

## CHAPTER 259

## CHANGE OF NAME, ADOPTION

259.255 Protection of heritage or background.  
 259.2565 Notice regarding permanent placement  
 of certain children.  
 259.28 Hearing, decree.

259.40 Adoption assistance program.  
 259.431 Interstate adoption compacts: service  
 payments.  
 259.455 Family recruitment.

**259.255 PROTECTION OF HERITAGE OR BACKGROUND.**

The policy of the state of Minnesota is to ensure that the best interests of the child are met by requiring due, not sole, consideration of the child's race or ethnic heritage in adoption placements. For purposes of intercountry adoptions, due consideration is deemed to have occurred if the appropriate authority in the child's country of birth has approved the placement of the child.

The authorized child placing agency shall give preference, in the absence of good cause to the contrary, to placing the child with (a) a relative or relatives of the child, or, if that would be detrimental to the child or a relative is not available, (b) a family with the same racial or ethnic heritage as the child, or, if that is not feasible, (c) a family of different racial or ethnic heritage from the child which is knowledgeable and appreciative of the child's racial or ethnic heritage.

If the child's genetic parent or parents explicitly request that the preference described in clause (a) or clauses (a) and (b) not be followed, the authorized child placing agency shall honor that request consistent with the best interests of the child.

If the child's genetic parent or parents express a preference for placing the child in an adoptive home of the same or a similar religious background to that of the genetic parent or parents, in following the preferences in clause (a) or (b), the agency shall place the child with a family that also meets the genetic parent's religious preference. Only if no family is available that is described in clause (a) or (b) may the agency give preference to a family described in clause (c) that meets the parent's religious preference.

**History:** 1993 c 291 s 10

**259.2565 NOTICE REGARDING PERMANENT PLACEMENT OF CERTAIN CHILDREN.**

When a termination of parental rights order regarding a child becomes final, the agency with guardianship of the child shall give the notice provided in this section to any adult with whom the child is currently residing, any adult with whom the child has resided for one year or longer in the past, and any adults who have maintained a relationship or exercised visitation with the child as identified in the agency case plan for the child or demonstrated an interest in the child. This notice must not be provided to a parent whose parental rights to the child have been terminated under section 260.221, subdivision 1. The notice must state that a permanent home is sought for the child and that individuals receiving the notice may indicate to the agency their interest in providing a permanent home. The agency with guardianship of the child shall review the child's custodial history and relationships with siblings, relatives, foster parents, and any other person who may significantly affect the child in determining an appropriate permanent placement.

**History:** 1993 c 291 s 11

**259.28 HEARING, DECREE.**

*[For text of subd 1, see M.S.1992]*

**Subd. 2. Protection of heritage or background.** The policy of the state of Minnesota is to ensure that the best interests of children are met by requiring due, not sole, consid-

eration of the child's race or ethnic heritage in adoption placements. For purposes of intercountry adoptions, due consideration is deemed to have occurred if the appropriate authority in the child's country of birth has approved the placement of the child.

In reviewing adoptive placement, the court shall consider preference, and in determining appropriate adoption, the court shall give preference, in the absence of good cause to the contrary, to (a) a relative or relatives of the child, or, if that would be detrimental to the child or a relative is not available, to (b) a family with the same racial or ethnic heritage as the child, or if that is not feasible, to (c) a family of different racial or ethnic heritage from the child that is knowledgeable and appreciative of the child's racial or ethnic heritage.

If the child's genetic parent or parents explicitly request that the preference described in clause (a) or in clauses (a) and (b) not be followed, the court shall honor that request consistent with the best interests of the child.

If the child's genetic parent or parents express a preference for placing the child in an adoptive home of the same or a similar religious background to that of the genetic parent or parents, in following the preferences in clause (a) or (b), the court shall place the child with a family that also meets the genetic parent's religious preference. Only if no family is available as described in clause (a) or (b) may the court give preference to a family described in clause (c) that meets the parent's religious preference.

**Subd. 3. Compliance with Indian Child Welfare Act.** The provisions of this chapter must be construed consistently with the Indian Child Welfare Act of 1978, United States Code, title 25, sections 1901 to 1963.

**History:** 1993 c 291 s 12,13

## **259.40 ADOPTION ASSISTANCE PROGRAM.**

**Subdivision 1. Adoption assistance.** The commissioner of human services shall enter into an adoption assistance agreement with an adoptive parent or parents who adopt a child who meets the eligibility requirements under title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 679a, or who otherwise meets the requirements in subdivision 4.

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

The amount of adoption assistance is subject to the availability of state and federal funds and shall be determined through agreement with the adoptive parents. The agreement shall take into consideration the circumstances of the adopting parent or parents, the needs of the child being adopted and may provide ongoing monthly assistance, supplemental maintenance expenses related to the adopted person's special needs, non-medical expenses periodically necessary for purchase of services, items, or equipment related to the special needs, and medical expenses. The placing agency or the adoptive parent or parents shall provide written documentation to support the need for adoption assistance payments. The commissioner may require periodic reevaluation of adoption assistance payments. The amount of ongoing monthly adoption assistance granted may in no case exceed that which would be allowable for the child under foster family care and is subject to the availability of state and federal funds.

**Subd. 3. Annual affidavit.** When adoption assistance agreements are for more than one year, the adoptive parents or guardian or conservator shall annually present an affidavit stating whether the adopted person remains under their care and whether the need for adoption assistance continues to exist. The commissioner may verify the affi-

davit. The adoption assistance agreement shall continue in accordance with its terms as long as the need for adoption assistance continues and the adopted person is the legal or financial dependent of the adoptive parent or parents or guardian or conservator and is under 18 years of age. The adoption assistance agreement may be extended to age 22 as allowed by rules adopted by the commissioner. Termination or modification of the adoption assistance agreement may be requested by the adoptive parents or subsequent guardian or conservator at any time. When the commissioner determines that a child is eligible for adoption assistance under Title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 679a, the commissioner shall modify the adoption assistance agreement in order to obtain the funds under that act.

