

259.24 CONSENTS.

Subdivision 1. **Exceptions.** No child shall be adopted without the consent of the child's parents and the child's guardian, if there be one, except in the following instances:

(a) Consent shall not be required of a parent not entitled to notice of the proceedings.

(b) Consent shall not be required of a parent who has abandoned the child, or of a parent who has lost custody of the child through a divorce decree or a decree of dissolution, and upon whom notice has been served as required by section 259.49.

(c) Consent shall not be required of a parent whose parental rights to the child have been terminated by a juvenile court or who has lost custody of a child through a final commitment of the juvenile court or through a decree in a prior adoption proceeding.

(d) If there be no parent or guardian qualified to consent to the adoption, the consent shall be given by the commissioner. After the court accepts a parent's consent to the adoption under section 260C.201, subdivision 11, consent by the commissioner or commissioner's delegate is also necessary. Agreement to the identified prospective adoptive parent by the responsible social services agency under section 260C.201, subdivision 11, does not constitute the required consent.

(e) The commissioner or agency having authority to place a child for adoption pursuant to section 259.25, subdivision 1, shall have the exclusive right to consent to the adoption of such child. The commissioner or agency shall make every effort to place siblings together for adoption. Notwithstanding any rule to the contrary, the commissioner may delegate the right to consent to the adoption or separation of siblings, if it is in the child's best interest, to a local social services agency.

Subd. 2. **Parents, guardian.** If an unmarried parent who consents to the adoption of a child is under 18 years of age, the consent of the minor parent's parents or guardian, if any, also shall be required; if either or both the parents are disqualified for any of the reasons enumerated in subdivision 1, the consent of such parent shall be waived, and the consent of the guardian only shall be sufficient; and, if there be neither parent nor guardian qualified to give such consent, the consent may be given by the commissioner. The agency overseeing the adoption proceedings shall ensure that the minor parent is offered the opportunity to consult with an attorney, a member of the clergy or a physician before consenting to adoption of the child. The advice or opinion of the attorney, clergy member or physician shall not be binding on the minor parent. If the minor parent cannot afford the cost of consulting with an attorney, a member of the clergy or physician, the county shall bear that cost.

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. The notice provisions of chapter 260C and the rules of juvenile protection procedure shall apply to both parents when the consent to adopt is executed under section 260C.201, subdivision 11.

(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.

Subd. 3. **Child.** When the child to be adopted is over 14 years of age, the child's written consent to adoption by a particular person is also necessary. A child of any age who is under the guardianship of the commissioner and is legally available for adoption may not refuse or waive the commissioner's agent's exhaustive efforts to recruit, identify, and place the child in an adoptive home required under section 260C.317, subdivision 3, paragraph (b), or sign a document relieving county social services agencies of all recruitment efforts on the child's behalf.

Subd. 4. **Adult adoptee.** In the adoption of an adult, the adult's written consent only shall be required.

Subd. 5. **Execution.** All consents to an adoption shall be in writing, executed before two competent witnesses, and acknowledged by the consenting party. In addition, all consents to an adoption, except those by the commissioner, the commissioner's agent, a licensed child-placing agency, an adult adoptee, or the child's parent in a petition for adoption by a stepparent, shall be executed before a representative of the commissioner, the commissioner's agent, or a licensed child-placing agency. All consents by a parent:

(1) shall contain notice to the parent of the substance of subdivision 6a, providing for the right to withdraw consent unless the parent will not have the right to withdraw consent because consent was executed under section 260C.201, subdivision 11, following proper notice that consent given under that provision is irrevocable upon acceptance by the court as provided in subdivision 6a; and

(2) shall contain the following written notice in all capital letters at least one-eighth inch high:

"This agency will submit your consent to adoption to the court. The consent itself does not terminate your parental rights. Parental rights to a child may be terminated only by an adoption decree or by a court order terminating parental rights. Unless the child is adopted or your parental rights are terminated, you may be asked to support the child."

Consents shall be filed in the adoption proceedings at any time before the matter is heard provided, however, that a consent executed and acknowledged outside of this state, either in accordance with the law of this state or in accordance with the law of the place where executed, is valid.

Subd. 6. [Repealed, 1980 c 561 s 14]

Subd. 6a. **Withdrawal of consent.** Except for consents executed under section 260C.201, subdivision 11, a parent's consent to adoption may be withdrawn for any reason within ten working days after the consent is executed and acknowledged. Written notification of withdrawal of consent must be received by the agency to which the child was surrendered no later than the tenth working day after the consent is executed and acknowledged. On the day following the tenth working day after execution and acknowledgment, the consent shall become irrevocable, except upon order of a court of competent jurisdiction after written findings that consent was obtained by fraud. A consent to adopt executed under section 260C.201, subdivision 11, is irrevocable upon proper notice to both parents of the effect of a consent to adopt and acceptance by the court, except upon order of the same court after written findings that the consent was obtained by fraud. In proceedings to determine the existence of fraud, the adoptive parents and the child shall be made parties. The proceedings shall be conducted to preserve the confidentiality of the adoption process. There shall be no presumption in the proceedings favoring the birth parents over the adoptive parents.

Subd. 7. **Withholding consent; reason.** Consent to an adoption shall not be unreasonably withheld by a guardian, who is not a parent of the child, by the commissioner or by an agency.

Subd. 8. **Adoptive parents defined.** For the purposes of subdivision 6, and section 259.25, subdivision 2, the term "adoptive parents" shall mean parents who have received a child into their home with the intent to adopt the child.

History: 1951 c 508 s 4; 1953 c 593 s 2; 1959 c 685 s 46; 1969 c 428 s 1; 1974 c 66 s 2-4; 1974 c 113 s 1; 1975 c 208 s 33; 1977 c 126 s 1; 1979 c 138 s 1,3; 1980 c 561 s 4-6; 1980 c 589 s 32,33; 1986 c 444; 1987 c 3 s 2; 1987 c 187 s 1; 1991 c 107 s 1; 1994 c 465 art 1 s 62; 1994 c 631 s 15,31; 1997 c 177 s 7; 1998 c 406 art 1 s 17,37; 1998 c 407 art 9 s 16; 2005 c 136 art 15 s 1-4; 2006 c 280 s 6; 2007 c 147 art 1 s 2