CHAPTER 259

CHANGE OF NAME, ADOPTION

NOTE: A transfer of a power or responsibility in this chapter to the Department of Children, Youth, and Families is effective upon notice of the commissioner of children, youth, and families to the commissioners of administration, management and budget, and other relevant departments along with the secretary of the senate, the chief clerk of the house of representatives, and the chairs and ranking minority members of the relevant legislative committees and divisions. Laws 2024, chapter 80, article 8, section 72, Laws 2023, chapter 70, article 12, section 30.

CHANGE OF NAME

259.10 GENERAL REQUIREMENTS.
259.11 ORDER; FILING COPIES.
259.115 CRIMINAL PENALTIES.
259.12 CORRECTIONAL INMATES; NAME CHANGES; LIMITED.
259.13 PERSONS WITH FELONY CONVICTION; NAME CHANGES.
259.14 POSTDISSOLUTION NAME CHANGE.

ADOPTION

259.20 POLICY.
259.201 COMPLIANCE WITH FEDERAL INDIAN CHILD WELFARE ACT AND MINNESOTA INDIAN FAMILY PRESERVATION ACT.
259.21 DEFINITIONS.
259.22 PETITION.
259.23 JUVENILE COURT, JURISDICTION.
259.24 CONSENTS.
259.241 ADULT ADOPTION.
259.25 AGREEMENT CONFERRING AUTHORITY TO PLACE FOR ADOPTION.
259.27 NOTIFICATION OF DEATH OR TERMINAL ILLNESS.
259.29 PROTECTION OF BEST INTERESTS IN ADOPTIVE PLACEMENTS.
259.31 AGENCY PLACEMENT FACTORS.
259.35 NOTICE TO ADOPTIVE PARENTS.
259.37 AGENCY; FEE SCHEDULE; DISCLOSURE; CIVIL ACTION.
259.39 COMMISSIONER'S STATEMENT.
259.41 ADOPTION STUDY.
259.43 BIRTH PARENT HISTORY; COMMISSIONER'S FORM.
259.45 STATE AUDIT OF ADOPTION AGENCY; CIVIL ACTION.
259.47 DIRECT ADOPTIVE PLACEMENT.
259.49 NOTICE, HEARING ON PETITION.
259.52 FATHERS' ADOPTION REGISTRY.
259.53 PETITION; INVESTIGATIONS; REPORTS.
259.55 PAYMENT OF BIRTH PARENT EXPENSES; PENALTY.
259.57 HEARING, DECREE.
259.58 COMMUNICATION OR CONTACT AGREEMENTS.
259.59 EFFECT OF ADOPTION.
259.60 INTERCOUNTRY ADOPTIONS; OBTAINING AMENDED BIRTH RECORD.
259.61 HEARINGS, CONFIDENTIAL.
259.63 APPEALS.
259.65 APPOINTMENT OF ATTORNEY AND GUARDIAN AD LITEM.
259.73 REIMBURSEMENT OF NONRECURRING ADOPTION EXPENSES.
259.75 STATE ADOPTION EXCHANGE.
259.77 FAMILY RECRUITMENT.
259.78 GRANDPARENT VISITATION.
259.79 ADOPTION RECORDS.
259.81 REFERRAL FOR SERVICES.
259.83 POSTADOPTION SERVICES.
259.87 RULES.
259.88 DATA AND BEST PRACTICES.

259.01 MS 1949 [Repealed, 1951 c 508 s 13]

259.02 MS 1949 [Repealed, 1951 c 508 s 13]

259.03 MS 1949 [Repealed, 1951 c 508 s 13]

259.04 MS 1949 [Repealed, 1951 c 508 s 13]

259.05 MS 1949 [Repealed, 1951 c 508 s 13]

259.06 MS 1949 [Repealed, 1951 c 508 s 13]

259.07 MS 1949 [Repealed, 1951 c 508 s 13]

259.08 MS 1949 [Repealed, 1951 c 508 s 13]

259.09 MS 1949 [Repealed, 1951 c 508 s 13]

CHANGE OF NAME

259.10 GENERAL REQUIREMENTS.

Subdivision 1. **Procedure.** A person who shall have resided in this state for six months may apply to the district court in the county where the person resides to change the person's name, the names of minor children, if any, and the name of a spouse, if the spouse joins in the application, in the manner herein specified. The person shall state in the application the name and age of the spouse and each of the children, if any, and shall describe all lands in the state in or upon which the person, the children and the spouse if their names are also to be changed by the application, claim any interest or lien, and shall appear personally before the court and prove identity by at least two witnesses. If the person be a minor, the application shall be made by the person's guardian or next of kin. The court shall accept the certificate of dissolution prepared pursuant to section 518.148 as conclusive evidence of the facts recited in the certificate and may not require the person to provide the court a copy of the judgment and decree of dissolution. Every person who, with intent to defraud, shall make a false statement in any such application shall be guilty of a misdemeanor provided, however, that no minor child's name may be changed without both parents having notice of the pending of the application for change of name, whenever practicable, as determined by the court.

Subd. 2. **Witness and victim protection name changes; private data.** If the court determines that the name change for an individual is made in connection with the individual's participation in a witness and victim protection program, the court shall order that the court records of the name change are not accessible to the public; except that they may be released, upon request, to a law enforcement agency, probation officer, or corrections agent conducting a lawful investigation. The existence of an application for a name change described in this subdivision may not be disclosed except to a law enforcement agency conducting a lawful investigation.

History: *(8633) RL s 3620; 1917 c 222 s 1; 1943 c 28 s 1; 1943 c 292 s 1; 1951 c 535 s 1; 1975 c 52 s 1; 1986 c 317 s 1; 1986 c 444; 1991 c 161 s 1; 1995 c 259 art 1 s 39*

259.11 ORDER; FILING COPIES.

(a) Upon meeting the requirements of section 259.10, the court shall grant the application unless: (1) it finds that there is an intent to defraud or mislead; (2) section 259.13 prohibits granting the name change; or (3) in the case of the change of a minor child's name, the court finds that such name change is not in the best interests of the child. The court shall set forth in the order the name and age of the applicant's spouse and each child of the applicant, if any, and shall state a description of the lands, if any, in which the applicant and the spouse and children, if any, claim to have an interest. The court administrator shall file such order, and record the same in the judgment book. If lands be described therein, a certified copy of the order shall be filed for record, by the applicant, with the county recorder of each county wherein any of the same are situated. Before doing so the court administrator shall present the same to the county auditor who shall enter the change of name in the auditor's official records and note upon the instrument, over an official signature, the words "change of name recorded." Any such order shall not be filed, nor any certified copy thereof be issued, until the applicant shall have paid to the county recorder and court administrator the fee required by law. No application shall be denied on the basis of the marital status of the applicant.

(b) When a person applies for a name change, the court shall determine whether the person has a criminal history in this or any other state. The court may conduct a search of national records through the Federal Bureau of Investigation by submitting a set of fingerprints and the appropriate fee to the Bureau of Criminal Apprehension. If it is determined that the person has a criminal history in this or any other state, the court shall, within ten days after the name change application is granted, report the name change to the Bureau of Criminal Apprehension. The person whose name is changed shall also report the change to the Bureau of Criminal Apprehension within ten days. The court granting the name change application must explain this reporting duty in its order. Any person required to report the person's name change to the Bureau of Criminal Apprehension who fails to report the name change as required under this paragraph is guilty of a gross misdemeanor.

(c) Paragraph (b) does not apply to:

(1) a request for a name change as part of an application for a marriage license under section 517.08;

(2) a request for a name change in conjunction with a marriage dissolution under section 518.27; or

(3) a request for a name change filed under section 259.14.

History: *(8634) RL s 3621; 1917 c 222 s 1; 1941 c 178; 1943 c 28 s 2; 1959 c 250 s 2; 1975 c 52 s 2; 1976 c 181 s 2; 1986 c 317 s 2; 1986 c 444; 1992 c 464 art 1 s 56; 1992 c 571 art 15 s 2; 2000 c 311 art 3 s 1; 2005 c 136 art 8 s 6; 2023 c 52 art 19 s 11*

259.115 CRIMINAL PENALTIES.

A person who has a felony conviction under Minnesota law or the law of another state or federal jurisdiction and who does any of the following is guilty of a gross misdemeanor:

(1) upon marriage, uses a different surname from that used before marriage without complying with section 259.13;

(2) upon marriage dissolution or legal separation, uses a different surname from that used during marriage without complying with section 259.13; or

(3) with the intent to defraud or mislead, or to cause injury to or harass another, uses a different name without complying with section 259.13.

History: *2000 c 311 art 3 s 2*

259.12 CORRECTIONAL INMATES; NAME CHANGES; LIMITED.

During an inmate's confinement in a correctional facility, as defined in section 241.021, subdivision 1i, an inmate may request a name change under section 259.10 only once and may proceed in forma pauperis only when the failure to allow the name change would infringe on a constitutional right of an inmate.

History: *1995 c 16 s 1; 2024 c 85 s 78*

259.13 PERSONS WITH FELONY CONVICTION; NAME CHANGES.

Subdivision 1. **Procedure for seeking name change.** (a) A person with a felony conviction under Minnesota law or the law of another state or federal jurisdiction shall serve a notice of application for a name change on the prosecuting authority that obtained the conviction against the person when seeking a name change through one of the following procedures:

(1) an application for a name change under section 259.10;

(2) a request for a name change in conjunction with a marriage dissolution under section 518.27; or

(3) a request for a name change under section 259.14.

If the conviction is from another state or federal jurisdiction, notice of application must also be served on the attorney general.