**Subd. 4. Eligibility conditions.** The placing agency shall determine the child's eligibility for adoption assistance under title IV-E of the Social Security Act. If the child does not qualify, the placing agency shall certify a child as eligible for state funded adoption assistance only if the following criteria are met:

(a) Due to the child's characteristics or circumstances it would be difficult to provide the child and adoptive home without adoption assistance.

(b)(1) A placement agency has made reasonable efforts to place the child for adoption without subsidy adoption assistance, but has been unsuccessful; or

(2) the child's licensed foster parents desire to adopt the child and it is determined by the placing agency that the adoption is in the best interest of the child.

(c) The child has been a ward of the commissioner or a Minnesota-licensed child placing agency.

**Subd. 5. Determination of residency.** A child who is a resident of any county in this state when eligibility for adoption assistance is certified shall remain eligible and receive adoption assistance in accordance with the terms of the adoption assistance agreement, regardless of the domicile or residence of the adopting parents at the time of application for adoptive placement, legal decree of adoption, or thereafter.

*[For text of subd 6, see M.S.1992]*

**Subd. 7. Reimbursement of costs.** Subject to rules of the commissioner, and the provisions of this subdivision a Minnesota-licensed child placing agency or county social service agency shall receive a reimbursement from the commissioner equal to 100 percent of the reasonable and appropriate cost of providing adoption services for a child certified as eligible for adoption assistance. Such assistance may include adoptive family recruitment, counseling, and special training when needed. A Minnesota-licensed child placing agency shall receive reimbursement for adoption services it purchases for or directly provides to an eligible child. A county social service agency shall receive such reimbursement only for adoption services it purchases for an eligible child.

A Minnesota-licensed child placing agency or county social service agency seeking reimbursement under this subdivision shall enter into a reimbursement agreement with the commissioner before providing adoption services for which reimbursement is sought. No reimbursement under this subdivision shall be made to an agency for services provided prior to entering a reimbursement agreement. Separate reimbursement agreements shall be made for each child and separate records shall be kept on each child for whom a reimbursement agreement is made. Funds encumbered and obligated under such an agreement for the child remain available until the terms of the agreement are fulfilled or the agreement is terminated.

**Subd. 8. Indian children.** The commissioner is encouraged to work with American Indian organizations to assist in the establishment of American Indian child adoption organizations able to be licensed as child placing agencies. Children certified as eligible for adoption assistance under this section who are protected under the Federal Indian Child Welfare Act of 1978 should, whenever possible, be served by the tribal governing body, tribal courts, or a licensed Indian child placing agency.

**Subd. 9. Effect on other aid.** Adoption assistance payments received under this section shall not affect eligibility for any other financial payments to which a person may otherwise be entitled.

*[For text of subd 10, see M.S.1992]*

**History:** 1Sp1993 c 1 art 3 s 32-39

**259.431 INTERSTATE ADOPTION COMPACTS; SERVICE PAYMENTS.**

*[For text of subds 1 to 4, see M.S.1992]*

**Subd. 5. Medical assistance; duties of the commissioner of human services.** The commissioner of human services shall:

(a) Issue a medical assistance identification card to any child with special needs who is title IV-E eligible, or who is not title IV-E eligible but was determined by another state to have a special need for medical or rehabilitative care, and who is a resident in this state and is the subject of an adoption assistance agreement with another state when a certified copy of the adoption assistance agreement obtained from the adoption assistance state has been filed with the commissioner. The adoptive parents shall be required at least annually to show that the agreement is still in force or has been renewed.

(b) Consider the holder of a medical assistance identification card under this subdivision as any other recipient of medical assistance under chapter 256B; process and make payment on claims for the recipient in the same manner as for other recipients of medical assistance.

(c) Provide coverage and benefits for a child who is title IV-E eligible or who is not title IV-E eligible but was determined to have a special need for medical or rehabilitative care and who is in another state and who is covered by an adoption assistance agreement made by the commissioner for the coverage or benefits, if any, which is not provided by the resident state. The adoptive parents acting for the child may submit evidence of payment for services or benefit amounts not payable in the resident state and shall be reimbursed. However, there shall be no reimbursement for services or benefit amounts covered under any insurance or other third party medical contract or arrangement held by the child or the adoptive parents.

(d) Publish emergency and permanent rules implementing this subdivision. Such rules shall include procedures to be followed in obtaining prior approvals for services which are required for the assistance.

*[For text of subds 6 and 7, see M.S.1992]*

**History:** *ISp1993 c 1 art 5 s 115*

**259.455 FAMILY RECRUITMENT.**

Each authorized child placing agency shall make special efforts to recruit an adoptive family from among the child's relatives, except as authorized in section 259.28, subdivision 2, and among families of the same racial or ethnic heritage. Special efforts include contacting and working with community organizations and religious organizations and may include contracting with these organizations, utilizing local media and other local resources, and conducting outreach activities. The requirement of special efforts in this section is satisfied if the efforts have continued for six months after the child becomes available for adoption or if special efforts have been satisfied and approved by the court pursuant to section 260.191, subdivision 3a. The agency may accept any gifts, grants, offers of services, and other contributions to use in making special recruitment efforts.

**History:** *1993 c 291 s 14*