

## CHAPTER 259

## CHANGE OF NAME, ADOPTION

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**259.20 POLICY.**

*[For text of subd 1, see M.S.1996]*

Subd. 2. Portions of chapters 245A, 257, 260, and 317A may also affect the adoption of a particular child. Provisions of the Indian Child Welfare Act, United States Code, title 25, chapter 21, sections 1901–1923, may also apply in the adoption of an Indian child, and may preempt specific provisions of this chapter.

**History:** 1997 c 177 s 4

**259.21 DEFINITIONS.**

*[For text of subs 1 to 11, see M.S.1996]*

Subd. 12. **Putative father.** “Putative father” means a man who may be a child’s father, but who:

(1) is not married to the child’s mother on or before the date that the child was or is to be born; and

(2) has not established paternity of the child according to section 257.57 in a court proceeding before the filing of a petition for the adoption of the child.

“Putative father” includes a male who is less than 18 years old.

**History:** 1997 c 218 s 7

**259.22 PETITION.**

*[For text of subd 1, see M.S.1996]*

Subd. 2. No petition for adoption shall be filed unless the child sought to be adopted has been placed by the commissioner of human services, the commissioner’s agent, or a licensed child-placing agency. The provisions of this subdivision shall not apply if

(a) the child is over 14 years of age;

(b) the child is sought to be adopted by an individual who is related to the child, as defined by section 245A.02, subdivision 13;

(c) the child has been lawfully placed under the laws of another state while the child and petitioner resided in that other state;

(d) the court waives the requirement of this subdivision in the best interests of the child or petitioners, provided that the adoption does not involve a placement as defined in section 259.21, subdivision 8; or

(e) the child has been lawfully placed under section 259.47.

*[For text of subd 3, see M.S.1996]*

**Subd. 4. Time for filing petition.** A petition shall be filed not later than 24 months after a child is placed in a prospective adoptive home. If a petition is not filed by that time, the agency that placed the child, or, in a direct adoptive placement, the agency that is supervising the placement shall file with the district court in the county where the prospective adoptive parent resides a motion for an order and a report recommending one of the following:

(1) that the time for filing a petition be extended because of the child's special needs as defined under title IV-E of the Social Security Act, United States Code, title 42, section 673;

(2) that, based on a written plan for completing filing of the petition, including a specific timeline, to which the prospective adoptive parents have agreed, the time for filing a petition be extended long enough to complete the plan because such an extension is in the best interests of the child; or

(3) that the child be removed from the prospective adoptive home.

The prospective adoptive parent must reimburse an agency for the cost of preparing and filing the motion and report under this section, unless the costs are reimbursed by the commissioner under section 259.67 or 259.73.

**History:** 1997 c 177 s 5,6

## 259.24 CONSENTS.

*[For text of subs 1 and 2, see M.S.1996]*

**Subd. 2a. Time of consent; notice of intent to consent to adoption.** (a) Not sooner than 72 hours after the birth of a child and not later than 60 days after the child's placement in a prospective adoptive home, a person whose consent is required under this section shall execute a consent.

(b) Unless all birth parents from whom consent is required under this section are involved in making the adoptive placement and intend to consent to the adoption, a birth parent who intends to execute a consent to an adoption must give notice to the child's other birth parent of the intent to consent to the adoption prior to or within 72 hours following the placement of the child, if the other birth parent's consent to the adoption is required under subdivision 1. The birth parent who receives notice shall have 60 days after the placement of the child to either consent or refuse to consent to the adoption. If the birth parent who receives notice fails to take either of these actions, that parent shall be deemed to have irrevocably consented to the child's adoption.

(c) When notice is required under this subdivision, it shall be provided to the other birth parent according to the Rules of Civil Procedure for service of a summons and complaint.

*[For text of subs 3 to 8, see M.S.1996]*

**History:** 1997 c 177 s 7

## 259.29 PROTECTION OF BEST INTERESTS IN ADOPTIVE PLACEMENTS.

**Subdivision 1. Best interests of the child.** (a) The policy of the state of Minnesota is to ensure that the best interests of the child are met by requiring individualized determination of the needs of the child and of how the adoptive placement will serve the needs of the child.

(b) Among the factors the agency shall consider in determining the needs of the child are those specified under section 260.181, subdivision 3, paragraph (b).

**Subd. 2. Placement with relative or friend.** The authorized child-placing agency shall consider placement, consistent with the child's best interests and in the following order, with (1) a relative or relatives of the child, or (2) an important friend with whom the child has resided or had significant contact. In implementing this section, 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 adoptive home. The agency shall disclose only data that is necessary to facilitate implementing the preference.

If the child's birth parent or parents explicitly request that placement with relatives or important friends not be considered, the authorized child-placing agency shall honor that request consistent with the best interests of the child.

If the child's birth 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 birth parent or parents, the agency shall place the child with a family that meets the birth parent's religious preference.

This subdivision does not affect the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923, and the Minnesota Indian Family Preservation Act, sections 257.35 to 257.3579.

**History:** 1997 c 86 s 9

**259.33** [Repealed, 1997 c 239 art 6 s 38]

**259.41 ADOPTION STUDY.**

**Subdivision 1. Study required before placement; certain relatives excepted.** (a) An adoption study and written report must be completed before the child is placed in a prospective adoptive home under this chapter, except as allowed by section 259.47, subdivision 6. In an agency placement, the report must be filed with the court at the time the adoption petition is filed. In a direct adoptive placement, the report must be filed with the court in support of a motion for temporary preadoptive custody under section 259.47, subdivision 3, or, if the study and report are complete, in support of an emergency order under section 259.47, subdivision 6. The study and report shall be completed by a licensed child-placing agency and must be thorough and comprehensive. The study and report shall be paid for by the prospective adoptive parent, except as otherwise required under section 259.67 or 259.73.

(b) A placement for adoption with an individual who is related to the child, as defined by section 245A.02, subdivision 13, is not subject to this section except as required by section 259.53, subdivision 2, paragraph (c).

(c) In the case of a licensed foster parent seeking to adopt a child who is in the foster parent's care, any portions of the foster care licensing process that duplicate requirements of the home study may be submitted in satisfaction of the relevant requirements of this section.

**Subd. 2. Form of study.** (a) The adoption study must include at least one in-home visit with the prospective adoptive parent. At a minimum, the study must include the following about the prospective adoptive parent:

- (1) a background check as required by subdivision 3, and an evaluation of the effect of a conviction or finding of substantiated maltreatment on the ability to care for a child;
- (2) a medical and social history and assessment of current health;
- (3) an assessment of potential parenting skills;
- (4) an assessment of ability to provide adequate financial support for a child; and
- (5) an assessment of the level of knowledge and awareness of adoption issues including, where appropriate, matters relating to interracial, cross-cultural, and special needs adoptions.