(b) A person who seeks a name change under section 259.10 or 518.27 shall file proof of service with the court as part of the name change request.

(c) The name change request may not be granted during the 30-day period provided for in subdivision 2 or, if an objection is filed under subdivision 2, until satisfaction of the requirements in subdivision 3 or 4. Nothing in this section shall delay the granting of a marriage license under section 517.08, which may be granted without the name change.

Subd. 2. **Objection by prosecuting authority.** At any time within 30 days from the date of service of the notice of application for a name change under this section, the prosecuting authority or the attorney general may file an objection to the application for a name change. The objection may be made on the basis that the request aims to defraud or mislead, is not made in good faith, will cause injury to a person, or will compromise public safety. If an objection to the application for a name change is filed within this time period, the court may not grant the name change request, and the county may not allow the name change as part of a marriage license.

Subd. 3. **Motion to grant name change request.** A person who seeks a name change may contest the prosecuting authority's or attorney general's objection by filing a motion with the court for an order permitting the requested name change. Except as provided in subdivision 4, no name change shall be granted unless the person requesting it proves by clear and convincing evidence that the request is not based upon an intent to defraud or mislead, is made in good faith, will not cause injury to a person, and will not compromise public safety.

Subd. 4. **Constitutional right to name change.** The court shall grant a name change if failure to allow it would infringe on a constitutional right of the person.

Subd. 5. **Costs.** (a) Except as provided in paragraph (b), a person seeking a name change under this section may proceed in forma pauperis only when the failure to allow the name change would infringe upon a constitutional right.

(b) A court shall not require a person with a felony conviction to pay filing fees for a name change application provided that the person files the action within 180 days after the marriage and submits to the court a certified copy of the marriage certificate.

Subd. 6. **Criminal penalty.** A person who knowingly violates this section is guilty of a gross misdemeanor.

History: *2000 c 311 art 3 s 3; 2023 c 52 art 19 s 12,13*

259.14 POSTDISSOLUTION NAME CHANGE.

(a) Unless section 259.13 applies, a person who has resided in this state for at least six months and obtained the person's most recent final marriage dissolution from a district court may apply to the district court in the county where the person resides to change the person's name to the legal name on the person's

birth certificate. A person applying for a name change must submit a certified copy of the certificate of dissolution issued pursuant to section 518.148 and a certified copy of the person's birth certificate. A person applying for a name change who obtained a divorce in a state other than Minnesota must submit a certified copy of the certificate of dissolution or a certified copy of an equivalent court order ending the marriage and a certified copy of the person's birth certificate.

(b) A court shall not require a person applying for a name change to pay filing fees for an application submitted pursuant to this section. Notwithstanding section 259.10, a court shall not require the person applying for a name change pursuant to this section to provide proof of the person's identity by two witnesses unless the proof of identity is necessary to determine whether the person has an intent to defraud or mislead the court.

(c) Upon meeting the requirements of this section, the court shall grant the application for a name change unless the court finds that: (1) the person has an intent to defraud or mislead the court; or (2) the name change is subject to section 259.13. The court shall notify the person applying for a name change that using a different surname without complying with section 259.13, if applicable, is a gross misdemeanor.

History: *2023 c 52 art 19 s 14*

ADOPTION

259.20 POLICY.

Subdivision 1. **Policy and purpose.** The policy of the state of Minnesota and the purpose of sections 259.20 to 259.65 is to ensure:

(1) that the best interests of adopted persons are met in the planning and granting of adoptions; and

(2) that laws and practices governing adoption recognize the diversity of Minnesota's population and the diverse needs of persons affected by adoption.

Subd. 2. **Other applicable law.** (a) Portions of chapters 245A, 245C, 257, 260, and 317A may also affect the adoption of a particular child.

(b) Provisions of the Indian Child Welfare Act, United States Code, title 25, chapter 21, sections 1901-1923, and the Minnesota Indian Family Preservation Act under sections 260.751 to 260.835 apply in the adoption of an Indian child as described in section 259.201.

(c) Consistent with section 245C.33 and Public Law 109-248, a completed background study is required before the approval of any foster or adoptive placement in a related or an unrelated home.

History: *1994 c 631 s 7,31; 1997 c 177 s 4; 2003 c 15 art 1 s 33; 2007 c 147 art 3 s 24; 2008 c 361 art 6 s 1; 2012 c 216 art 6 s 13; 2024 c 115 art 17 s 1*

259.201 COMPLIANCE WITH FEDERAL INDIAN CHILD WELFARE ACT AND MINNESOTA INDIAN FAMILY PRESERVATION ACT.

Adoption proceedings under this chapter that involve an Indian child are child custody proceedings governed by the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1963; by the Minnesota Indian Family Preservation Act, sections 260.751 to 260.835; by section 259.20, subdivision 2,

paragraph (b); and by this chapter when not inconsistent with the federal Indian Child Welfare Act and the Minnesota Indian Family Preservation Act.

History: *2024 c 115 art 17 s 2*

259.21 DEFINITIONS.

Subdivision 1. **Terms.** For the purposes of sections 259.21 to 259.63 the terms defined in this section shall have the meanings respectively ascribed to them.

Subd. 2. **Child.** "Child" means a person under the age of 18 years.

Subd. 2a. **Adult adoption.** "Adult adoption" means the adoption of a person at least 18 years of age.

Subd. 3. **Parent.** "Parent" means the natural or adoptive parent of a child.

Subd. 4. **Guardian.** "Guardian" means a guardian of the ward appointed by a court of competent jurisdiction.

Subd. 5. **Commissioner.** "Commissioner" means the commissioner of children, youth, and families of the state of Minnesota.

Subd. 6. **Agency.** "Agency" means an organization or department of government designated or authorized by law to place children for adoption or any person, group of persons, organization, association or society licensed or certified by the commissioner of children, youth, and families to place children for adoption, including a Minnesota federally recognized Tribe.

Subd. 7. **Petitioner.** "Petitioner" means a person with spouse, if there be one, petitioning for the adoption of any person or persons pursuant to sections 259.21 to 259.63. In the case of adoption by a stepparent, the parent who is the stepparent's spouse shall not be required to join the petition.

Subd. 8. **Placement.** "Placement" means the transfer of physical custody of a child from a birth parent or legal guardian to a prospective adoptive home.

Subd. 9. **Placement activities.** "Placement activities" means any of the following:

(1) placement;

(2) arranging or providing short-term foster care pending an adoptive placement;

(3) facilitating placement by maintaining a list in any form of birth parents or prospective adoptive parents;

(4) collecting health and social histories of a birth family;

(5) conducting an adoption study;

(6) witnessing consents to an adoption; or

(7) engaging in any activity listed in clauses (1) to (6) for purposes of fulfilling any requirements of the interstate compact on the placement of children.

Subd. 10. **Direct adoptive placement.** "Direct adoptive placement" means the placement of a child by a birth parent or legal guardian other than an agency under the procedure for adoption authorized by section 259.47.

Subd. 11. **Working day.** "Working day" means Monday through Friday, excluding any holiday as defined under section 645.44, subdivision 5.

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: *1951 c 508 s 1; 1953 c 593 s 2; 1973 c 725 s 49; 1984 c 654 art 5 s 58; 1986 c 444; 1987 c 3 s 1; 1994 c 631 s 8-11,31; 1997 c 218 s 7; 1Sp2003 c 14 art 6 s 53; 2005 c 10 art 4 s 15; 2008 c 361 art 6 s 2; 2024 c 80 art 8 s 70*

259.22 PETITION.

Subdivision 1. **Who may petition.** Any person who has resided in the state for one year or more may petition to adopt a child or an adult, and the same petitioner may petition for the adoption of two or more persons in one petition. The provisions as to length of residence in the state may be reduced to 30 days by the court whenever it appears to be for the best interest of the child.

The court may waive any residence requirement of this section if the petitioner is an individual who is related, as defined in section 142B.01, subdivision 15, or a member of a child's extended family or important friends with whom the child has resided or had significant contact.

Subd. 2. **Persons who may be adopted.** No petition for adoption shall be filed unless the person sought to be adopted has been placed by a licensed child-placing agency. The provisions of this subdivision shall not apply if:

(1) the person to be adopted is over 14 years of age;

(2) the child is sought to be adopted by an individual who is related to the child, as defined by section 142B.01, subdivision 15;

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

(4) 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

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

Subd. 3. **Placements prior to August 1, 1974.** This section shall not apply to placements made prior to August 1, 1974. Any placement made prior to that date may be finalized by a petition for adoption.

Subd. 4. **Time for filing petition.** A petition shall be filed not later than 12 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 and additional time is needed for the child to adjust to the adoptive home; 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 142A.608, subdivision 2, or 259.73.

History: *1951 c 508 s 2; 1974 c 499 s 1; 1984 c 654 art 5 s 58; 1986 c 444; 1994 c 631 s 12-14,31; 1997 c 177 s 5,6; 1998 c 406 art 1 s 16,37; 1998 c 407 art 9 s 15; 2008 c 361 art 6 s 3; 2012 c 216 art 1 s 6; 2013 c 125 art 1 s 52; 2021 c 30 art 9 s 13; 2024 c 80 art 1 s 96; art 2 s 74; 2024 c 115 art 16 s 34*

259.23 JUVENILE COURT, JURISDICTION.

Subdivision 1. **Venue.** (a) The juvenile court shall have original jurisdiction in all adoption proceedings. The proper venue for an adoption proceeding shall be the county of the petitioner's residence, except as provided in section 260C.621, subdivision 2, for the adoption of children under the guardianship of the commissioner. Transfer of venue under this paragraph shall be according to the rules of adoption court procedure.

