filling of membership vacancies are governed by section 15.0575.

History: 1986 c 444; 1991 c 292 art 3 s 29

257.0769 FUNDING FOR THE OMBUDSPERSON PROGRAM.

(a) Money is appropriated from the special fund authorized by section 256.01, subdivision 2, clause (15), to the Indian Affairs Council for the purposes of sections 257.0755 to 257.0768.

(b) Money is appropriated from the special fund authorized by section 256.01, subdivision 2, clause (15), to the Spanish-speaking Affairs Council for the purposes of sections 257.0755 to 257.0768.

(c) Money is appropriated from the special fund authorized by section 256.01, subdivision 2, clause (15), to the Council of Black Minnesotans for the purposes of sections 257.0755 to 257.0768.

(d) Money is appropriated from the special fund authorized by section 256.01, subdivision 2, clause (15), to the Council on Asian-Pacific Minnesotans for the purposes of sections 257.0755 to 257.0768.

History: 1991 c 292 art 3 s 30

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]

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]

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- 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.

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

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

MINNESOTA INDIAN FAMILY PRESERVATION ACT

257.35 CITATION.

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

History: 1985 c 111 s 1; 1987 c 403 art 2 s 110

257.351 DEFINITIONS.

Subdivision 1. **Scope.** As used in sections 257.35 to 257.3579, 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. 3a. **Commissioner.** "Commissioner" means the commissioner of human services.

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

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 257.3579 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. 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.

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. 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.

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 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.

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; 1987 c 403 art 2 s 111-116; 1991 c 199 art 2 s 1

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. This subdivision applies whenever the court transfers legal custody of an Indian child under section 260.185, subdivision 1, paragraph (c), clause (1), (2), or (3) following an adjudication for a misdemeanor-level delinquent act.

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; 1991 c 292 art 3 s 31

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 257.3579 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.

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: 1985 c 111 s 5; 1987 c 403 art 2 s 117,118; 1989 c 209 art 2 s 29; 1990 c 426 art 2 s 1

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 [Repealed, 1989 c 155 s 5]

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 145A.01 to 145A.14; or

(6) administrative costs for income maintenance staff.

History: 1987 c 403 art 2 s 121; 1991 c 199 art 2 s 1

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. 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.

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; 1989 c 89 s 23

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 CHILD WELFARE ADVISORY COUNCIL.

The commissioner shall appoint an American Indian advisory council 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 council 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 terms, compensation, and removal of American Indian child welfare advisory council members shall be as provided in section 15.059.

History: 1987 c 403 art 2 s 127; 1992 c 515 s 1

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 discharged 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 518C.01 to 518C.36 also may be invoked.

History: 1973 c 227 s 2; 1990 c 426 art 1 s 34

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 biological 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; 1987 c 403 art 3 s 96

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 biological mother may be established by proof of her having given birth to the child, or under sections 257.51 to 257.74;

(b) the biological 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; 1987 c 403 art 3 s 96

257.541 CUSTODY AND VISITATION OF CHILDREN BORN OUTSIDE OF MARRIAGE.

Subdivision 1. Mother's right to custody. The biological 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 biological father may petition for rights of visitation or custody in the paternity proceeding or in a separate proceeding under section 518.156.

History: 1983 c 308 s 3; 1987 c 403 art 3 s 96; 1990 c 574 s 3

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.

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; 1987 c 403 art 3 s 96; 1989 c 282 art 2 s 161

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 biological 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.

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 biological father of a child thereby conceived.

History: 1980 c 589 s 6; 1987 c 126 s 1; 1987 c 403 art 3 s 96

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 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 or one year after the presumed father knows or reasonably should have known of the birth of the child, whichever is earlier. 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. 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), (e), or (f), or the nonexistence of the father and child relationship presumed under clause (d) of that subdivision;

(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; or

(3) for the purpose of declaring the nonexistence of the father and child relationship presumed under section 257.55, subdivision 1, paragraph (f), only if the action is brought within three years after the party bringing the action, or the party's attorney of record, has been provided the blood test results.