(b) The adoption study is the basis for completion of a written report. The report must be in a format specified by the commissioner and must contain recommendations regarding the suitability of the subject of the study to be an adoptive parent.

**Subd. 3. Background check; affidavit of history.** (a) At the time an adoption study is commenced, each prospective adoptive parent must:

- (1) authorize access by the agency to any private data needed to complete the study;
- (2) provide all addresses at which the prospective adoptive parent and anyone in the household over the age of 13 has resided in the previous ten years;
- (3) disclose any names used previously other than the name used at the time of the study; and

(4) provide a set of fingerprints, which shall be forwarded to the bureau of criminal apprehension to facilitate the criminal conviction background check required under paragraph (b).

(b) When the requirements of paragraph (a) have been met, the agency shall immediately begin a background check, on each person over the age of 13 living in the home, consisting, at a minimum, of the following:

(1) a check of criminal conviction data with the bureau of criminal apprehension and local law enforcement authorities;

(2) a check for data on substantiated maltreatment of a child or vulnerable adult and domestic violence data with local law enforcement and social services agencies and district courts; and

(3) for those persons under the age of 25, a check of juvenile court records.

Notwithstanding the provisions of section 260.161, the bureau of criminal apprehension, local law enforcement and social services agencies, district courts, and juvenile courts shall release the requested information to the agency completing the adoption study.

When paragraph (b) requires checking the data or records of local law enforcement and social services agencies and district and juvenile courts, the agency shall check with the law enforcement and social services agencies and courts whose jurisdictions cover the addresses under paragraph (a), clause (2). In the event that the agency is unable to complete any of the record checks required by paragraph (b), the agency shall document the fact and the agency's efforts to obtain the information.

(c) At any time prior to completion of the background check required under paragraph (b), a prospective adoptive parent may submit to the agency conducting the study a sworn affidavit stating whether they or any person residing in the household have been convicted of a crime. The affidavit shall also state whether the adoptive parent or any other person residing in the household is the subject of an open investigation of, or have been the subject of a substantiated allegation of, child or vulnerable-adult maltreatment within the past ten years. A complete description of the crime, open investigation, or substantiated abuse, and a complete description of any sentence, treatment, or disposition must be included. The affidavit must contain an acknowledgment that if, at any time before the adoption is final, a court receives evidence leading to a conclusion that a prospective adoptive parent knowingly gave false information in the affidavit, it shall be determined that the adoption of the child by the prospective adoptive parent is not in the best interests of the child.

(d) For the purposes of subdivision 1 and section 259.47, subdivisions 3 and 6, an adoption study is complete for placement, even though the background checks required by paragraph (b) have not been completed, if each prospective adoptive parent has completed the affidavit allowed by paragraph (c) and the other requirements of this section have been met. The background checks required by paragraph (b) must be completed before an adoption petition is filed. If an adoption study has been submitted to the court under section 259.47, subdivision 3 or 6, before the background checks required by paragraph (b) were complete, an updated adoption study report which includes the results of the background check must be filed with the adoption petition. In the event that an agency is unable to complete any of the records checks required by paragraph (b), the agency shall submit with the petition to adopt an affidavit documenting the agency's efforts to complete the checks.

**Subd. 4. Updates to adoption study; period of validity.** An agency may update an adoption study and report as needed, regardless of when the original study and report or most recent update was completed. An update must be in a format specified by the commissioner and must verify the continuing accuracy of the elements of the original report and document any changes to elements of the original report. An update to a study and report not originally completed under this section must ensure that the study and report, as updated, meet the requirements of this section. An adoption study is valid if the report has been completed or updated within the previous 12 months.

**History:** 1997 c 177 s 8; 1997 c 239 art 6 s 9

## **259.47 DIRECT ADOPTIVE PLACEMENT.**

*[For text of subs 1 and 2, see M.S.1996]*

**Subd. 3. Preadoptive custody order.** (a) Before a child is placed in a prospective adoptive home by a birth parent or legal guardian, other than an agency, the placement must be approved by the district court in the county where the prospective adoptive parent resides. An order under this subdivision or subdivision 6 shall state that the prospective adoptive parent's

right to custody of the child is subject to the birth parent's right to custody until the consents to the child's adoption become irrevocable. At the time of placement, prospective adoptive parents must have for the child qualifying existing coverage as defined in section 62L.02, subdivision 24, or other similar comprehensive health care coverage. The prospective adoptive parent must meet the residence requirements of section 259.22, subdivision 1, and must file with the court an affidavit of intent to remain a resident of the state for at least three months after the child is placed in the prospective adoptive home. The prospective adoptive parent shall file with the court a notice of intent to file an adoption petition and submit a written motion seeking an order granting temporary preadoptive custody. The notice and motion required under this subdivision may be considered by the court ex parte, without a hearing. The prospective adoptive parent shall serve a copy of the notice and motion upon any parent whose consent is required under section 259.24 or who is named in the affidavit required under paragraph (b) if that person's mailing address is known. The motion may be filed up to 60 days before the placement is to be made and must include:

- (1) the adoption study required under section 259.41;
- (2) affidavits from the birth parents indicating their support of the motion, or, if there is no affidavit from the birth father, an affidavit from the birth mother under paragraph (b);
- (3) an itemized statement of expenses that have been paid and an estimate of expenses that will be paid by the prospective adoptive parents to the birth parents, any agency, attorney, or other party in connection with the prospective adoption;
- (4) the name of counsel for each party, if any;
- (5) a statement that the birth parents:
  - (i) have provided the social and medical history required under section 259.43 to the prospective adoptive parent;
  - (ii) have received the written statement of their legal rights and responsibilities under section 259.39; and
  - (iii) have been notified of their right to receive counseling under subdivision 4; and
- (6) the name of the agency chosen by the adoptive parent to supervise the adoptive placement and complete the postplacement assessment required by section 259.53, subdivision 2.

The court shall review the expense statement submitted under this subdivision to determine whether payments made or to be made by the prospective adoptive parent are lawful and in accordance with section 259.55, subdivision 1.

(b) If the birth mother submits the affidavit required in paragraph (a), clause (2), but the birth father fails to do so, the birth mother must submit an additional affidavit that describes her good faith efforts or efforts made on her behalf to identify and locate the birth father for purposes of securing his consent. In the following circumstances the birth mother may instead submit an affidavit stating on which ground she is exempt from making efforts to identify and locate the father:

- (1) the child was conceived as the result of incest or rape;
- (2) efforts to locate the father by the affiant or anyone acting on the affiant's behalf could reasonably result in physical harm to the birth mother or child; or
- (3) efforts to locate the father by the affiant or anyone acting on the affiant's behalf could reasonably result in severe emotional distress of the birth mother or child.