(b) In all adoptions under this chapter, if the petitioner has acquired a new residence in another county and requests a transfer of the adoption proceeding, the court in which an adoption is initiated may transfer the proceeding to the appropriate court in the new county of residence if the transfer is in the best interests of the person to be adopted. The court transfers the proceeding by ordering a continuance and by forwarding to the court administrator of the appropriate court a certified copy of all papers filed, together with an order of transfer. The transferring court also shall forward copies of the order of transfer to the commissioner of children, youth, and families and any agency participating in the proceedings. The judge of the receiving court shall accept the order of the transfer and any other documents transmitted and hear the case; provided, however, the receiving court may in its discretion require the filing of a new petition prior to the hearing.

Subd. 2. **Contents of petition.** The petition shall be signed by the petitioner and, if married, by the spouse. It shall be verified, and filed in duplicate. The petition shall allege:

(a) the full name, age and place of residence of petitioner, and if married, the date and place of marriage;

(b) the date petitioner acquired physical custody of the child and from what person or agency;

(c) the date of birth of the person to be adopted, if known, and the state and county where born;

(d) the name of the child's parents, if known, and the guardian if there be one;

(e) the actual name of the person to be adopted, if known, and any known aliases;

(f) the name to be given the person to be adopted if a change of name is desired;

(g) the description and value of any real or personal property owned by the person to be adopted;

(h) that the petitioner desires that the relationship of parent and child be established between petitioner and the person to be adopted and that adoption is in the best interests of the person to be adopted by the petitioner.

In agency placements, the information required in clauses (d) and (e) shall not be required to be alleged in the petition but shall be transmitted to the court by the commissioner of children, youth, and families or the agency.

Subd. 3. **Court rules.** The provisions of subdivision 2 shall be subject to rules of the court made pursuant to section 480.051.

History: *1951 c 508 s 3; 1959 c 685 s 45; 1965 c 558 s 1; 1967 c 45 s 1; 1984 c 654 art 5 s 58; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1999 c 139 art 4 s 2; 2005 c 159 art 2 s 3,4; 2008 c 361 art 6 s 4; 2012 c 216 art 1 s 7; 2024 c 80 art 8 s 70*

259.24 CONSENTS.

Subdivision 1. **Exceptions.** (a) No child shall be adopted without the consent of the child's parents and the child's guardian, if there is one, except consent is not required of a parent:

(1) who is not entitled to notice of the proceedings;

(2) who has abandoned the child and upon whom notice has been served as required by section 259.49; or

(3) 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.

(b) If there is no parent or guardian qualified to consent to the adoption, the 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 the child. The agency shall make every effort to place siblings together for adoption.

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, a physician, an advanced practice registered nurse, or a physician assistant before consenting to adoption of the child. The advice or opinion of the attorney, clergy member, physician, advanced practice registered nurse, or physician assistant 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, a physician, an advanced practice registered nurse, or a physician assistant, 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.515, subdivision 3.

(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.

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. All consents by a parent to adoption under this chapter:

(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; and

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

"The agency responsible for supervising the adoptive placement of the child will submit your consent to adoption to the court. If you are consenting to adoption by the child's stepparent, the consent will be submitted to the court by the petitioner in your child's adoption. 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. MS 1979 Supp [Repealed, 1980 c 561 s 14]

Subd. 6a. **Withdrawal of consent.** A parent's consent to adoption under this chapter may be withdrawn for any reason within ten working days after the consent is executed and acknowledged. No later than the tenth working day after the consent is executed and acknowledged, written notification of withdrawal of consent must be received by: (1) the agency to which the child was surrendered; (2) the agency supervising the adoptive placement of the child; or (3) in the case of adoption by the stepparent or any adoption not involving agency placement or supervision, by the district court where the adopting stepparent or parent resides. 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. 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, or by an agency.

Subd. 8. MS 2014 [Repealed, 2016 c 158 art 1 s 215]

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; 2012 c 216 art 1 s 8-12; art 6 s 13; 2018 c 170 s 10; 2022 c 58 s 165*

259.241 ADULT ADOPTION.

(a) Any adult person may be adopted, regardless of the adult person's residence. A resident of Minnesota may petition the court of record having jurisdiction of adoption proceedings to adopt an individual who has reached the age of 18 years or older.

(b) The consent of the person to be adopted shall be the only consent necessary, according to section 259.24. The consent of an adult in the adult person's own adoption is invalid if the adult is considered to be a vulnerable adult under section 626.5572, subdivision 21, or if the person consenting to the adoption is determined not competent to give consent.

(c) Notwithstanding paragraph (b), a person in extended foster care under section 260C.451 may consent to the person's own adoption as long as the court with jurisdiction finds the person competent to give consent.

(d) The decree of adoption establishes a parent-child relationship between the adopting parent or parents and the person adopted, including the right to inherit, and also terminates the parental rights between the adopted person and the adopted person's birth parents according to section 259.59.

(e) If the adopted person requests a change of name, the adoption decree shall order the name change.

History: *2008 c 361 art 6 s 5; 2021 c 30 art 10 s 15*

259.25 AGREEMENT CONFERRING AUTHORITY TO PLACE FOR ADOPTION.

Subdivision 1. **Consents required.** The parents and guardian, if there be one, of a child may enter into a written agreement with the commissioner of children, youth, and families or an agency, giving the commissioner or such agency authority to place the child for adoption. If an unmarried parent is under the age of 18 years the written consent of the parents and guardian, if any, of the minor parent also shall be required; if either or both of the parents are disqualified from giving such consent for any of the reasons enumerated in section 259.24, subdivision 1, then the written consent of the guardian shall be required. The agreement and consent shall be in the form prescribed by the commissioner and shall contain notice to the parent of the substance of subdivision 2a providing for the right to revoke the agreement. The agreement and consent must 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."

The agreement shall be executed by the commissioner or agency, or one of their authorized agents, and all other necessary parties, and shall be filed, together with the consent, in the proceedings for the adoption of the child.

If, after the execution of an agreement and consent under this section, the child is diagnosed with a medical or psychological condition that may present a substantial barrier to adoption, the child-placing

agency shall make reasonable efforts to give notice of this fact to a party to the agreement and consent. If a child is not adopted within two years after an agreement and consent are executed under this subdivision, the agency that executed the agreement shall so notify a parent who was a party to the agreement and request the parent to take custody of the child or to file a petition for termination of parental rights. This notice must be provided to the parent in a personal and confidential manner. A parent who has executed an agreement under this subdivision shall, upon request to the agency, be informed of whether the child has been adopted.

Subd. 2. MS 1979 Supp [Repealed, 1980 c 561 s 14]

Subd. 2a. **Revocation.** A parent's agreement to authorize placing a child for adoption may be revoked for any reason within ten working days after the agreement is executed. Written notification of revocation must be received by the agency which was given authority to place the child no later than the tenth working day after the agreement is executed. On the day following the tenth working day after execution the agreement shall become irrevocable, except upon order of a court of competent jurisdiction after written findings that the agreement was obtained by fraud. Proceedings to determine the existence of fraud shall be conducted as provided in section 259.24, subdivision 6a, for proceedings to determine fraud in obtaining consent.

History: *1951 c 508 s 5; 1974 c 66 s 5; 1979 c 138 s 2; 1980 c 561 s 7,8; 1980 c 589 s 34; 1984 c 654 art 5 s 58; 1986 c 444; 1987 c 187 s 2; 2024 c 80 art 8 s 70*

259.253 MS 1992 [Renumbered 259.27]

259.255 MS 1993 Supp [Renumbered 259.29]

259.2565 MS 1993 Supp [Renumbered 259.33]

259.257 MS 1992 [Renumbered 259.35]

259.26 MS 1992 [Renumbered 259.49]

259.261 MS 1992 [Renumbered 259.51]

259.27 MS 1992 [Renumbered 259.53]

259.27 NOTIFICATION OF DEATH OR TERMINAL ILLNESS.

Subdivision 1. **Death notification.** (a) An agency authorized to place a child for adoption shall inform parents who adopt a child on or after August 1, 1987, that they must notify the agency if the child dies. The agency also shall inform the adoptive parents that the adoptive parents of an adopted child under age 19 or an adopted person age 19 or older may maintain a current address on file with the agency and indicate a desire to be notified if the agency receives information of the death of a birth parent. The agency shall inform birth parents who are entitled to notice under section 259.49 that the agency will notify them of the child's death and the cause of death, if known, provided that the birth parents desire notice and maintain current addresses on file with the agency. The agency shall inform birth parents entitled to notice under section 259.49 that they may designate individuals to notify the agency if a birth parent dies and that the agency receiving information of the birth parent's death will share it with adoptive parents, if the adopted person is under age 19, or an adopted person age 19 or older who has indicated a desire to be notified of the death of a birth parent and who maintains a current address on file with the agency.

(b) Notice to a birth parent that a child has died or to the adoptive parents or an adopted person age 19 or older that a birth parent has died shall be provided by an employee of the agency through personal, confidential contact, not by mail.

(c) Adoptive parents residing in this state whose child was adopted through an agency in another state shall, if the child dies, notify the agency of the child's death.

Subd. 2. **Terminal illness notification.** An agency authorized to place a child for adoption shall inform the adoptive parents and birth parents of a child who is adopted on or after August 1, 1987, that the birth parents, the adoptive parents of an adopted person under age 19, or an adopted person age 19 or older may request to be notified if a birth parent or the child is terminally ill. The agency shall notify the other parties if a request is received under this subdivision and inform them that upon their request the agency will share information regarding a terminal illness with the adoptive or birth parents or an adopted person age 19 or older.

