

**9560.0030 LEGALLY FREEING A CHILD FOR ADOPTION.**

Subpart 1. **Legal or voluntary termination.** Before a valid agency adoptive placement may occur, court termination of the parent's rights under Minnesota Statutes, sections 260C.301 to 260C.317, or an agreement under Minnesota Statutes, section 259.25, which confers authority to place a child for adoption with the commissioner or a licensed child-placing agency must be obtained from any individual recognized by state law as having parental rights.

A. A local social service agency shall seek to free a child for adoption through court termination of parental rights unless the commissioner accepts, in writing, the agreement conferring authority to place the child.

B. On all agency adoptive placement plans, the local social service or licensed child-placing agency shall inform the birth parent, who is identified on the child's birth record by birth registration, affidavit, or court order, of the statutory conditions under which birth record information and certain agency record information may or may not be released. The agency shall assist the birth parent with the procedures in subitems (1) to (3).

(1) The birth parent shall sign an affidavit to be filed in the agency record attesting that the birth parent has been informed of statutory conditions that affect the agency release or nonrelease of identifying information, such as the birth parent's name, last known address, birth date, and birthplace, to the adopted person after that person reaches adult age as defined in Minnesota Statutes, sections 259.83 to 259.89.

(2) The birth parent may subsequently choose to file or not file in the agency adoption record an affidavit objecting to the agency release of any or all of the identifying information to the adopted person upon that person reaching adult age as specified in Minnesota Statutes, sections 259.83 to 259.89.

(3) The birth parent may file an affidavit at any time with the state registrar of vital statistics consenting to or refusing to consent to disclosure of the original birth record information to the adopted person after that person reaches adult age as specified in Minnesota Statutes, sections 259.83 to 259.89.

Subp. 2. **Written consents.** All written consents to adoption, executed in a manner prescribed by Minnesota Statutes, sections 259.24, subdivision 5, and 259.25, must be filed with the court prior to the hearing on the adoption petition.

Subp. 3. **Execution of consents.** All agreements with an agency to place a child and consents to adoption by the child's parent or legal guardian, must be executed before two competent witnesses and an agency representative. Consents to an adoption by the child's parent when that parent is either a copetitioner in the adoption proceedings or does not have custody of the child must be executed before two competent witnesses, but need not be executed before an agency representative. All consents by a parent must contain a notice

to the parent of the right to revoke the consent for any reason within ten working days of its execution. Consents obtained in another state may be executed according to either Minnesota law or applicable consent laws of the other state.

The consentor's and the agency representative's signatures must each be duly notarized.

The two witnesses must be 18 years of age or older and of sound mind, and neither may be the subscribing notary public.

The agency representative must be a person qualified to counsel the consenting party on adoption matters.

Revocation of a parent's consent must be in writing and must be received by the agency no later than the tenth working day after the consent was executed.

Subp. 4. **Affidavits.** Affidavits submitted by individuals who allege or deny parenthood which contain a consent to adoption must be executed according to the requirements in subpart 3.

**Statutory Authority:** *MS s 245A.09; 257.05; 257.175; 259.53; 259.67; 259.75; 259.87*

**History:** *9 SR 909; 17 SR 1279; L 1994 c 631 s 31; L 1999 c 139 art 4 s 2; L 2001 1Sp9 art 15 s 32*

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