A court shall consider the motion for temporary preadoptive custody within 30 days of receiving the motion or by the anticipated placement date stated in the motion, whichever comes sooner.

*[For text of subs 4 and 5, see M.S.1996]*

**Subd. 6. Emergency order.** (a) A court may issue an emergency order granting temporary preadoptive custody of a child to a prospective adoptive parent for up to 14 days.

The prospective adoptive parent shall submit a written motion to the court. The motion must be supported by:

- (1) affidavits from the prospective adoptive parents and birth parents indicating that an emergency order is needed because of the unexpected premature birth of the child or other

specifically described extraordinary circumstances which prevented the completion of the requirements of subdivision 3;

(2) the information required by subdivision 3, paragraph (a), clauses (2) and (5), items (ii) and (iii); and

(3) either:

(i) a completed adoption study report which meets the requirements of section 259.41; or

(ii) the affidavits allowed by section 259.41, subdivision 3, paragraph (c).

The court shall issue the emergency order if it concludes from the record submitted that the emergency order will not compromise the health or safety of the child.

(b) An order granting or denying the motion shall be issued under this section within 24 hours of the time it is brought. Notwithstanding section 259.23, any judge of district court may consider a motion brought under this subdivision. An order granting the motion shall direct that an adoption study be commenced immediately, if that has not occurred, and that the agency conducting the study shall supervise the emergency placement.

(c) An emergency order under this subdivision expires 14 days after it is issued. If the requirements of subdivision 3 are completed and a preadoptive custody motion is filed on or before the expiration of the emergency order, placement may continue until the court rules on the motion. The court shall consider the preadoptive custody motion within seven days of filing.

**Subd. 7. Consent; time frame; hearing; venue; commissioner's form.** Not sooner than 72 hours after the birth of a child and not later than 60 days after the child's placement in a prospective adoptive home under this section, a person whose consent is required under section 259.24 shall execute a consent. A birth parent, whose consent is required under section 259.24 and who has chosen not to receive counseling through a licensed agency or a licensed social services professional trained in adoption issues, shall appear before a judge or judicial officer to sign the written consent to the child's adoption by the prospective adoptive parent who has temporary preadoptive custody of the child. Notwithstanding where the prospective adoptive parent resides, the consent hearing may be held in any county in this state where the birth parent is found. If a consent hearing is held in a county other than where the prospective adoptive parent resides, the court shall forward the executed consent to the district court in the county where the prospective adoptive parent resides. If a birth parent has chosen to receive counseling through a licensed agency or a licensed social services professional trained in adoption issues, the birth parent may choose to execute a written consent under section 259.24, subdivision 5. A person whose consent is required under section 259.24, subdivision 2, may choose to execute consent at a judicial hearing as described in this section or under the procedures in section 259.24, subdivision 5.

The consent becomes irrevocable on the tenth working day after it is given, except that if the consent was obtained by fraud, proceedings to determine the existence of fraud shall be governed by section 259.24, subdivision 6a. Until the consent becomes irrevocable, the child shall be returned to the birth parent upon request.

The written consent under this subdivision must state that:

(1) the birth parent has had the opportunity to consult with independent legal counsel at the expense of the prospective adoptive parent, unless the birth parent knowingly waived the opportunity;

(2) the birth parent was notified of the right to receive counseling at the expense of the prospective adoptive parent and has chosen to exercise or waive that right; and

(3) the birth parent was informed that if the birth parent withdraws consent, the prospective adoptive parent cannot require the birth parent to reimburse any costs the prospective adoptive parent has incurred in connection with the adoption, including payments made to or on behalf of the birth parent.

If a birth parent has chosen to have legal counsel, the attorney must be present at the execution of consents. If a birth parent waives counsel, the written waiver must be filed with the consent under this subdivision.

The consent signed under this subdivision must be on a form prepared by the commissioner and made available to agencies and court administrators for public distribution.

**Subd. 8. Failure to execute consents.** With the exception of cases where a person receives notice under section 259.24, subdivision 2a, if a birth parent whose consent is required under section 259.24 does not execute a consent by the end of the period specified in section 259.24, subdivision 2a, the agency which is supervising the placement shall notify the court and the court shall issue an order regarding continued placement of the child. The court shall order the local social services agency to determine whether to commence proceedings for termination of parental rights on grounds of abandonment as defined in section 260.221. The court may disregard the six- and 12-month requirements of section 260.221, paragraph (b), clause (1), item (i), in finding abandonment if the birth parent has failed to execute a consent within the time required under this section and has made no effort to obtain custody of the child.

**Subd. 9.** [Repealed, 1997 c 177 s 24]

**Subd. 10. Records.** In any adoption completed according to a direct adoptive placement under this section, a record, consisting of the adoption study report and updates required by section 259.41; the birth parent history required by section 259.43; the original birth certificate; and the hospital discharge form, must be permanently maintained by the agency which supervised the placement. The birth parents, adoptive parents, or their representatives shall provide copies of these documents to the agency upon request. Notwithstanding the provisions of section 259.61, an agency shall, upon request, be given any court records needed to provide postadoption services according to section 259.83 at the request of adoptive parents, birth parents, or adopted individuals age 19 or older.

*[For text of subd 11, see M.S.1996]*

**History:** 1997 c 177 s 9-13

## 259.49 NOTICE, HEARING ON PETITION.

**Subdivision 1. To whom given.** Except as provided in subdivision 3, and subject to section 259.52, notice of the hearing upon a petition to adopt a child must be given to:

- (a) the guardian, if any, of a child;
- (b) the parent of a child if:
  - (1) the person's name appears on the child's birth certificate, as a parent;
  - (2) the person has substantially supported the child;
  - (3) the person either was married to the person designated on the birth certificate as the natural mother within the 325 days before the child's birth or married that person within the ten days after the child's birth;
  - (4) the person is openly living with the child or the person designated on the birth certificate as the natural mother of the child, or both;
  - (5) the person has been adjudicated the child's parent;
  - (6) the person has filed a paternity action within 30 days after the child's birth and the action is still pending;
  - (7) the person and the mother of the child have signed a declaration of parentage under section 257.34 before August 1, 1995, which has not been revoked or a recognition of parentage under section 257.75, which has not been revoked or vacated; or
  - (8) the person:
    - (i) is not entitled to notice under clauses (1) to (7);
    - (ii) has registered with the putative fathers' adoption registry;
    - (iii) after receiving a putative fathers' adoption registry notice, has timely filed an intent to retain parental rights with entry of appearance form under section 259.52; and
    - (iv) within 30 days of receipt of the putative fathers' adoption registry notice has initiated a paternity action, unless, for good cause shown, he is unable to do so within the 30 days; a paternity action must be initiated by the putative father in district court; application to the public authority for paternity establishment services does not constitute initiation of an action; and

(c) the child's tribe pursuant to section 257.352, subdivision 3, if the child is an Indian child.