History: *1987 c 173 s 1; 1994 c 631 s 31*

259.28 MS 1992 [Renumbered 259.57]

259.29 MS 1992 [Renumbered 259.59]

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 260C.193, subdivision 3, paragraph (b).

(c) Except for emergency placements provided for in section 142B.06, a completed background study is required under section 245C.33 before the approval of an adoptive placement in a home.

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 a specific relative or important friend not be considered, the authorized child-placing agency shall honor that request if it is consistent with the best interests of the child and consistent with the requirements of sections 260C.212, subdivision 2, and 260C.221.

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 260.751 to 260.835.

History: *1983 c 278 s 7; 1992 c 557 s 4; 1993 c 291 s 10; 1994 c 598 s 5; 1994 c 631 s 31; 1996 c 416 s 10; 1997 c 86 s 9; 1999 c 139 art 4 s 2; 2007 c 147 art 3 s 25; 2012 c 216 art 1 s 13; 2024 c 80 art 2 s 74; 2024 c 115 art 16 s 41*

259.30 MS 1974 [Repealed, 1975 c 216 s 1]

259.31 MS 1992 [Renumbered 259.61]

259.31 AGENCY PLACEMENT FACTORS.

An agency shall document, in the records required to be kept under section 259.79, the reasons for each child placement decision.

History: *1994 c 631 s 16,31*

259.32 MS 1992 [Renumbered 259.63]

259.33 MS 1992 [Renumbered 259.65]

259.33 MS 1996 [Repealed, 1997 c 239 art 6 s 38]

259.35 NOTICE TO ADOPTIVE PARENTS.

Subdivision 1. **Parental responsibilities.** Prior to commencing an investigation of the suitability of proposed adoptive parents, a child-placing agency shall give the individuals the following written notice in all capital letters at least one-eighth inch high:

"Minnesota Statutes, section 259.59, provides that upon legally adopting a child, adoptive parents assume all the rights and responsibilities of birth parents. The responsibilities include providing for the child's financial support and caring for health, emotional, and behavioral problems. Except for subsidized adoptions under Minnesota Statutes, sections 142A.60 to 142A.612, or any other provisions of law that expressly apply to adoptive parents and children, adoptive parents are not eligible for state or federal financial subsidies besides those that a birth parent would be eligible to receive for a child. Adoptive parents may not terminate their parental rights to a legally adopted child for a reason that would not apply to a birth parent seeking to terminate rights to a child. An individual who takes guardianship of a child for the purpose of adopting the child shall, upon taking guardianship from the child's country of origin, assume all the rights and responsibilities of birth and adoptive parents as stated in this paragraph."

Subd. 2. **Referral to foreign agencies.** An agency in this state that refers individuals to an agency or individual in another country for the purpose of adopting a child located in that country shall provide the following information in writing at the time of making the referral:

(1) the name of any government authority in the country where the adoption agency or individual is located that licenses or regulates the adoption agency or individual;

(2) the name of the current director of the adoption agency;

(3) whether the country in which the agency or individual is located requires a legal adoption to take place in that country before a child can be removed from the country; and

(4) the notification required by subdivision 1.

History: *1987 c 187 s 3; 1994 c 631 s 31; 2013 c 125 art 1 s 53; 2021 c 30 art 9 s 14; 2024 c 80 art 1 s 96; 2024 c 115 art 16 s 34*

259.37 AGENCY; FEE SCHEDULE; DISCLOSURE; CIVIL ACTION.

Subdivision 1. **Payment schedule.** An agency may only require payment of fees in stages as services are performed. An agency engaged in placement activities must provide a prospective adoptive parent with

a schedule of fees and a timeline indicating when each fee or portion of the total fees for the agency services must be paid. The agency must also provide a fee schedule for prefinalization postplacement services.

Subd. 2. **Disclosure to birth parents and adoptive parents.** An agency shall provide a disclosure statement written in clear, plain language to be signed by the prospective adoptive parents and birth parents, except that in intercountry adoptions, the signatures of birth parents are not required. The disclosure statement must contain the following information:

(1) fees charged to the adoptive parent, including any policy on sliding scale fees or fee waivers and an itemization of the amount that will be charged for the adoption study, counseling, postplacement services, family of origin searches, birth parent expenses authorized under section 259.55, or any other services;

(2) timeline for the adoptive parent to make fee payments;

(3) likelihood, given the circumstances of the prospective adoptive parent and any specific program to which the prospective adoptive parent is applying, that an adoptive placement may be made and the estimated length of time for making an adoptive placement. These estimates must be based on adoptive placements made with prospective parents in similar circumstances applying to a similar program with the agency during the immediately preceding three to five years. If an agency has not been in operation for at least three years, it must provide summary data based on whatever adoptive placements it has made and may include a statement about the kind of efforts it will make to achieve an adoptive placement, including a timetable it will follow in seeking a child. The estimates must include a statement that the agency cannot guarantee placement of a child or a time by which a child will be placed;

(4) a statement of the services the agency will provide the birth and adoptive parents;

(5) a statement prepared by the commissioner under section 259.39 that explains the child placement and adoption process and the respective legal rights and responsibilities of the birth parent and prospective adoptive parent during the process including a statement that the prospective adoptive parent is responsible for filing an adoption petition not later than 12 months after the child is placed in the prospective adoptive home;

(6) a statement regarding any information the agency may have about attorney referral services, or about obtaining assistance with completing legal requirements for an adoption;

(7) a statement regarding the right of an adopted person to request and obtain a copy of the adopted person's original birth record at the age and circumstances specified in section 144.2253 and the right of the birth parent named on the adopted person's original birth record to file a contact preference form with the state registrar pursuant to section 144.2253; and

(8) an acknowledgment to be signed by the birth parent and prospective adoptive parent that they have received, read, and had the opportunity to ask questions of the agency about the contents of the disclosure statement.

Subd. 3. **Civil action.** An action for damages, including punitive damages, may be brought by a birth parent or prospective adoptive parent aggrieved by:

(1) a violation of subdivision 1;

(2) the failure of an agency to provide services listed in the disclosure form under subdivision 2, clause (4); or

(3) deceptive practices or misrepresentations made by an agency about its services or ability to place children for adoption.

History: *1994 c 631 s 17,31; 1998 c 406 art 1 s 18,37; 1998 c 407 art 9 s 17; 2024 c 115 art 18 s 24*

259.39 COMMISSIONER'S STATEMENT.

The commissioner shall prepare and make available to all agencies, prospective adoptive parents, and birth parents a short, plain description of the legal adoption process and the rights and responsibilities of agencies, birth parents, and prospective adoptive parents in the process.

History: *1994 c 631 s 18,31*

259.40 MS 1992 [Renumbered 259.67]

259.405 MS 1984 [Repealed, 1Sp1985 c 9 art 2 s 104]

259.406 MS 1992 [Renumbered 259.69]

259.41 ADOPTION STUDY.

Subdivision 1. **Study required before placement; certain relatives excepted.** (a) An approved adoption study; completed background study, as required under section 245C.33; 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 142A.03, subdivision 2, paragraph (j), or 259.73.

(b) A placement for adoption with an individual who is related to the child, as defined by section 142B.01, subdivision 15, is subject to a background study required by subdivision 2, paragraph (a), clause (1), items (i) and (ii), and subdivision 3. In the case of a stepparent adoption, a background study must be completed on the stepparent and any children as required under subdivision 3, paragraph (b), except that a child of the stepparent does not need to have a background study complete if they are a sibling through birth or adoption of the person being adopted. The local social services agency of the county in which the prospective adoptive parent lives must initiate a background study unless a child-placing agency has been involved with the adoption. The local social service agency may charge a reasonable fee for the background study. If a placement is being made the background study must be completed prior to placement pursuant to section 259.29, subdivision 1, paragraph (c). Background study results must be filed with the adoption petition according to section 259.22, except in an adult adoption where an adoption study and background study are not needed.

(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 document the following information about the prospective adoptive parent:

(1) a background study as required by subdivision 3 and section 245C.33, including:

(i) an assessment of the data and information provided by section 245C.33, subdivision 4, to determine if the prospective adoptive parent and any other person over the age of 13 living in the home has a felony conviction consistent with subdivision 3 and section 471(a)(2) of the Social Security Act; and

(ii) an assessment of the effect of any conviction or finding of substantiated maltreatment on the capacity of the prospective adoptive parent to safely care for and parent 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 study.** (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 five years; and

(3) disclose any names used previously other than the name used at the time of the study.

(b) When the requirements of paragraph (a) have been met, the agency shall immediately initiate a background study under section 245C.33 to be completed by the commissioner on each person over the age of 13 living in the home. As required under section 245C.33 and Public Law 109-248, a completed background study is required before the approval of any foster or adoptive placement in a related or an unrelated home. The required background study must be completed as part of the home study.

(c) A home study under paragraph (b) used to consider placement of any child on whose behalf Title IV-E adoption assistance payments are to be made must not be approved if a background study reveals a felony conviction at any time for:

(1) child abuse or neglect;

(2) spousal abuse;

(3) a crime against children, including child pornography; or

(4) a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery.

(d) A home study under paragraph (b) used to consider placement of any child on whose behalf Title IV-E adoption assistance payments are to be made must not be approved if a background study reveals a felony conviction within the past five years for:

(1) physical assault or battery; or

(2) a drug-related offense.