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; 1987 c 403 art 3 s 46,96; 1989 c 282 art 2 s 162; 1990 c 568 art 2 s 65; 1991 c 292 art 5 s 69

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. 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: 1980 c 589 s 10; 1983 c 308 s 7; 1984 c 654 art 5 s 58; 1987 c 403 art 3 s

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. (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.

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: 1980 c 589 s 12; 1983 c 308 s 8,9; 1987 c 403 art 3 s 48; 1989 c 282 art 2 s 163

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. 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.

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; 1987 c 403 art 3 s 49

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. **Entry of judgment.** Any order for support or maintenance issued under this section shall provide for a conspicuous notice that, if the obligor fails to make a support payment, the payment owed becomes a judgment by operation of law on and after the date the payment is due and the obligee or a public agency responsible for support enforcement may obtain entry and docketing of the judgment for the unpaid amounts under the provisions of section 548.091.

History: 1980 c 589 s 16; 1983 c 308 s 11,12; 1984 c 547 s 3; 1988 c 593 s 5

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 256.871 to 256.878.

History: 1980 c 589 s 17; 1985 c 248 s 41; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1987 c 384 art 2 s 1

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.

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

CHILDREN'S TRUST FUND FOR PREVENTION OF CHILD ABUSE

257.80 CITATION.

Sections 257.801 to 257.806 may be cited as the "children's trust fund for the prevention of child abuse act."

History: 1986 c 423 s 1; 1991 c 292 art 8 s 25

257.801 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to Laws 1986, chapter 423, sections 1 to 9.

Subd. 2. **Act.** "Act" means the children's trust fund for the prevention of child abuse act.

Subd. 3. **Advisory council.** "Advisory council" means the advisory council established under section 257.803.

Subd. 4. **Child.** "Child" means a person under 18 years of age.

Subd. 5. **Child abuse.** "Child abuse" means sexual abuse, neglect, or physical abuse as defined in section 626.556, subdivision 2, paragraphs (a), (c), and (d).

Subd. 6. **Commissioner.** "Commissioner" means the commissioner of human services.

Subd. 7. **Local council.** "Local council" means a child abuse prevention council established under section 257.804.

Subd. 8. **Prevention program.** "Prevention program" means a system that directly provides primary or secondary child abuse prevention services to a child, parent or prospective parent, guardian, or professional who works regularly with children, and may also include a research program related to the prevention of child abuse.

Subd. 9. **Primary prevention.** "Primary prevention" means a program or service designed to promote the general welfare of children and families.

Subd. 10. **Secondary prevention.** "Secondary prevention" means a program or service designed to prevent abuse of children who are in circumstances where there is a high risk that abuse will occur.

Subd. 11. **Tertiary prevention.** "Tertiary prevention" means a program or service provided after child abuse has occurred that is designed to prevent its recurrence.

Subd. 12. **Trust fund.** "Trust fund" means the children's trust fund for the prevention of child abuse established under section 257.802.

History: 1986 c 423 s 2; 1991 c 292 art 8 s 8,25

257.802 TRUST FUND.

Subdivision 1. **Creation of trust fund.** A children's trust fund for the prevention of child abuse is established as an account in the state treasury. The commissioner of finance shall credit to the trust fund all amounts received under sections 257.806 and 144.226, subdivision 3, and shall ensure that trust fund money is invested under section 11A.25. All money earned by the trust fund must be credited to the trust fund. The trust fund earns its proportionate share of the total annual state investment income.

Subd. 2. **Availability of funds for disbursement.** Until the total amount of assets in the trust fund exceeds \$20,000,000, not more than 60 percent of the gross amount contributed to the trust fund each year under section 144.226, subdivision 3, plus 100 percent of all earnings credited to the trust fund the previous fiscal year, are available for disbursement. When the commissioner of finance certifies that the assets in the trust fund exceed \$20,000,000, only the annual earnings and the funds received under section 257.806 that are credited to the trust fund are available for disbursement.

Subd. 3. **Exception.** Notwithstanding subdivision 2, money received under section 257.806 may be disbursed in its entirety. This money must not be taken into account when calculating the annual contributions to the trust fund under this section.