Notice under this section need not be given to a person listed in this subdivision whose parental rights have been terminated. The notice of the hearing may be waived by a parent, guardian, or other interested party by a writing executed before two competent witnesses and duly acknowledged. The waiver must be filed in the adoption proceedings before the matter is heard.

*[For text of subs 2 and 3, see M.S.1996]*

**History:** 1997 c 218 s 8

**259.51** [Repealed, 1997 c 218 s 13]

**259.52 PUTATIVE FATHERS' ADOPTION REGISTRY.**

**Subdivision 1. Establishment of registry; purpose; fees.** (a) The commissioner of health shall establish a putative fathers' adoption registry for the purpose of determining the identity and location of a putative father interested in a minor child who is, or is expected to be, the subject of an adoption proceeding, in order to provide notice of the adoption proceeding to the putative father who is not otherwise entitled to notice under section 259.49, subdivision 1, paragraph (a) or (b), clauses (1) to (7). The commissioner of health may establish informational material and public service announcements necessary to implement this section. Any limitation on a putative father's right to assert an interest in the child as provided in this section applies only in adoption proceedings and only to those putative fathers not entitled to notice and consent under sections 259.24 and 259.49, subdivision 1, paragraph (a) or (b), clauses (1) to (7). The commissioner of health has no independent obligation to gather or update the information to be maintained on the registry. It is the registrant's responsibility to update his personal information on the registry.

(b) The putative fathers' adoption registry must contain the following information:

(1) with respect to the putative father, the:

(i) name, including any other names by which the putative father may be known and that he may provide to the registry;

(ii) address at which he may be served with notice of a petition under this chapter, including any change of address;

(iii) social security number, if known;

(iv) date of birth; and

(v) if applicable, a certified copy of an order by a court of another state or territory of the United States adjudicating the putative father to be the father of this child;

(2) with respect to the mother of the child:

(i) name, including all other names known to the putative father by which the mother may be known;

(ii) if known to the putative father, her last address;

(iii) social security number, if known; and

(iv) date of birth;

(3) if known to the putative father, the name, gender, place of birth, and date of birth or anticipated date of birth of the child;

(4) the date that the commissioner of health received the putative father's registration; and

(5) other information the commissioner of health determines by rule to be necessary for the orderly administration of the registry.

(c) The commissioner of health shall set reasonable fees for the use of the registry; however, a putative father shall not be charged a fee for registering. Revenues generated by the fee must be deposited in the state government special revenue fund and appropriated to the commissioner of health to administer the putative fathers' adoption registry.

**Subd. 2. Requirement to search registry before adoption petition can be granted; proof of search.** No petition for adoption may be granted unless the agency supervising the



adoptive placement, the birth mother of the child, or, in the case of a stepparent or relative adoption, the county agency responsible for the report required under section 259.53, subdivision 1, requests that the commissioner of health search the registry to determine whether a putative father is registered in relation to a child who is or may be the subject of an adoption petition. The search required by this subdivision must be conducted no sooner than 31 days following the birth of the child. A search of the registry may be proven by the production of a certified copy of the registration form or by a certified statement of the commissioner of health that after a search no registration of a putative father in relation to a child who is or may be the subject of an adoption petition could be located. Certification that the putative fathers' adoption registry has been searched must be filed with the court prior to entry of any final order of adoption. In addition to the search required by this subdivision, the agency supervising the adoptive placement, the birth mother of the child, or, in the case of a stepparent or relative adoption, the county agency responsible for the report under section 259.53, subdivision 1, may request that the commissioner of health search the registry at any time.

**Subd. 3. Search of registry for child support enforcement purposes.** A public authority responsible for child support enforcement that is attempting to establish a child support obligation may request that the commissioner of health search the registry to determine whether a putative father is registered in relation to a child who is or may be the subject of a child support obligation. A search of the registry may be proven by the production of a certified copy of the registration form or by a certified statement of the commissioner of health that after a search, no registration of a putative father in relation to the child could be located. No fee may be charged to the public authority for use of the registry.

**Subd. 4. Classification of registry data.** Data in the putative fathers' adoption registry are private data on individuals, as defined in section 13.02, subdivision 2. Data in the registry may be released to:

- (1) a person who is required to search the registry under subdivision 2, if the data relate to the child who is or may be the subject of the adoption petition; or
- (2) a public authority as provided in subdivision 3.

A person who receives data under this subdivision may use the data only for purposes authorized under this section or other law.

**Subd. 5. Criminal penalty for registering false information.** A person who knowingly or intentionally registers false information under this section is guilty of a misdemeanor.

**Subd. 6. Who may register.** Any putative father may register with the putative fathers' adoption registry. However, any limitation on a putative father's right to assert an interest in the child as provided in this section applies only in adoption proceedings and only to those putative fathers not entitled to notice and consent under sections 259.24 and 259.49, subdivision 1, paragraph (a) or (b), clauses (1) to (7).

**Subd. 7. When and how to register.** A putative father may register with the department of health before the birth of the child but must register no later than 30 days after the birth of the child. Registrations must be in writing and signed by the putative father.

**Subd. 8. Failure to register.** Except for a putative father who is entitled to notice and consent under sections 259.24 and 259.49, subdivision 1, paragraph (a) or (b), clauses (1) to (7), a putative father who fails to timely register with the putative fathers' adoption registry under subdivision 7:

- (1) is barred thereafter from bringing or maintaining an action to assert any interest in the child during the pending adoption proceeding concerning the child;
- (2) is considered to have waived and surrendered any right to notice of any hearing in any judicial proceeding for adoption of the child, and consent of that person to the adoption of the child is not required; and
- (3) is considered to have abandoned the child.

Failure to register under subdivision 7 is prima facie evidence of sufficient grounds to support termination of the putative father's parental rights under section 260.221, subdivision 1.

A putative father who has not timely registered under subdivision 7 is considered to have timely registered if he proves by clear and convincing evidence that:

(i) it was not possible for him to register within the period of time specified in subdivision 7;

(ii) his failure to register was through no fault of his own; and

(iii) he registered within ten days after it became possible for him to file.

A lack of knowledge of the pregnancy or birth is not an acceptable reason for failure to register.