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: *1994 c 631 s 19,31; 1997 c 177 s 8; 1997 c 239 art 6 s 9; 1999 c 139 art 4 s 2; 2005 c 159 art 2 s 5; 2007 c 147 art 3 s 26; 2008 c 361 art 6 s 6; 2024 c 80 art 1 s 96; art 2 s 74 ; 2026 c 88 art 1 s 158*

259.43 BIRTH PARENT HISTORY; COMMISSIONER'S FORM.

In any adoption under this chapter, except a stepparent or an adult adoption under section 259.241, a birth parent or an agency, if an agency placement, shall provide a prospective adoptive parent with a complete, thorough, detailed, and current social and medical history of the child being adopted, if information is known after reasonable inquiry. Each child's social and medical history must be provided on a form or forms prepared by the commissioner and must include background and health history specific to the child, the child's birth parents, and the child's other birth relatives. Applicable background and health information about the child includes: the child's current health condition, behavior, and demeanor; placement history; education history; sibling information; and birth, medical, dental, and immunization information. Redacted copies of pertinent records, assessments, and evaluations shall be attached to the child's social and medical history. Applicable background information about the child's birth parents and other birth relatives includes: general background information; education and employment history; physical health and mental health history; and reasons for the child's placement. The child's social and medical history shall be completed in a manner that protects the identities of all individuals described in it. The commissioner shall make the form available to agencies and court administrators for public distribution. The child's social and medical history must be provided to the prospective adoptive family prior to adoptive placement, provided to the Department of Children, Youth, and Families with application for adoption assistance, if applicable, and filed with the court when the adoption petition is filed. In a direct adoptive placement, the child's social and medical history must be filed with the court with the motion for temporary preadoptive custody.

History: *1994 c 631 s 20,31; 2008 c 361 art 6 s 7; 2024 c 80 art 8 s 70*

259.431 MS 1992 [Renumbered 259.71]

259.44 MS 1992 [Renumbered 259.73]

259.45 MS 1992 [Renumbered 259.75]

259.45 STATE AUDIT OF ADOPTION AGENCY; CIVIL ACTION.

Subdivision 1. **Audit.** If the commissioner or attorney general has good cause to believe that a child-placing agency has violated section 259.37, subdivision 1, 259.55, 317A.907, or any other applicable law dealing with fees, payments, accounts, or financial disclosure by a child-placing agency, the commissioner or the attorney general may seek a court order requiring a financial audit of the agency, at the agency's expense, by an auditor chosen by the commissioner or attorney general.

Subd. 2. **Civil action.** A court may grant equitable or monetary relief that is just and reasonable in the circumstances or may dissolve an adoption agency and liquidate its assets if the assets of the agency are

being misapplied or wasted. The attorney general or the commissioner may bring an action in district court if the directors or those in control of the agency have misapplied or wasted assets of the agency or have acted fraudulently, illegally, or in a manner unfairly prejudicial toward a client of the agency in the capacity of a director or one in control of the agency.

History: *1994 c 631 s 21,31*

259.455 MS 1993 Supp [Renumbered 259.77]

259.46 MS 1992 [Renumbered 259.79]

259.465 MS 1992 [Renumbered 259.81]

259.47 MS 1992 [Renumbered 259.83]

259.47 DIRECT ADOPTIVE PLACEMENT.

Subdivision 1. **Intent.** The intent of the provisions governing direct adoptive placement is to safeguard the best interests of the child by providing services and protections to the child, birth parents, and adoptive parents which are consistent with those available through an agency placement.

Subd. 2. **Adoption study.** In a direct adoptive placement, an adoption study and report under section 259.41 must be completed and filed with the court as required by subdivision 3.

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 preadoptive custody order must include any agreement reached between the prospective adoptive parent and the birth parent regarding authority to make decisions after placement for medical care of the child and responsibility for payment for medical care not provided by the adoptive parent's existing 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.

Subd. 4. **Birth parent counseling.** In a direct adoptive placement the prospective adoptive parent must notify the birth parent that the birth parent has a right to receive counseling about adoption issues at the expense of the prospective adoptive parent. The prospective adoptive parent must bear the cost of counseling upon the request of a birth parent at any time between conception of child and six months after the birth of the child or the placement in the adoptive home, whichever is later. The prospective adoptive parent shall not be responsible for the cost of more than 35 hours of counseling under this subdivision. A birth parent may waive the right to receive counseling under this subdivision.

Subd. 5. **Birth parent legal counsel.** Upon the request of a birth parent, separate legal counsel must be made available to the birth parent at the expense of the prospective adoptive parent for legal services provided in a direct adoptive placement. The prospective adoptive parent shall only be required to provide legal counsel for one birth parent unless the birth parents elect joint legal representation. The right to legal counsel under this subdivision shall continue until consents become irrevocable, but not longer than 70 days after placement. If consents have not been executed within 60 days of placement, the right to counsel under this subdivision shall end at that time. A birth parent may waive this right only by a written waiver signed and submitted to the court at the time consents are executed under subdivision 7. Representation of a birth parent and a prospective adoptive parent by the same attorney is prohibited.

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 260C.301. The court may disregard the six- and 12-month requirements of section 260C.301, 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. MS 1996 [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 record; 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.

Subd. 11. **Penalty.** It is a gross misdemeanor for a person, not being the commissioner or an agency, knowingly to engage in placement activities as defined in section 259.21, subdivision 9, without being licensed by the commissioner under chapter 142B, except as authorized by section 142B.05, subdivision 2.

This offense shall be prosecuted by the county attorney.

History: *1994 c 631 s 22,31; 1997 c 177 s 9-13; 1998 c 406 art 1 s 19,37; 1998 c 407 art 9 s 18; 1999 c 139 art 4 s 2; 2000 c 260 s 32; 1Sp2001 c 9 art 15 s 32; 2024 c 80 art 2 s 74*

259.471 MS 1992 [Renumbered 259.85]

259.48 MS 1992 [Renumbered 259.87]

259.49 MS 1992 [Renumbered 259.89]

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 record, as a parent;

(2) the person has substantially supported the child;

(3) the person either was married to the person designated on the birth record 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 record 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 fathers' adoption registry;

(iii) after receiving a 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 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 260.761, 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.

Subd. 2. **Service.** Such notice shall be served, within or without the state, at least 14 days before the date of the hearing, in the manner provided by law for the service of a summons in a civil action. If personal service cannot be made, the court may order service by publication. The petitioner or petitioner's attorneys shall make an affidavit setting forth the effort that was made to locate the parents, and the names and addresses

of the known kin of the child. If satisfied that the parents cannot be served personally, the court shall order three weeks published notice to be given, the last publication to be at least ten days before the time set for the hearing. Where service is made by publication the court may cause such further notice to be given as it deems just. If, in the course of the proceedings, the court shall consider that the interests of justice will be promoted it may continue the proceeding and require that such notice as it deems proper shall be served on any person. In the course of proceedings the court may enter reasonable orders for the protection of the child if the court determines that the best interests of the child require such an order.

Subd. 3. **Service, guardian only.** Where a child is adjudicated a dependent or neglected child and a court of competent jurisdiction has appointed a permanent guardian, or where a juvenile court has appointed a guardian after terminating parental rights, no notice of hearing need be given to the parents.

History: *1951 c 508 s 6; 1959 c 685 s 47; 1965 c 45 s 38; 1965 c 786 s 1; 1974 c 66 s 6,7; 1980 c 589 s 35; 1986 c 444; 1994 c 631 s 31; 1997 c 218 s 8; 1998 c 382 art 2 s 3; 1999 c 139 art 4 s 2; 1Sp2001 c 9 art 15 s 32*

259.51 MS 1996 [Repealed, 1997 c 218 s 13]

259.52 FATHERS' ADOPTION REGISTRY.

Subdivision 1. **Establishment of registry; purpose; fees.** (a) The commissioner of health shall establish a 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 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, which is the date the registration is postmarked or the date it was delivered by means other than mail to the address on the registration form; 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 notify the mother of the child whenever a putative father has registered with the father's adoption registry under this section. Notice shall be sent to the name and address submitted by the putative father under paragraph (b), clause (2). If no current address for the mother is submitted by the putative father under paragraph (b), clause (2), the commissioner of health shall not notify the mother. The commissioner of health has no independent obligation to locate the mother. The notice shall be mailed within 14 days of the date that the commissioner received the putative father's adoption registration unless a search has been requested under subdivision 2. There shall be no charge to the birth mother for this notice.

(d) 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 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, the putative father who registered or the legal father, 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. The filing of a certified copy of an order from a juvenile protection matter under chapter 260C containing a finding that certification of the requisite search of the Minnesota Fathers' Adoption Registry was filed with the court in that matter shall also constitute proof of search. Certification that the Minnesota 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 social services agency responsible for the report under section 259.53, subdivision 1, or the responsible social services agency that is a petitioner in a juvenile protection matter under chapter 260C may request that the commissioner of health search the registry at any time. Search requirements of this section do not apply when the responsible social services agency is proceeding under Safe Place for Newborns, section 260C.139.

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.** (a) Data in the fathers' adoption registry, including all data provided in requesting the search of the registry, are private data on individuals, as defined in section 13.02, subdivision 2, and are nonpublic data with respect to data not on individuals, as defined in section 13.02, subdivision 9. 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;

(2) the mother of the child listed on the putative father's registration form who the commissioner of health is required to notify under subdivision 1, paragraph (c);

(3) the putative father who registered himself or the legal father;

(4) a public authority as provided in subdivision 3; or

(5) an attorney who has signed an affidavit from the commissioner of health attesting that the attorney represents the birth mother, the putative or legal father, or the prospective adoptive parents.

(b) 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 Minnesota Fathers' Adoption Registry. 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, termination of parental rights proceedings under chapter 260C, 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. A registration is timely if the date the registration is postmarked or the date it was delivered by means other than mail to the address specified on the registration form is not later than 30 days after the birth of the child.