History: 1986 c 423 s 3; 1991 c 292 art 8 s 25

257.803 DISBURSEMENT OF FUNDS FOR CHILD ABUSE PREVENTION.

Subdivision 1. **Authority to disburse funds.** The commissioner, with the advice and consent of the advisory council established under this section, may disburse trust fund money to any public or private nonprofit agency to fund a child abuse prevention program.

Subd. 2. Advisory council. An advisory council of 19 members is established under section 15.059. The commissioners of human services, public safety, health, education, and corrections shall each appoint one member. The subcommittee on committees of the senate and the speaker of the house of representatives shall each appoint two members of their respective bodies, one from each caucus. The governor shall appoint an additional ten members who shall demonstrate knowledge in the area of child abuse and shall represent the demographic and geographic composition of the state, and to the extent possible, represent the following groups: local government, parents, racial and ethnic minority communities, the religious community, professional providers of child abuse prevention and treatment services, and volunteers in child abuse prevention and treatment services. The council shall advise and assist the commissioner in carrying out sections 257.80 to 257.806. The council does not expire as provided by section 15.059, subdivision 5.

Subd. 3. Plan for disbursement of funds. By June 1, 1987, the commissioner, assisted by the advisory council, shall develop a plan to disburse money from the trust fund. In developing the plan, the commissioner shall review prevention programs. The plan must ensure that all geographic areas of the state have an equal opportunity to establish prevention programs and receive trust fund money. Biennially thereafter the commissioner shall send the plan to the legislature and the governor by January 1 of each odd-numbered year.

Subd. 4. Responsibilities of the commissioner. (a) The commissioner shall:

(1) provide for the coordination and exchange of information on the establishment and maintenance of prevention programs;

(2) develop and publish criteria for receiving trust fund money by prevention programs;

(3) review, approve, and monitor the spending of trust fund money by prevention programs;

(4) provide statewide educational and public informational seminars to develop public awareness on preventing child abuse; to encourage professional persons and groups to recognize instances of child abuse and work to prevent them; to make information on child abuse prevention available to the public and to organizations and agencies; and to encourage the development of prevention programs;

(5) establish a procedure for an annual, internal evaluation of the functions, responsibilities, and performance of the commissioner in carrying out Laws 1986, chapter 423. In a year in which the state plan is prepared, the evaluation must be coordinated with the preparation of the state plan;

(6) provide technical assistance to local councils and agencies working in the area of child abuse prevention; and

(7) accept and review grant applications beginning June 1, 1987.

(b) The commissioner shall recommend to the governor and the legislature changes in state programs, statutes, policies, budgets, and standards that will reduce the problems of child abuse, improve coordination among state agencies that provide prevention services, and improve the condition of children, parents, or guardians in need of prevention program services.

History: 1986 c 423 s 4; 1987 c 358 s 113; 1Sp1987 c 4 art 2 s 6; 1988 c 629 s 57; 1989 c 119 s 1; 1991 c 292 art 8 s 9,25; 1992 c 515 s 2

257.804 LOCAL CHILD ABUSE PREVENTION COUNCILS.

Subdivision 1. Establishment of council. A child abuse prevention council may be established in any county or group of counties that was eligible to receive funds under Minnesota Statutes 1986, section 145.917 as of January 1, 1986. A council organized in such a county or group of counties shall be authorized by the commissioner to review programs seeking trust fund money on finding that the council meets the criteria in this subdivision:

(a) The council has submitted a plan for the prevention of child abuse that includes a survey of programs and services, assesses the need for additional programs or services, and demonstrates that standards and procedures have been established to ensure that funds will be distributed and used according to Laws 1986, chapter 423.

(b) A single-county council shall consist of:

(1) members of a multidisciplinary child protection team which must be established under section 626.558; and

(2) if necessary, enough additional members appointed by the county with knowledge in the area of child abuse so that a majority of the council is composed of members who do not represent public agencies.

(c) A multicounty council shall be selected by the combined membership of those multidisciplinary teams which have been established in the counties under section 626.558 and shall consist of:

(1) one representative each from local human services agencies, county attorney offices, county sheriff offices, and health and education agencies, chosen from among the membership of all the teams;

(2) one representative from any other public agency group represented among the combined teams; and

(3) enough additional members from the public who have knowledge in the area of child abuse so that a majority of the council is composed of members who do not represent public agencies.