**Subd. 9. Notice and service for those on putative fathers' adoption registry who are not otherwise entitled to notice.** Any time after conception, an interested party, including persons intending to adopt a child, a child welfare agency with whom the mother has placed or has given written notice of her intention to place a child for adoption, the mother of a child, or any attorney representing an interested party, may file with the court administrator a written request that the putative fathers on the registry who have registered in relation to the child be served with a putative fathers' adoption registry notice, an intent to claim parental rights with entry of appearance form, and a denial of paternity with entry of appearance and consent to adoption form pursuant to subdivision 11. These documents may be served on a putative father in the same manner as a summons is served in other civil proceedings, or, in lieu of personal service, service may be made as follows:

(a) The person requesting notice shall pay to the court administrator a mailing fee plus the cost of United States postage for certified or registered mail and furnish to the court administrator an original and one copy of the putative fathers' adoption registry notice, the intent to claim parental rights with entry of appearance form, and the denial of paternity with entry of appearance and consent to adoption form together with an affidavit setting forth the putative father's last known address. The original putative fathers' adoption registry notice, the intent to claim parental rights with entry of appearance form, and the denial of paternity with entry of appearance and consent to adoption form must be retained by the court administrator.

(b) The court administrator shall mail to the putative father, at the address appearing in the affidavit, the copy of the putative fathers' adoption registry notice, the intent to claim parental rights with entry of appearance form, and the denial of paternity with entry of appearance and consent to adoption form by certified mail, return receipt requested. The envelope and return receipt must bear the return address of the court administrator. The receipt for certified mail must state the name and address of the addressee and the date of mailing and must be attached to the original notice.

(c) The return receipt, when returned to the court administrator, must be attached to the original putative fathers' adoption registry notice, the intent to claim parental rights with entry of appearance form, and the denial of paternity with entry of appearance and consent to adoption form and constitutes proof of service.

(d) The court administrator shall note the fact of service in a permanent record.

**Subd. 10. Response to putative fathers' adoption registry notice; limitation of rights for failure to respond and upon filing of disclaimer of paternity.** Within 30 days of receipt of the putative fathers' adoption registry notice, the intent to claim parental rights with entry of appearance form, and the denial of paternity with entry of appearance and consent to adoption form, the putative father must file a completed intent to claim parental rights with entry of appearance form with the court administrator stating that he intends to initiate a paternity action within 30 days of receipt of the putative fathers' adoption registry notice in order to preserve the right to maintain an interest in the child and receive notice during the pending adoption proceeding. Failure to initiate a paternity action within 30 days of receipt of the putative fathers' adoption registry notice does not act as a bar to receiving notice under section 259.49. If good cause is shown, the putative father must be allowed more time to initiate the paternity action. A putative father who files a completed denial of paternity with entry of appearance and consent to adoption form or who fails to timely file an intent to claim parental rights with entry of appearance form with the court:

(1) is barred from later bringing or maintaining an action to assert any interest in the child during the pending adoption proceeding concerning the child;

(2) is considered to have waived and surrendered a right to notice of a hearing in any judicial proceeding for adoption of the child, and consent of that person to the adoption of the child is not required; and

(3) is considered to have abandoned the child.

Failure to register is prima facie evidence of sufficient grounds to support termination of the putative father's parental rights.

**Subd. 11. Putative fathers' adoption registry notice; intent to claim parental rights with entry of appearance form; denial of paternity with entry of appearance and consent to adoption form.** (a) The putative father's adoption registry notice sent under subdivision 9 must be substantially as follows:

**"IN THE MATTER OF NOTICE TO ....., REGISTERED PUTATIVE FATHER.**

You have signed the putative fathers' adoption registry indicating that you are the father of a child born on the ..... day of ....., ....., (or expected to be born on or about the ..... day of ....., ..).

The mother of the child is .....

The mother has indicated that she intends to place the child for adoption.

As the alleged father of the child by virtue of signing the putative fathers' adoption registry, you have certain legal rights with respect to the child, including the right to notice of the filing of proceedings instituted for the adoption of the child. If you wish to retain your rights with respect to the child, you must file with the court administrator, Court of ..... County, Minnesota, whose address is ....., Minnesota, within 30 days after the date of receipt of this notice, the enclosed intent to claim parental rights with entry of appearance form stating that you are, in fact, the father of the child and that you intend to retain your legal rights with respect to the child by initiating a paternity action within 30 days of receipt of the putative fathers' adoption registry notice.

If you do not file an intent to claim parental rights with entry of appearance form or a request for notice, then whatever legal rights you have with respect to the child, including the right to notice of any future proceedings for the adoption of the child, may be terminated without any further notice to you. When your legal rights with respect to the child are so terminated, you will not be entitled to notice of any proceeding instituted for the adoption of the child.

If you are not the father of the child, you may file with the court administrator the denial of paternity with entry of appearance and consent to adoption form enclosed herewith and you will receive no further notice with respect to the child."

(b) The intent to claim parental rights with entry of appearance form sent under subdivision 9 must be substantially as follows:

**"INTENT TO CLAIM PARENTAL RIGHTS WITH ENTRY OF APPEARANCE**

**I, ....., state as follows:**

(1) That I am ..... years of age; and I reside at ..... in the County of ....., State of .....

(2) That I have been advised that ..... is the mother of a ..... male/female child named ..... born or expected to be born on or about ..... and that such mother has stated that I am the father of this child.

(3) I declare that I am the father of this child.

(4) I understand that the mother of this child wishes to consent to the adoption of this child. I do not consent to the adoption of this child, and I understand that I must return this intent to claim parental rights with entry of appearance form to the court administrator of ..... County, located at ....., within 30 days of receipt of this notice.

(5) I further understand that I am also obligated to initiate a paternity action under the Parentage Act (Minnesota Statutes, sections 257.51 to 257.74) within 30 days of my receiving the putative fathers' adoption registry notice, or, if the child is not yet born, within 30 days after the birth of the child, unless for good cause shown I am unable to do so. That proceeding is separate and distinct from the above mailing of intent to claim parental rights with entry of appearance form; in the paternity action, I must state that I am, in fact, the father of said child

for one or more of the reasons stated in Minnesota Statutes, section 257.55, subdivision 1, and that I intend to retain my legal rights with respect to said child, and request to be notified of any further proceedings with respect to custody or adoption of the child.

(6) I hereby enter my appearance in the above entitled cause.

OATH

I have been duly sworn and I say under oath that I have read and understand this intent to claim parental rights with entry of appearance form. The facts that it contains are true and correct to the best of my knowledge, and I understand that by signing this document I admit my paternity. I have signed this document as my free and voluntary act.

.....  
(Signature)

Dated this ..... day of ....., .....

Signed and Sworn Before Me This ..... day of ....., .....