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 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 260C.301, 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 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 serve by certified mail a notice to registered putative father, an intent to claim parental rights form, a denial of paternity form, and a 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 interested party or that party's attorney shall mail to the putative father, at the address provided to the registry, the copy of the notice to registered putative father, the intent to claim parental rights form, the denial of paternity form, and the consent to adoption form by certified mail, return receipt requested, and shall provide notice of the jurisdiction in which the adoption petition will be filed. 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.

(b) The return receipt, when filed with the court, must be attached to the original notice to registered putative father, the intent to claim parental rights form, the denial of paternity form, and the consent to adoption form and constitutes proof of service.

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

Subd. 10. **Response to notice to registered putative father; limitation of rights for failure to respond and upon filing of denial of paternity.** Within 30 days of receipt of the notice to registered putative father, the intent to claim parental rights form, the denial of paternity form, and the consent to adoption form, the putative father must file a completed intent to claim parental rights form with the court administrator in the county in which the adoption petition will be filed as provided by the petitioner, stating that he intends to initiate a paternity action within 30 days of receipt of the notice to registered putative father 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 notice to registered putative father 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 form and consent to adoption form or who fails to timely file an intent to claim parental rights 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. **Forms.** The Office of the State Court Administrator shall develop the following forms:

(1) notice to registered putative father;

(2) intent to claim parental rights;

(3) denial of paternity;

(4) consent to adoption; and

(5) notice to registered putative father of the county in which the adoption petition will be filed.

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 notice to registered putative father, and has timely filed an intent to claim paternal rights 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 260.751 to 260.835, 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 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 fathers' adoption registry. The court administrator shall forward fees collected under this subdivision to the commissioner of management and budget for deposit into the state government special revenue fund to be appropriated to the commissioner of health to administer the fathers' adoption registry established under this section.

Subd. 15. **International adoptions.** This section does not apply to international adoptions.

History: *1997 c 218 s 9; 1998 c 354 s 1-7; 1998 c 382 art 2 s 4-14; 1999 c 122 s 1-6; 1999 c 139 art 4 s 2; 2008 c 361 art 6 s 8; 2009 c 101 art 2 s 109; 2009 c 163 art 2 s 3,4; 2012 c 216 art 6 s 13; 2024 c 127 art 59 s 54,55*

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 who is:

(1) under the guardianship of the commissioner or a licensed child-placing agency according to section 260C.317 or 260C.515, subdivision 3;

(2) placed by the commissioner, commissioner's agent, or licensed child-placing agency after a consent to adopt according to section 259.24 or under an agreement conferring authority to place for adoption according to section 259.25; or

(3) placed by preadoptive custody order for a direct adoptive placement ordered by the district court under section 259.47,

the court administrator shall immediately transmit a copy of the petition to the commissioner of children, youth, and families.

(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 260C.317 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 142B.01, subdivision 15, 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 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.

(d) 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.

Subd. 3. **Reports and records.** (a) The contents of all reports and records of the commissioner of children, youth, and families, local social services agency, or child-placing agency bearing on the suitability of the proposed adoptive home and the child to each other shall not be disclosed either directly or indirectly to any person other than the commissioner of children, youth, and families, the child's guardian ad litem appointed under: (1) section 260C.163 when the guardian's appointment continues under section 260C.317, subdivision 3, paragraph (b); or (2) section 259.65, or a judge of the court having jurisdiction of the matter, except as provided in paragraph (b).

(b) A judge of the court having jurisdiction of the matter shall upon request disclose to a party to the proceedings or the party's counsel any portion of a report or record that relates only to the suitability of the proposed adoptive parents. In this disclosure, the judge may withhold the identity of individuals providing information in the report or record. When the judge is considering whether to disclose the identity of individuals providing information, the agency with custody of the report or record shall be permitted to present reasons for or against disclosure.

Subd. 3a. **Report to prospective adoptive parents.** Prospective adoptive parents may request and may receive a summary report on their suitability as adoptive parents from any authorized adoption agency at the conclusion of the adoptive study by that agency. The summary report shall not identify sources of information outside of the adoption agency or information about any child to be adopted. This summary report shall be used only for purposes mutually agreed upon by the adoption agency and the prospective adoptive parents. The purposes and the date of the summary report shall be clearly noted on the report.

Subd. 4. **Preadoption residence.** No petition shall be granted under this chapter until the child has lived for three months in the proposed adoptive home, subject to a right of visitation by the commissioner or an agency or their authorized representatives.

Subd. 5. **Residence and investigation waived; stepparent.** The investigation and period of residence required by this section may be waived by the court when the petition for adoption is submitted by a stepparent or when, upon good cause being shown, the court is satisfied that the proposed adoptive home and the child are suited to each other, but in either event at least ten working days' notice of the hearing shall be given to the local social services agency by certified mail. The reports of investigations shall be a part of the court files in the case, unless otherwise ordered by the court.

Subd. 6. **Fees and payments; filing with adoption petition.** Upon the filing of a petition for adoption, an agency shall file with the court a statement of expenses that have been paid or are required to be paid by the prospective adoptive parent in connection with the adoption. In a direct adoptive placement the statement of expenses shall be filed by the prospective adoptive parent.

Subd. 7. **Supportive parenting services for parents with disabilities.** (a) A court or agency shall not deny a prospective parent the ability to proceed with an adoption due to the prospective parent's disability. A person who raises a prospective parent's disability as a basis for denying an adoption has the burden to prove by clear and convincing evidence that specific behaviors of the prospective parent would endanger the health or safety of the child. If the person meets the burden, the prospective parent with a disability shall have the opportunity to demonstrate how implementing supportive services would alleviate any concerns.

(b) The court may require the agency that conducted the postplacement assessment and filed the report with the court under subdivision 2 to provide the opportunity to use supportive parenting services to a prospective parent, conduct a new postplacement assessment that is inclusive of the prospective parent's use of supportive parenting services, and file a revised report with the court under subdivision 2. This paragraph does not confer additional responsibility to the agency to provide supportive parenting services directly to the prospective parent. Within a reasonable period of time, the prospective parent has the right to a court hearing to review the need for continuing services.

(c) If a court denies or limits the ability of a prospective parent with a disability to adopt a child, the court shall make specific written findings stating the basis for the determination and why providing supportive parenting services is not a reasonable accommodation that could prevent the denial or limitation.

(d) For purposes of this subdivision, "disability" and "supportive parenting services" have the meanings given in section 260C.141, subdivision 1a.

History: *1951 c 508 s 7; 1953 c 268 s 1; 1959 c 685 s 48; 1971 c 207 s 1; 1980 c 561 s 9; 1983 c 278 s 8,9; 1984 c 654 art 5 s 58; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1987 c 3 s 3,4; 1994 c 631 s 23-26,31; 1997 c 177 s 14,15; 1999 c 139 art 4 s 2; 2007 c 147 art 1 s 3; art 3 s 27; 2008 c 361 art 6 s 9; 2012 c 216 art 6 s 13; 2021 c 30 art 10 s 16; 2024 c 80 art 2 s 74; art 8 s 70; 2024 c 115 art 18 s 25*

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.

Subd. 2. **No birth parent reimbursement to adoptive parent.** A contract purporting to require a birth parent to reimburse a prospective adoptive parent for such payments under any circumstances, including circumstances in which a birth parent refuses to consent to adoption or withdraws consent to adoption, is void as against public policy.

Subd. 3. **Prohibited payments; penalty.** (a) Except as authorized under subdivision 1, it is a gross misdemeanor for an individual to give, or for a birth parent to accept, money or anything of value, or compensation for the placement of a child for adoption.

(b) It is a gross misdemeanor for any person to give money or anything of value to the birth parent of a child if the person is engaged or has engaged in any placement activity, as defined in section 259.21, subdivision 9, in connection with the adoption of the child.

(c) An offense under this subdivision shall be prosecuted by the county attorney.

History: *1994 c 631 s 27,31; 1997 c 177 s 16*

259.57 HEARING, DECREE.

Subdivision 1. **Findings; orders.** Upon the hearing,

(a) if the court finds that it is in the best interests of the person to be adopted that the petition be granted, a decree of adoption shall be made and recorded in the office of the court administrator, ordering that henceforth the person to be adopted shall be the child of the petitioner. In the decree the court may change the name of the adopted person if desired. After the decree is granted for an adopted person who is:

(1) under the guardianship of the commissioner or a licensed child-placing agency according to section 260C.317 or 260C.515, subdivision 3;

(2) placed by the commissioner, commissioner's agent, or licensed child-placing agency after a consent to adopt according to section 259.24 or under an agreement conferring authority to place for adoption according to section 259.25; or

(3) adopted after a direct adoptive placement ordered by the district court under section 259.47,

the court administrator shall immediately mail a copy of the recorded decree to the commissioner of children, youth, and families;

(b) if the court is not satisfied that the proposed adoption is in the best interests of the person to be adopted, the court shall deny the petition, and in the case of a child shall order the child returned to the custody of the person or agency legally vested with permanent custody or certify the case for appropriate action and disposition to the court having jurisdiction to determine the custody and guardianship of the child.

Subd. 2. **Protection of 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 determination 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 260C.193, subdivision 3, paragraph (b). Consistent with section 245C.33 and Public Law 109-248, a complete background study is required before the approval of an adoptive placement in a home.

(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 paragraph (a) or (b) may the court give preference to a family described in paragraph (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 260.751 to 260.835.

