

## CHAPTER 257A

## CHILDREN; CUSTODY, DESIGNATED CAREGIVER

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**257A.01 DESIGNATED CAREGIVER AGREEMENT.**

Subdivision 1. **Designation in agreement.** A parent who has legal custody of a child may execute a designated caregiver agreement that names an adult to serve as a designated caregiver to care for the parent's minor child for a period of time specified in the designated caregiver agreement, but not to exceed one year.

Subd. 2. **Consents and notice required.** (a) The agreement must be executed by all parents with legal custody of the child and must have the consent of every parent who has court-ordered visitation rights to the child. As soon as practicable after executing an agreement, a copy of the agreement must be given to every child age 14 or older to whom the agreement applies.

(b) Consent of a parent required under paragraph (a) may be given in writing or may be established by mailing a notice regarding the designated caregiver agreement to the parent's last known address. The notice must include the name of the proposed designated caregiver and inform the parent whose consent is required that the parent's consent to the agreement will be implied if the parent does not object within 30 days. If the parent does not object to the agreement orally or in writing within 30 days, the consent of the parent is implied.

Subd. 3. **When operative.** The agreement becomes operative when none of the parents with physical custody is able to care for the child because of an emergency or temporary period of incapacitation. If the parents have joint physical custody and the parent who is caring for the child is unable to do so, a designated caregiver may provide temporary care until the other parent is able to assume care.

**History:** 1997 c 65 s 2,3,5

**257A.02 DESIGNATED CAREGIVER; ALTERNATE.**

An individual acting as a designated caregiver is exempt in that role from any statute or administrative rule requiring a foster care license, unless the child was placed in the home of the designated caregiver by a child-placing agency pursuant to a voluntary placement agreement or court order, but must provide the notice required by section 257A.09 if applicable. A parent who has named a guardian by will for the parent's children may name that guardian or another individual as a designated caregiver for the child. A parent who has legal custody of more than one child may appoint the same or a different designated caregiver for each child.

A parent may appoint an alternate designated caregiver who would serve if the designated caregiver is unwilling or unable to serve. All the provisions of this chapter dealing with a designated caregiver apply to an alternate designated caregiver.

**History:** 1997 c 65 s 5

**257A.03 POWERS AND DUTIES OF DESIGNATED CAREGIVER.**

Subdivision 1. **General.** A designated caregiver has all the powers regarding the care, custody, and financial interests of a minor child specified in the designated caregiver agreement, except as otherwise provided in this section. A designated caregiver does not have the power to consent to marriage or adoption of the child.

Subd. 2. **Notice to noncustodial parent; rights.** (a) As soon as practicable after assuming care of a child, the designated caregiver shall notify any noncustodial parent that the designated caregiver has assumed care of the child.

(b) Court-ordered visitation rights of a noncustodial parent continue while the child is in the care of the designated caregiver, unless otherwise modified by the court. A designated caregiver agreement does not affect the right of a parent without physical custody to bring a custody motion under chapter 518. If a parent with legal custody is not the designated caregiver, the parent may bring a motion for temporary physical custody, which may continue until the parent with physical custody is able to resume care of the child. The court shall award that parent temporary physical custody unless it finds it would not be in the best interests of the child.

**Subd. 3. Child support.** A preexisting child support order is not suspended or terminated during the time a child is cared for by a designated caregiver, unless otherwise provided by court order. A designated caregiver has a cause of action for child support against an absent parent under section 256.87, subdivision 5.

**History:** 1997 c 65 s 4,5

#### 257A.04 DURATION.

**Subdivision 1. In general.** Unless canceled earlier under section 257A.07 by a parent or the designated caregiver, a designated caregiver agreement is effective for four years, after which date a new agreement may be entered. The new agreement may name the same or a different designated caregiver. A designated caregiver agreement automatically terminates as to any child when that child reaches age 18 or is lawfully married.

**Subd. 2. Death of a parent.** If a parent dies while a designated caregiver agreement is in effect, and there is no living parent able to care for the child, the designated caregiver shall care for the child until a guardian appointed by will is able to take custody of the child or until a court order otherwise provides for the care of the child. However, the designated caregiver may cancel the agreement at any time under section 257A.07.