.....  
"notary public"

(c) The denial of paternity with entry of appearance and consent to adoption form sent under subdivision 9 must be substantially as follows:

**"DENIAL OF PATERNITY WITH ENTRY OF APPEARANCE AND  
CONSENT TO ADOPTION**

I, ....., state as follows:

(1) That I am .... years of age; and I reside at ..... in the County of ....., State of .....

(2) That I have been advised that ..... is the mother of a ..... male/female child named ..... born or expected to be born on or about ..... and that I have registered with the putative fathers' adoption registry stating that I am the father of this child.

(3) I now deny that I am the father of this child. My denial at this time will not subject me to any criminal liability.

(4) I further understand that the mother of this child wishes to consent to the adoption of the child. I hereby consent to the adoption of this child, and waive any rights, remedies, and defenses that I may have now or in the future. This consent is being given in order to facilitate the adoption of the child and so that the court may terminate what rights I may have to the child. This consent is not in any manner an admission of paternity.

(5) I hereby enter my appearance in the above entitled cause and waive service of summons and other pleading.

OATH

I have been duly sworn and I say under oath that I have read and understood this denial of paternity with entry of appearance and consent to adoption. The facts it contains are true and correct to the best of my knowledge, and I understand that by signing this document I have not admitted paternity. I have signed this document as my free and voluntary act in order to facilitate the adoption of the child.

.....  
(Signature)

Dated this ..... day of ....., .....

Signed and Sworn Before Me This ..... day of ....., .....

.....  
"notary public"

[The names of adoptive parents must not be included in the notice.]

**Subd. 12. Right to counsel at public expense.** Upon proof of indigency, a putative father who has registered with the fathers' adoption registry, has received a putative fathers' adoption registry notice, and has timely filed an intent to claim paternal rights with entry of appearance form with the court administrator, must have counsel appointed at public expense.

**Subd. 13. Applicability of Indian Child Welfare Act.** In an action involving an American Indian child, sections 257.35 to 257.3579, and the Indian Child Welfare Act, United

States Code, title 25, sections 1901 to 1923, control to the extent that the provisions of this section are inconsistent with those laws. The public acts, records, and judicial proceedings of any Indian tribe that provide an acknowledgment of paternity or that establish paternity pursuant to tribal law or custom shall be given full faith and credit as provided in United States Code, title 25, section 1911(d). Nothing in this section defeats the right of an Indian father who has acknowledged or established his paternity pursuant to tribal law or custom to commence a paternity proceeding, except that no father may file a paternity proceeding after the entry of a final decree of adoption.

**Subd. 14. Fees for putative fathers' adoption registry.** The district court administrator in every judicial district shall, in addition to any other filing fees, assess a \$75 adoption filing fee surcharge on each adoption petition filed in the district court for the purpose of implementing and maintaining the putative fathers' adoption registry. The court administrator shall forward fees collected under this subdivision to the commissioner of finance for deposit into the state government special revenue fund to be appropriated to the commissioner of health to administer the putative fathers' adoption registry established under this section.

**History:** 1997 c 218 s 9

### 259.53 PETITION; INVESTIGATIONS; REPORTS.

**Subdivision 1. Notice to commissioner; referral for postplacement assessment.** (a) Upon the filing of a petition for adoption of a child the court administrator shall immediately transmit a copy of the petition to the commissioner of human services.

(b) The court shall immediately refer the petition to the agency specified below for completion of a postplacement assessment and report as required by subdivision 2.

(1) If the child to be adopted has been committed to the guardianship of the commissioner or an agency under section 260.241 or an agency has been given authority to place the child under section 259.25, the court shall refer the petition to that agency, unless another agency is supervising the placement, in which case the court shall refer the petition to the supervising agency.

(2) If the child to be adopted has been placed in the petitioner's home by a direct adoptive placement, the court shall refer the petition to the agency supervising the placement under section 259.47, subdivision 3, paragraph (a), clause (6).

(3) If the child is to be adopted by an individual who is related to the child as defined by section 245A.02, subdivision 13, and in all other instances not described in clause (1) or (2), the court shall refer the petition to the local social services agency of the county in which the prospective adoptive parent lives.

#### **Subd. 2. Adoption agencies; postplacement assessment and report.**

(a) The agency to which the petition has been referred under subdivision 1 shall conduct a postplacement assessment and file a report with the court within 90 days of receipt of a copy of the adoption petition. The agency shall send a copy of the report to the commissioner at the time it files the report with the court. The assessment and report must evaluate the environment and antecedents of the child to be adopted, the home of the petitioners, whether placement with the petitioners meets the needs of the child as described in section 259.57, subdivision 2. The report must include a recommendation to the court as to whether the petition should or should not be granted.

In making evaluations and recommendations, the postplacement assessment and report must, at a minimum, address the following:

- (1) the level of adaptation by the prospective adoptive parents to parenting the child;
- (2) the health and well-being of the child in the prospective adoptive parents' home;
- (3) the level of incorporation by the child into the prospective adoptive parents' home, extended family, and community; and
- (4) the level of inclusion of the child's previous history into the prospective adoptive home, such as cultural or ethnic practices, or contact with former foster parents or biological relatives.

(b) A postplacement adoption report is valid for 12 months following its date of completion.

(c) If the petitioner is an individual who is related to the child, as defined by section 245A.02, subdivision 13, the agency, as part of its postplacement assessment and report under paragraph (a), shall conduct a background check meeting the requirements of section 259.41, subdivision 3, paragraph (b). The prospective adoptive parent shall cooperate in the completion of the background check by supplying the information and authorizations described in section 259.41, subdivision 3, paragraph (a).

(d) If the report recommends that the court not grant the petition to adopt the child, the provisions of this paragraph apply. Unless the assessment and report were completed by the local social services agency, the agency completing the report, at the time it files the report with the court under paragraph (a), must provide a copy of the report to the local social services agency in the county where the prospective adoptive parent lives. The agency or local social services agency may recommend that the court dismiss the petition. If the local social services agency determines that continued placement in the home endangers the child's physical or emotional health, the agency shall seek a court order to remove the child from the home.

(e) If, through no fault of the petitioner, the agency to whom the petition was referred under subdivision 1, paragraph (b), fails to complete the assessment and file the report within 90 days of the date it received a copy of the adoption petition, the court may hear the petition upon giving the agency and the local social services agency, if different, five days notice by mail of the time and place of the hearing.