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

History: *1951 c 508 s 8; 1959 c 685 s 49; 1983 c 278 s 10; 1984 c 654 art 5 s 58; 1Sp1986 c 3 art 1 s 82; 1992 c 557 s 5; 1993 c 291 s 12,13; 1994 c 631 s 31; 1997 c 86 s 10; 1999 c 139 art 4 s 2; 2007 c 147 art 1 s 4; art 3 s 28; 2008 c 361 art 6 s 10; 2012 c 216 art 6 s 13; 2024 c 80 art 8 s 70*

259.58 COMMUNICATION OR CONTACT AGREEMENTS.

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

(1) adoptive parents and a birth parent;

(2) adoptive parents and any other birth relative or foster parent with whom the child resided before being adopted; or

(3) 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, adoption, 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 may be sought at any time before a decree of adoption is granted. The order must be issued within 30 days of being submitted to the court or by the granting of the decree of adoption, whichever is earlier. 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 or foster parent 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. A birth parent must approve in writing of an agreement between adoptive parents and any other birth relative or foster parent, unless an action has been filed against the birth parent by a county under chapter 260. 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. The court shall mail a certified copy of the order to the parties to the agreement or their representatives at the addresses provided by the petitioners.

(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 parties to the agreement; or

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

(d) For children under state guardianship when there is a written communication or contact agreement between prospective adoptive parents and birth relatives other than birth parents it must be included in the final adoption decree unless all the parties agree to omit it. If the adoptive parents or birth relatives do not comply with the communication or contact agreement, the court shall determine the terms of the communication and contact agreement.

History: *1997 c 112 s 3; 1997 c 239 art 6 s 10; 1998 c 354 s 8; 1998 c 406 art 1 s 20,37; 1998 c 407 art 9 s 19; 1999 c 122 s 7; 2006 c 280 s 7*

259.59 EFFECT OF ADOPTION.

Subdivision 1. **Legal effect.** Upon adoption, the adopted person 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 adopted person shall inherit from the adoptive parents or their relatives the same as though the adopted person were the natural child of the parents, and in case of the adopted person's death intestate the adoptive parents and their relatives shall

inherit the adopted person's estate as if the adopted person had been the child's birth parents and relatives. After a decree of adoption is entered the birth parents of an adopted person shall be relieved of all parental responsibilities for the adopted person, and they shall not exercise or have any rights over the adopted person or the adopted person's property. The adopted person shall not owe the birth parents or their relatives any legal duty nor shall the adopted person inherit from the birth parents or kindred, except as provided in subdivision 1a and section 257C.08, subdivision 6.

Subd. 1a. **Adoption by stepparent.** Notwithstanding any other provisions to the contrary in this section, the adoption of a child by a stepparent shall not in any way change the status of the relationship between the child and the child's birth parent who is the spouse of the petitioning stepparent.

If a parent dies and a child is subsequently adopted by a stepparent who is the spouse of a surviving parent, any rights of inheritance of the child or the child's issue from or through the deceased parent of the child which exist at the time of the death of that parent shall not be affected by the adoption.

Subd. 2. **Enrollment in American Indian Tribe.** Notwithstanding the provisions of subdivision 1, the adoption of a person whose birth parent or parents are enrolled in an American Indian Tribe shall not change the person's enrollment in that Tribe.

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: *1951 c 508 s 9; 1978 c 602 s 2; 1979 c 11 s 1; 1980 c 589 s 36; 1994 c 465 art 1 s 62; 1994 c 631 s 31; 1997 c 112 s 4; 1997 c 177 s 17; 1997 c 239 art 6 s 11; 2002 c 304 s 13; 2008 c 361 art 6 s 11,12*

259.60 INTERCOUNTRY ADOPTIONS; OBTAINING AMENDED BIRTH RECORD.

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 Citizenship and Immigration Services.

Subd. 2. **Amended birth record; procedure and order; decree recognizing adoption.** (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, changing the child's legal name, if requested in the petition, and authorizing the commissioner of health to issue a new birth record for the child under section 144.218, subdivision 2.

(b) A court shall issue the decree described in paragraph (a) upon receipt of the following documents:

(1) a petition by the adoptive parent 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 and requesting that the court issue a decree confirming and recognizing the adoption, changing the child's legal name, if desired, and authorizing the commissioner of health to issue a new birth record for the child under section 144.218, subdivision 2. The petition must be in the form of a signed, sworn, and notarized statement;

(2) a copy of the child's original birth record, 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.

(c) Upon issuing a decree under this section, the court shall forward to the commissioners of health and human services a copy of the decree. The court shall also complete and forward to the commissioner of health the certificate of adoption, unless another form has been specified by the commissioner of health.

Subd. 3. **Postadoption report.** If a child is adopted by a resident of this state under the laws of a foreign country or if a resident of this state brings a child into the state under an IR-3 or IR-4 visa issued for the child by the United States Citizenship and Immigration Services, the postadoption reporting requirements of the country in which the child was adopted, applicable at the time of the child's adoption, must be given full faith and credit by the courts of this state and apply to the adoptive placement of that child.

History: *1997 c 177 s 18; 1998 c 406 art 1 s 21,37; 1998 c 407 art 9 s 20; 1999 c 122 s 8; 1Sp2001 c 9 art 15 s 32; 2007 c 13 art 1 s 25*

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 children, youth, and families 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 children, youth, and families 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: *1951 c 508 s 11; 1984 c 654 art 5 s 58; 1986 c 444; 1994 c 631 s 28,31; 1997 c 177 s 19; 2024 c 80 art 8 s 70*

259.63 APPEALS.

Any order, judgment, or decree of a court pursuant to the provisions of sections 259.21 to 259.63 may be appealed by any person against whom the order, judgment, or decree is made or who is affected by it as in other civil cases.

History: *1951 c 508 s 12; 1959 c 685 s 50; 1983 c 247 s 110; 1994 c 631 s 31*

259.65 APPOINTMENT OF ATTORNEY AND GUARDIAN AD LITEM.

Subdivision 1. **Appointment.** In any adoption proceeding, the court may appoint an attorney or a guardian ad litem, or both, for the person being adopted.

Subd. 2. **Costs.** The court may order the adopting parents to pay the costs of services rendered by guardians or attorneys appointed pursuant to subdivision 1, provided that such parents shall be given a reasonable opportunity to be heard.

History: *1974 c 383 s 1,2; 1994 c 631 s 31*

259.67 MS 2010 [Repealed, 2012 c 216 art 6 s 14]

259.69 MS 2010 [Renumbered 259A.05, subd 5]

259.71 MS 2010 [Repealed, 2012 c 216 art 6 s 14]

259.73 REIMBURSEMENT OF NONRECURRING ADOPTION EXPENSES.

An individual may apply for reimbursement for costs incurred in an adoption of a child with special needs under section 142A.608, subdivision 2.

History: *1989 c 282 art 2 s 164; 1994 c 631 s 31; 1999 c 245 art 8 s 36; 2012 c 216 art 6 s 3; 2021 c 30 art 9 s 15; 2024 c 80 art 1 s 96; 2024 c 115 art 16 s 34*

259.75 STATE ADOPTION EXCHANGE.

Subdivision 1. **Establishment; contents; availability.** The commissioner of children, youth, and families shall establish an adoption exchange that contains a photograph and description of each child who has been legally freed for adoption. The exchange service shall be available to all local social service agencies and licensed child-placing agencies whose purpose is to assist in the adoptive placement of children.

Subd. 2. **Photograph and description.** All local social service agencies, and licensed child-placing agencies shall send to the state adoption exchange, within 45 days of the time a child becomes free for adoption, a recent photograph and description of each child in its care who has been legally freed for adoption by the termination of parental rights, and for whom no adoptive home has been found.

Subd. 2a. **Listing deadline.** All children identified under subdivision 2 must be listed on the state adoption exchange within 20 days of the receipt of the information from the local social service agency or licensed child-placing agency.

Subd. 3. **Changes in status.** Changes in the status of a child listed in the state adoption exchange shall be reported by the local social service agency and the licensed child-placing agency to the exchange within ten working days after the change occurs.

Subd. 4. **Updated information.** Children remaining registered for 12 months shall have their photographs and written descriptions updated by the local social service agency and the licensed child-placing agency within ten working days of the expiration of the 12 months, and every 12 months thereafter.

Subd. 5. **Withdrawal of registration.** A child's registration shall be withdrawn when the exchange service has been notified in writing by the local social service agency or the licensed child-placing agency that the child has been placed in an adoptive home, has died, or is no longer under the guardianship of the commissioner and is no longer seeking an adoptive home.

Subd. 6. **Periodic review of status.** (a) The commissioner shall review the state adoption exchange status of children identified under subdivision 2, including a child whose registration was withdrawn pursuant to subdivision 5. The commissioner may determine that a child who is unregistered, or whose registration

has been deferred, must be registered and require the authorized child-placing agency to register the child with the state adoption exchange within ten working days of the commissioner's determination.

(b) Periodic reviews shall be made by the commissioner to determine the progress toward adoption of children registered in the state adoption exchange.

Subd. 7. **Voluntary referral; required registration.** A local social service agency and a licensed child-placing agency may voluntarily refer any child legally freed for adoption to the exchange service; or the exchange service may determine that the recruitment of an adoptive family through the exchange book is appropriate for a child not registered with the service and require the child to be registered with the exchange service within ten working days.

Subd. 8. **Reasons for deferral.** Deferral of the listing of a child with the state adoption exchange shall be only for one or more of the following reasons:

(a) the child is in an adoptive placement but is not legally adopted;

(b) the child's foster parents or other individuals are now considering adoption;

(c) diagnostic study or testing is required to clarify the child's problem and provide an adequate description; or

(d) the child is currently in a hospital and continuing need for daily professional care will not permit placement in a family setting.