(d) In any multicounty group eligible to establish a council under this subdivision, at least 50 percent of the counties must have established a multidisciplinary team under section 626.558 before a council may be established.

Subd. 2. Review by council. To be eligible to receive a grant from the trust fund, an applicant must have had its program reviewed by a child abuse prevention council from the applicant's geographic area found by the commissioner to meet the criteria in this section. In reviewing all such programs, the council shall consider the extent to which the applicant meets the criteria and standards in Laws 1986, chapter 423, and the degree to which the program meets the needs of the geographic area. The council shall provide to the advisory council its comments and recommendations concerning each program reviewed and shall provide the advisory council with its prioritization by rank ordering of all programs reviewed.

History: 1986 c 423 s 5; 1991 c 199 art 2 s 22; 1991 c 292 art 8 s 25

257.805 PROCEDURES AND CRITERIA FOR DISBURSEMENT.

Subdivision 1. Establishment. The commissioner shall establish in the plan for prevention of child abuse the criteria for distribution of trust fund money. All money shall be distributed for programs and services involving primary or secondary prevention, and no money shall be distributed for programs and services involving tertiary prevention.

Subd. 2. Matching and other requirements. Trust fund money shall only be distributed to applicants that demonstrate an ability to match 40 percent of the amount of trust fund money requested and whose proposals meet the other criteria. The matching requirement may be met through in-kind donations. In awarding grants, the commissioner shall consider the extent to which the applicant has demonstrated a willingness and ability to:

(1) continue the prevention program or service if trust fund money is eliminated or reduced; and

(2) provide prevention program models and consultation to other organizations and communities.

Subd. 3. Use of funds. Priority must be given to applicants whose matching funds do not consist, in whole or in part, of state or federal funds. Any trust fund money received must not be used to compensate for a decrease in previously existing funding

levels unless that decrease is attributable to a decision made by state, federal, or other entities not controlled by the applicant and the applicant demonstrates that it has made reasonable efforts to retain all previously existing funding.

Subd. 4. Statewide or regional programs. The commissioner may fund programs that intend to serve the entire state or a region larger than the area served by any local council even if the program has not been reviewed by any local council. The commissioner may, however, solicit comments or recommendations about the applicant or the program from a local council covering any area to be served by the applicant's proposed program.

Subd. 5. Local council as recipient of funds. The commissioner may disburse funds to a local council on the same basis as to any other applicant, or as administrative costs in carrying out Laws 1986, chapter 423, if all criteria and standards are met. Funds disbursed as administrative costs to a local council must not exceed five percent of total funds disbursed to the area served by the local council.

Subd. 6. [Repealed, 1Sp1987 c 4 art 2 s 9]

Subd. 7. Contracts. The commissioner shall use state or local resources and staff if practicable, but may enter into contracts with public or nonprofit private agencies to fulfill the requirements of Laws 1986, chapter 423.

Subd. 8. Rules. The commissioner may adopt rules to carry out Laws 1986, chapter 423.

History: 1986 c 423 s 6; 1Sp1987 c 4 art 2 s 7; 1991 c 292 art 8 s 25

257.806 ACCEPTANCE OF FEDERAL FUNDS AND OTHER DONATIONS.

The commissioner may accept federal money and gifts, donations, and bequests for the purposes of Laws 1986, chapter 423. Money so received and proceeds from the sale of promotional items, minus sales promotional costs, must be deposited in the trust fund and must be made available annually to the commissioner.

History: 1986 c 423 s 7; 1987 c 358 s 114; 1991 c 292 art 8 s 25

257.807 ANNUAL APPROPRIATION.

All earnings from trust fund assets, all sums received under section 257.806, and 60 percent of the amount collected under section 144.226, subdivision 3, are appropriated annually from the children's trust fund for the prevention of child abuse to the commissioner of human services to carry out sections 257.80 to 257.806. In fiscal year 1987 only, the first \$75,000 collected under section 144.226, subdivision 3, is appropriated from the children's trust fund for the prevention of child abuse to the commissioner of human services to carry out sections 257.80 to 257.806.

History: 1986 c 423 s 9; 1991 c 292 art 8 s 10,25