*[For text of subs 3 to 6, see M.S.1996]*

**History:** 1997 c 177 s 14,15

### **259.55 PAYMENT OF BIRTH PARENT EXPENSES; PENALTY.**

Subdivision 1. **Authorized payments.** In any adoption under this chapter, a prospective adoptive parent or anyone acting in concert with, at the direction of, or on behalf of a prospective adoptive parent may pay only the following expenses of the birth parent:

(1) reasonable counseling, medical, and legal fees, which shall be paid directly to the provider of the service;

(2) reasonable expenses for transportation, meals, and lodging incurred for placement of the child or in order to receive counseling, legal, or medical services related to the pregnancy, birth, or placement;

(3) reasonable expenses for adoption services provided by an agency at the request of the birth parent, which shall be paid directly to the agency; and

(4) reasonable living expenses of the birth mother which are needed to maintain an adequate standard of living which the birth mother is unable to otherwise maintain because of loss of income or other support resulting from the pregnancy.

(i) The payments may cover expenses incurred during the pregnancy-related incapacity but not for a period longer than six weeks following delivery, unless the court determines within the six-week period that the birth mother is unable to be employed due to physical limitations relating to the birth of the child;

(ii) the payment shall not be contingent upon placement of the child for adoption, consent to adoption, or cooperation in the completion of the adoption; and

(iii) reasonable living expenses does not include expenses for lost wages, gifts, educational expenses, or other similar expenses of the birth mother.

*[For text of subs 2 and 3, see M.S.1996]*

**History:** 1997 c 177 s 16

### **259.57 HEARING, DECREE.**

*[For text of subd 1, see M.S.1996]*

Subd. 2. **Protection of the child's best interests.** (a) The policy of the state of Minnesota is to ensure that the best interests of children are met by requiring an individualized deter-

mination of the needs of the child and how the adoptive placement will serve the needs of the child.

(b) Among the factors the court shall consider in determining the needs of the child are those specified under section 260.181, subdivision 3, paragraph (b).

(c) In reviewing adoptive placement and in determining appropriate adoption, the court shall consider placement, consistent with the child's best interests and in the following order, with (1) a relative or relatives of the child, or (2) an important friend with whom the child has resided or had significant contact. Placement of a child cannot be delayed or denied based on race, color, or national origin of the adoptive parent or the child. Whenever possible, siblings should be placed together unless it is determined not to be in the best interests of a sibling.

(d) If the child's birth parent or parents explicitly request that relatives and important friends not be considered, the court shall honor that request consistent with the best interests of the child.

If the child's birth 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 birth parent or parents, the court shall place the child with a family that also meets the birth 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.

(e) This subdivision does not affect the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923, and the Minnesota Indian Family Preservation Act, sections 257.35 to 257.3579.

*[For text of subd 3, see M.S.1996]*

**History:** 1997 c 86 s 10

#### **259.58 COMMUNICATION OR CONTACT AGREEMENTS.**

Adoptive parents and a birth relative may enter an agreement regarding communication with or contact between an adopted minor, adoptive parents, and a birth relative under this section. An agreement may be entered between:

(1) adoptive parents and a birth relative with whom the child resided before being adopted; or

(2) adoptive parents and any other birth relative if the child is adopted by a birth relative upon the death of both birth parents.

For purposes of this section, "birth relative" means a parent, stepparent, grandparent, brother, sister, uncle, or aunt of a minor adoptee. This relationship may be by blood or marriage. For an Indian child, birth relative includes members of the extended family as defined by the law or custom of the Indian child's tribe or, in the absence of laws or custom, nieces, nephews, or first or second cousins, as provided in the Indian Child Welfare Act, United States Code, title 25, section 1903.

(a) An agreement regarding communication with or contact between minor adoptees, adoptive parents, and a birth relative is not legally enforceable unless the terms of the agreement are contained in a written court order entered in accordance with this section. An order must be sought at the same time a petition for adoption is filed. The court shall not enter a proposed order unless the terms of the order have been approved in writing by the prospective adoptive parents, a birth relative who desires to be a party to the agreement, and, if the child is in the custody of or under the guardianship of an agency, a representative of the agency. An agreement under this section need not disclose the identity of the parties to be legally enforceable. The court shall not enter a proposed order unless the court finds that the communication or contact between the minor adoptee, the adoptive parents, and a birth relative as agreed upon and contained in the proposed order would be in the minor adoptee's best interests.

(b) Failure to comply with the terms of an agreed order regarding communication or contact that has been entered by the court under this section is not grounds for:

(1) setting aside an adoption decree; or

(2) revocation of a written consent to an adoption after that consent has become irrevocable.

(c) An agreed order entered under this section may be enforced by filing a petition or motion with the family court that includes a certified copy of the order granting the communication, contact, or visitation, but only if the petition or motion is accompanied by an affidavit that the parties have mediated or attempted to mediate any dispute under the agreement or that the parties agree to a proposed modification. The prevailing party may be awarded reasonable attorney's fees and costs. The court shall not modify an agreed order under this section unless it finds that the modification is necessary to serve the best interests of the minor adoptee, and:

(1) the modification is agreed to by the adoptive parent and the birth relative; or

(2) exceptional circumstances have arisen since the agreed order was entered that justify modification of the order.

**History:** 1997 c 112 s 3; 1997 c 239 art 6 s 10

### **259.59 EFFECT OF ADOPTION.**

Subdivision 1. Upon adoption, the child shall become the legal child of the adopting persons and they shall become the legal parents of the child with all the rights and duties between them of birth parents and legitimate child. By virtue of the adoption the child shall inherit from the adoptive parents or their relatives the same as though the child were the natural child of the parents, and in case of the child's death intestate the adoptive parents and their relatives shall inherit the child's estate as if they had been the child's birth parents and relatives. After a decree of adoption is entered the birth parents of an adopted child shall be relieved of all parental responsibilities for the child, and they shall not exercise or have any rights over the adopted child or the child's property. The child shall not owe the birth parents or their relatives any legal duty nor shall the child inherit from the birth parents or kindred, except as provided in subdivision 1a and section 257.022, subdivision 3a.

*[For text of subs 1a and 2, see M.S.1996]*

**Subd. 3. Communication or contact agreements.** This section does not prohibit birth parents, birth relatives, and adoptive parents from entering a communication or contact agreement under section 259.58.

**History:** 1997 c 112 s 4; 1997 c 177 s 17; 1997 c 239 art 6 s 11

### **259.60 INTERCOUNTRY ADOPTIONS; OBTAINING AMENDED BIRTH CERTIFICATE.**

Subdivision 1. **Validity of intercountry adoption.** The adoption of a child by a resident of this state under the laws of a foreign country is valid and binding under the laws of this state if the validity of the foreign adoption has been verified by the granting of an IR-3 visa for the child by the United States Immigration and Naturalization Service.