**History:** 1997 c 65 s 5

#### 257A.05 FORM.

**Subdivision 1. Writing.** A designated caregiver agreement must be made in writing and all signatures must be notarized.

**Subd. 2. Designated caregiver indication on driver's license.** A parent who wishes to have a designated caregiver indication placed on the parent's driver's license or identification card under section 171.07, subdivision 11, must submit a copy of the notarized designated caregiver agreement to the department of public safety and pay any required fee.

**History:** 1997 c 65 s 5

#### 257A.06 MULTIPLE AGREEMENTS.

If more than one otherwise valid designated caregiver agreement exists regarding the same child, the priority among agreements is determined as follows:

- (1) an agreement that has been submitted to the department of public safety has priority over any other agreement;
- (2) if one or more agreements have been submitted to the department of public safety under section 171.07, subdivision 11, the agreement with the most recent date that has been submitted to the department controls; and
- (3) if multiple agreements exist, none of which has been submitted to the department of public safety, the agreement with the most recent date controls.

**History:** 1997 c 65 s 5

#### 257A.07 CANCELLATION.

**Subdivision 1. How and by whom.** A parent may cancel a designated caregiver agreement at any time. The parent shall notify the designated caregiver of the cancellation. If the designated caregiver is caring for the child at the time of cancellation, the child must be returned to the parent immediately upon the parent's request.

A designated caregiver may decline to serve at any time, and the parent must cancel the agreement immediately upon request by the designated caregiver. If a designated caregiver is

caring for a child when the designated caregiver cancels the agreement, the parent must take physical custody of the child immediately. If the parent is unable to resume physical custody at that time:

(1) the parent may name a new designated caregiver to care for the child who shall immediately take custody of the child; or

(2) if that is not possible, the designated caregiver shall contact the local social service agency, which shall assess the needs and circumstances of the child, including the likelihood of the noncustodial parent taking custody, and the need for placement and court action on behalf of the child, if necessary.

**Subd. 2. Notice to department of public safety.** A parent who has had a designated caregiver indication placed on the parent's driver's license or identification card under section 171.07, subdivision 11, has the responsibility to notify the department of public safety in writing whenever a designated caregiver agreement is canceled or a new designated caregiver or alternate is chosen.

**History:** 1997 c 65 s 5

### **257A.08 EXTENDING PERIOD OF CARE.**

If a parent is unable to resume caring for a child upon expiration of the period of care indicated in the designated caregiver agreement, the period of care may be extended for a length of time agreed by the parent and designated caregiver, but not to exceed one year. If a parent cannot be contacted or is unable to communicate a decision about the child's care when the agreed period of care expires, the designated caregiver may:

(1) petition the juvenile court to authorize continued care by the designated caregiver until the parent is able to resume the child's care, or for one year, whichever is sooner; or

(2) contact the local social service agency, which shall assess the needs and circumstances of the child, including the likelihood of the noncustodial parent taking custody of the child, and the need for placement and court action on behalf of the child, if necessary.

**History:** 1997 c 65 s 5

### **257A.09 NOTICE TO LOCAL SOCIAL SERVICE AGENCY; INVESTIGATION.**

If a child has been in the home of a designated caregiver for 30 days, the designated caregiver shall promptly notify the local social service agency, any adult siblings of the child, and any living paternal or maternal grandparents, of the following:

(1) the child's name, home address, and the name and home address of the child's parents;

(2) that the child is in the home under a designated caregiver agreement; and

(3) the length of time the child is expected to remain in the designated caregiver's home.

The local social service agency may visit the child and the home and may continue to visit and supervise the home and the child or take other appropriate action to assure that the welfare of the child is fully protected.

**History:** 1997 c 65 s 5

### **257A.10 LOCAL SOCIAL SERVICE AGENCY EVALUATION.**

When a local social service agency assumes responsibility for a child pursuant to a voluntary placement agreement or by order of the court, and the parent requests that placement be with a designated caregiver, the local social service agency must evaluate the appropriateness of the child's placement with the designated caregiver. If placement with the designated caregiver is deemed to be in the child's best interest, the designated caregiver must comply with licensure requirements under chapter 245A, in order to provide foster care for the child.

**History:** 1997 c 65 s 5