Approval of a request to defer listing for any of the reasons specified in paragraph (b) or (c) shall be valid for a period not to exceed 90 days, with no subsequent deferrals for those reasons.

Subd. 9. **Rules; staff.** The commissioner of children, youth, and families shall make rules as necessary to administer this section and shall employ necessary staff to carry out the purposes of this section. The commissioner may contract for services to carry out the purposes of this section.

History: *1980 c 614 s 132; 1984 c 654 art 5 s 58; 1986 c 444; 1994 c 631 s 31; 1995 c 61 s 1-7; 2005 c 159 art 2 s 8; 2007 c 147 art 1 s 6; 2008 c 361 art 6 s 17; 2021 c 30 art 10 s 17-19; 2024 c 80 art 8 s 70*

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 260C.202. The agency may accept any gifts, grants, offers of services, and other contributions to use in making special recruitment efforts.

History: *1983 c 278 s 11; 1992 c 557 s 6; 1993 c 291 s 14; 1994 c 631 s 31; 1996 c 416 s 13; 1997 c 86 s 11; 1999 c 139 art 4 s 2; 2012 c 216 art 6 s 13*

259.78 GRANDPARENT VISITATION.

Grandparent visitation with an adopted child is governed by section 257C.08.

History: *1997 c 177 s 21; 2002 c 304 s 13*

259.79 ADOPTION RECORDS.

Subdivision 1. **Content.** (a) The adoption records of the commissioner's agents and licensed child-placing agencies shall contain copies of all relevant legal documents, responsibly collected genetic, medical and social history of the child and the child's birth parents, the child's placement record, copies of all pertinent agreements, contracts, and correspondence relevant to the adoption, and copies of all reports and recommendations made to the court.

(b) The commissioner of children, youth, and families shall maintain a permanent record of all adoptions granted in district court in Minnesota regarding children who are:

(1) under guardianship of the commissioner or a licensed child-placing agency according to section 260C.317 or 260C.515, subdivision 3;

(2) placed by the commissioner, commissioner's agent, or licensed child-placing agency after a consent to adopt according to section 259.24 or under an agreement conferring authority to place for adoption according to section 259.25; or

(3) adopted after a direct adoptive placement approved by the district court under section 259.47.

Each record shall contain identifying information about the child, the birth or legal parents, and adoptive parents, including race where such data is available. The record must also contain: (1) the date the child was legally freed for adoption; (2) the date of the adoptive placement; (3) the name of the placing agency; (4) the county where the adoptive placement occurred; (5) the date that the petition to adopt was filed; (6) the county where the petition to adopt was filed; and (7) the date and county where the adoption decree was granted.

(c) Identifying information contained in the adoption record must be confidential and must be disclosed only pursuant to section 259.61 or, for adoption records maintained by the commissioner of children, youth, and families, upon request from the commissioner of health or state registrar pursuant to sections 144.2252 and 144.2253.

Subd. 2. **Use.** Each adoption record shall constitute the permanent record upon which court action is based and agency services are administered.

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: *1982 c 584 s 2; 1986 c 444; 1994 c 631 s 31; 1997 c 177 s 22; 2005 c 159 art 2 s 9; 2012 c 216 art 6 s 13; 2024 c 80 art 8 s 70; 2024 c 115 art 18 s 26*

259.81 REFERRAL FOR SERVICES.

When a parent contacts a licensed child-placing agency and requests out-of-home placement for a child, the agency shall refer the parent to the local welfare agency if the child-placing agency is not able to arrange a shelter or foster placement for the child as requested by the parent.

History: *1987 c 187 s 4; 1994 c 631 s 31*

259.83 POSTADOPTION SERVICES.

Subdivision 1. **Services provided.** (a) Agencies must provide assistance and counseling services upon receiving a request for current information from adoptive parents, birth parents, adopted persons aged 18 years of age and older, or adult siblings of adopted persons. The agency must contact the other adult persons or the adoptive parents of a minor child in a personal and confidential manner to determine whether there is a desire to receive or share information or to have contact. If there is such a desire, the agency must provide the services requested. The agency must complete the search request within six months of the request being made. If the agency is unable to complete the search request within the specified time frame, the agency must inform the requester of the status of the request and include a reasonable estimate of when the request can be completed.

(b) Upon a request for assistance or services from an adoptive parent of a minor child, birth parent, or an adopted person 18 years of age or older, the agency must inform the person:

(1) about the right of an adopted person to request and obtain a copy of the adopted person's original birth record at the age and circumstances specified in section 144.2252; and

(2) about the right of the birth parent named on the adopted person's original birth record to file a contact preference form with the state registrar pursuant to section 144.2253.

When making or supervising an adoptive placement, the agency must provide in writing to the birth parents listed on the original birth record the information required under this paragraph and section 259.37, subdivision 2, clause (7).

Subd. 1a. **Social and medical history.** (a) If a person aged 18 years of age and older who was adopted on or after August 1, 1994, or the adoptive parent requests the detailed nonidentifying social and medical history of the adopted person's birth family that was provided at the time of the adoption, agencies must provide the information to the adopted person or adoptive parent on the applicable form required under sections 259.43 and 260C.212, subdivision 15.

(b) If an adopted person aged 18 years of age and older or the adoptive parent requests the agency to contact the adopted person's birth parents to request current nonidentifying social and medical history of the adopted person's birth family, agencies must use the applicable form required under sections 259.43 and 260C.212, subdivision 15, when obtaining the information for the adopted person or adoptive parent.

Subd. 1b. **Siblings.** (a) A person who is at least 18 years of age who was adopted or who was committed to the guardianship of the commissioner of children, youth, and families and not adopted must upon request be advised of other siblings who were adopted or who were committed to the guardianship of the commissioner of children, youth, and families and not adopted.

(b) The agency must provide assistance to the person requesting information to the extent that information is available in the records required to be kept under section 259.79. If the sibling received services from

another agency, the agencies must share necessary information in order to locate the other siblings and to offer services, as requested. A reasonable fee may be imposed by the agency.

Subd. 2. **Health information.** When the agency receives information about a medical or genetic condition which has affected or may affect the physical or mental health of genetically related persons, the agency shall make a diligent effort to contact those persons in order to transmit the health information.

Subd. 3. MS 2022 [Repealed, 2023 c 70 art 4 s 113]

Subd. 3a. **Birth parent identifying information.** (a) This subdivision applies to adoptive placements where an adopted person does not have a record of live birth registered in this state. Upon written request by an adopted person 18 years of age or older, the agency responsible for or supervising the placement must provide to the requester the following identifying information related to the birth parents listed on that adopted person's original birth record, to the extent the information is available:

(1) each of the birth parent's names; and

(2) each of the birth parent's birthdate and birthplace.

(b) The agency may charge a reasonable fee to the requester for providing the required information under paragraph (a).

(c) The agency, acting in good faith and in a lawful manner in disclosing the identifying information under this subdivision, is not civilly liable for such disclosure.

Subd. 4. **Confidentiality.** Agencies shall provide adoptive parents, birth parents and adult siblings, and adopted persons aged 18 years and over reasonable assistance in a manner consistent with state and federal laws, rules, and regulations regarding the confidentiality and privacy of child welfare and adoption records.

Subd. 5. **Charges.** The commissioner, the commissioner's agents, and licensed child-placing agencies may require a reasonable expense reimbursement for providing services required in this section. Reimbursements received by the commissioner according to this subdivision shall be deposited in the general fund.

History: *1982 c 584 s 3; 1986 c 444; 1989 c 282 art 2 s 165; 1994 c 631 s 31; 1997 c 177 s 23; 1Sp2001 c 9 art 15 s 32; 2003 c 68 s 1; 2007 c 49 s 1; 2021 c 30 art 10 s 20; 2023 c 70 art 4 s 79-82; 2024 c 80 art 8 s 70; 2024 c 115 art 18 s 27-30; 2026 c 88 art 1 s 159; 2026 c 127 art 9 s 15*

259.85 Subdivision 1. MS 2013 Supp [Repealed, 2014 c 262 art 1 s 12]

Subd. 2. MS 2012 [Repealed, 2014 c 262 art 1 s 12]

Subd. 3. MS 2012 [Repealed, 2014 c 262 art 1 s 12]

Subd. 4. MS 2012 [Repealed, 2014 c 262 art 1 s 12]

Subd. 5. MS 2012 [Repealed, 2014 c 262 art 1 s 12]

259.87 RULES.

The commissioner of children, youth, and families shall make rules as necessary to administer sections 259.79 and 259.83.

History: *1982 c 584 s 4; 1984 c 654 art 5 s 58; 1994 c 631 s 31; 2024 c 80 art 8 s 70*

259.88 DATA AND BEST PRACTICES.

Subdivision 1. **Required data for postadoption search services.** (a) The commissioner of children, youth, and families must collect data from all adoption agencies for six months in order to establish benchmarks to evaluate postadoption search services. The data must include:

(1) the percentage of requests resulting in successful location of the other party;

(2) the percentage of requests resulting in successful completion of the commissioner's designated form for family medical and social history;

(3) the time from request for search to completion of search; and

(4) the number and type of efforts used to complete the search.

(b) Agencies must provide the number of search requests received during the six-month period prior to June 2, 2005, to the commissioner of children, youth, and families.

(c) The data must be used to establish reasonable efforts in developing the best practices under subdivision 2.

Subd. 2. **Best practices.** The commissioner of children, youth, and families, in consultation with the commissioner of health, must develop best practice guidelines for conducting postadoption services.

History: *2005 c 129 s 1; 2024 c 80 art 8 s 70*

259.89 MS 2022 [Repealed, 2023 c 70 art 4 s 113]