Subd. 2. **Amended birth certificate; procedure and order.** (a) Under the procedures in paragraph (b), a person, whose adoption of a child under the laws of a foreign country is valid in this state under subdivision 1, may petition the district court in the county where the adoptive parent resides for a decree confirming and recognizing the adoption and for a new birth certificate for the child.

(b) A court shall issue the decree and birth certificate upon receipt of the following documents:

(1) a petition by the adoptive parent requesting that the court issue a Minnesota birth certificate, and stating that the adoptive parent completed adoption of the child under the laws of a foreign country and that the adoption is valid in this state under subdivision 1. The petition must be in the form of a signed, sworn, and notarized statement;

(2) a copy of the child's original birth certificate, if available;

(3) a copy of the final adoption certificate or equivalent as issued by the foreign jurisdiction;

(4) a copy of the child's passport including the United States visa indicating IR-3 immigration status; and



(5) certified English translations of any of the documents in clauses (2) to (4) that are not written in the English language.

**History:** 1997 c 177 s 18

#### **259.61 HEARINGS, CONFIDENTIAL.**

All hearings held in proceedings under sections 259.21 to 259.63 shall be confidential and shall be held in closed court without admittance of any persons other than the petitioners, their witnesses, the commissioner of human services or an agency, or their authorized representatives, attorneys, and persons entitled to notice by sections 259.21 to 259.63, except by order of the court. The files and records of the court in adoption proceedings shall not be open to inspection by any person except the commissioner of human services or the commissioner's representatives, an agency acting under section 259.47, subdivision 10, or upon an order of the court expressly so permitting pursuant to a petition setting forth the reasons therefor. In a stepparent adoption, upon receiving a written request from a parent whose parental rights would be or have been severed by the adoption under section 259.59, the court or the commissioner may confirm in writing whether or not an adoption decree has been granted and, if so, the date of the adoption decree.

**History:** 1997 c 177 s 19

#### **259.67 ADOPTION ASSISTANCE PROGRAM.**

*[For text of subd 1, see M.S.1996]*

**Subd. 2. Adoption assistance agreement.** The placing agency shall certify a child as eligible for adoption assistance according to rules promulgated by the commissioner. Not later than 30 days after 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, which must be granted or denied not later than 15 days after the agreement is entered.

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, nonmedical 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.

*[For text of subd 3, see M.S.1996]*

**Subd. 4. Eligibility conditions.** (a) The placing agency shall use the AFDC requirements as specified in federal law, when determining 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:

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

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

(ii) 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.

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

(b) For purposes of this subdivision, the characteristics or circumstances that may be considered in determining whether a child is a child with special needs under United States Code, title 42, chapter 7, subchapter IV, part E, or meets the requirements of paragraph (a), clause (1), are the following:

(1) The child is a member of a sibling group to be placed as one unit in which at least one sibling is older than 15 months of age or is described in clause (2) or (3).

(2) The child has documented physical, mental, emotional, or behavioral disabilities.

(3) The child has a high risk of developing physical, mental, emotional, or behavioral disabilities.

(c) When a child's eligibility for adoption assistance is based upon the high risk of developing physical, mental, emotional, or behavioral disabilities, payments shall not be made under the adoption assistance agreement unless and until the potential disability manifests itself as documented by an appropriate health care professional.

*[For text of subs 5 and 6, see M.S.1996]*

**Subd. 7. Reimbursement of costs.** (a) Subject to rules of the commissioner, and the provisions of this subdivision a Minnesota-licensed child-placing agency or local social services 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 local social services agency shall receive such reimbursement only for adoption services it purchases for an eligible child.

(b) A Minnesota-licensed child-placing agency or local social services 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.

(c) When a local social services agency uses a purchase of service agreement to provide services reimbursable under a reimbursement agreement, the commissioner may make reimbursement payments directly to the agency providing the service if direct reimbursement is specified by the purchase of service agreement, and if the request for reimbursement is submitted by the local social services agency along with a verification that the service was provided.

*[For text of subs 8 to 10, see M.S.1996]*

**History:** 1997 c 85 art 3 s 52; 1997 c 177 s 20; 1997 c 239 art 6 s 12

## **259.71 INTERSTATE ADOPTION COMPACTS; SERVICE PAYMENTS.**

*[For text of subs 1 to 4, see M.S.1996]*

**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 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 subs 6 and 7, see M.S.1996]*

**History:** 1997 c 7 art 5 s 33

#### **259.77 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 259.57, subdivision 2. Each agency shall provide for the diligent recruitment of potential adoptive families that reflect the ethnic and racial diversity of children in the state for whom adoptive homes are needed. 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 to locate relatives in this section is satisfied if special efforts were made to recruit relatives when the child was first placed in out–of–home care or if special efforts have been satisfied and approved by the court according 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:** 1997 c 86 s 11

#### **259.78 GRANDPARENT VISITATION.**

Grandparent visitation with an adopted child is governed by section 257.022.

**History:** 1997 c 177 s 21

#### **259.79 ADOPTION RECORDS.**

*[For text of subs 1 and 2, see M.S.1996]*

**Subd. 3. Retention; records made public.** All adoption records shall be retained on a permanent basis under a protected record system which ensures confidentiality and lasting preservation. All adoption records shall become public records on the 100th anniversary of the granting of the adoption decree.

**History:** 1997 c 177 s 22

#### **259.83 POSTADOPTION SERVICES.**

*[For text of subs 1 and 2, see M.S.1996]*

**Subd. 3. Identifying information.** In adoptive placements made on and after August 1, 1982, the agency responsible for or supervising the placement shall obtain from the birth parents named on the original birth certificate an affidavit attesting to the following:

(a) That the birth parent has been informed of the right of the adopted person at the age specified in section 259.89 to request from the agency the name, last known address, birthdate and birthplace of the birth parents named on the adopted person's original birth certificate;

(b) That each birth parent may file in the agency record an affidavit objecting to the release of any or all of the information listed in clause (a) about that birth parent, and that parent only, to the adopted person;

(c) That if the birth parent does not file an affidavit objecting to release of information before the adopted person reaches the age specified in section 259.89, the agency will provide the adopted person with the information upon request;

(d) That notwithstanding the filing of an affidavit, the adopted person may petition the court according to section 259.61 for release of identifying information about a birth parent;

(e) That the birth parent shall then have the opportunity to present evidence to the court that nondisclosure of identifying information is of greater benefit to the birth parent than disclosure to the adopted person; and

(f) That any objection filed by the birth parent shall become invalid when withdrawn by the birth parent or when the birth parent dies. Upon receipt of a death certificate for the birth parent, the agency shall release the identifying information to the adopted person if requested.

*[For text of subs 4 and 5, see M.S.1996]*

**History:** 1997 c 177 s 23