

CHAPTER 257

CHILDREN; CUSTODY; LEGITIMACY

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257.01 RECORDS REQUIRED.

Each person or authorized child placing agency permitted by law to receive children, secure homes for children, or care for children, shall keep a record containing the name, age, former residence, legal status, health records, sex, race, and accumulated length of time in foster care, if applicable, of each child received; the name, former residence, occupation, health history, and character, of each genetic parent; the date of reception, placing out, and adoption of each child, and the name, race, occupation, and residence of the person with whom a child is placed; the date of the removal of any child to another home and the reason for removal; the date of termination of the guardianship; the history of each child until he reaches the age of 18 years, is legally adopted, or is discharged according to law; and further demographic and other information as is required by the commissioner of public welfare.

History: 1983 c 278 s 1

257.065 AUTHORIZED CHILD PLACING AGENCY DEFINITION.

For the purposes of chapters 257 and 259, "authorized child placing agency" means the local social service agency under the authority of the county welfare board or human service board, or any agency licensed by the commissioner of public welfare or a comparable authority in the state or United States, to place children for foster care or adoption.

History: 1983 c 278 s 2

257.071 CHILDREN IN FOSTER HOMES; PLACEMENT; REVIEW.

[For text of subd 1, see M.S.1982]

Subd. 1a. Protection of heritage or background. The authorized child placing agency shall ensure that the child's best interests are met by giving due consideration of the child's race or ethnic heritage in making a family foster care placement. The authorized child placing agency shall place a child, released by court order or by voluntary release by the parent or parents, in a family foster home selected by following the preferences described in section 260.181, subdivision 3.

Subd. 2. Six month review of placements. There shall be an administrative review of the case plan of each child placed in a residential facility no later than 180 days after the initial placement of the child in a residential facility and at least every six months thereafter if the child is not returned to the home of his parent or parents within that time. As an alternative to the administrative review, the social service agency responsible for the placement may bring a petition as provided in section 260.131, subdivision 1a, to the court for review of the foster care to

determine if placement is in the best interests of the child. This petition must be brought to the court within the applicable six months and is not in lieu of the requirements contained in subdivision 3 or 4.

[For text of subs 3 to 5, see M.S.1982]

Subd. 6. Annual foster care report. The commissioner of public welfare shall publish annually a report on children in residential facilities as defined in subdivision 1. The report shall include, by county and statewide, information on legal status, living arrangement, age, sex, race, accumulated length of time in foster care, and other demographic information deemed appropriate on all children placed in residential facilities. The report shall also state the extent to which authorized child placing agencies comply with sections 257.072 and 259.455 and include descriptions of the methods used to comply with those sections.

History: 1983 c 278 s 3-5

257.072 RECRUITMENT OF FOSTER FAMILIES.

Each authorized child placing agency shall make special efforts to recruit a foster family from among the child's relatives, except as authorized in section 260.181, subdivision 3, and among families of the same minority racial or minority ethnic heritage. Special efforts include contacting and working with community organizations and religious organizations, utilizing local media and other local resources, and conducting outreach activities. 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 6

257.34 DECLARATION OF PARENTAGE.

Subdivision 1. Acknowledgment by parents. The mother and father of a child born to a mother who was not married to the child's father when the child was conceived nor when the child was born may, in a writing signed by both of them before a notary public, declare and acknowledge under oath that they are the biological parents of the child. The declaration may provide that any such child born to the mother at any time before or up to ten months after the date of execution of the declaration is the biological child of the signatories. Execution of the declaration shall:

(a) Have the same consequences as an acknowledgement by the signatories of parentage of the child for the purposes of sections 62A.041 and 62C.14, subdivision 5a;

(b) Be conclusive evidence that the signatories are parents of the child for the purposes of sections 176.111 and 197.09 to 197.11;

(c) Have the same consequences as an acknowledgement by the father of paternity of the child for the purposes of sections 257.57 and 257.66;

(d) When timely filed with the division of vital statistics of the Minnesota department of health as provided in section 259.261, qualify as an affidavit stating the intention of the signatories to retain parental rights as provided in section 259.261 if it contains the information required by section 259.261 or rules promulgated thereunder;

(e) Have the same consequences as a writing declaring paternity of the child for the purposes of section 525.172; and

(f) Be conclusive evidence that the signatories are parents of the child for the purposes of chapter 573.

[For text of subds 2 and 3, see M.S.1982]

History: 1983 c 7 s 7; 1983 c 243 s 5 subd 7

257.541 CUSTODY AND VISITATION OF CHILDREN BORN OUTSIDE OF MARRIAGE.

Subdivision 1. **Mother's right to custody.** The natural mother of a child born to a mother who was not married to the child's father neither when the child was born nor when the child was conceived has sole custody of the child until paternity has been established.

Subd. 2. **Father's right to visitation.** (a) If paternity has been acknowledged under section 257.34 and paternity has been established under sections 257.51 to 257.74, the father's rights of visitation or custody are determined under sections 518.17 and 518.175.

(b) If paternity has not been acknowledged under section 257.34 and paternity has been established under sections 257.51 to 257.74, the natural father may petition for rights of visitation or custody in a separate proceeding under section 518.156.

History: 1983 c 308 s 3

257.55 PRESUMPTION OF PATERNITY.

Subdivision 1. **Presumption.** A man is presumed to be the natural father of a child if:

(a) He and the child's natural mother are or have been married to each other and the child is born during the marriage, or within 280 days after the marriage is terminated by death, annulment, declaration of invalidity, dissolution, or divorce, or after a decree of legal separation is entered by a court;

(b) Before the child's birth, he and the child's natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared void, voidable, or otherwise invalid, and,

(1) if the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage, or within 280 days after its termination by death, annulment, declaration of invalidity, dissolution or divorce; or

(2) if the attempted marriage is invalid without a court order, the child is born within 280 days after the termination of cohabitation;

(c) After the child's birth, he and the child's natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared void, voidable, or otherwise invalid, and,

(1) he has acknowledged his paternity of the child in writing filed with the state registrar of vital statistics;

(2) with his consent, he is named as the child's father on the child's birth certificate; or

(3) he is obligated to support the child under a written voluntary promise or by court order;

(d) While the child is under the age of majority, he receives the child into his home and openly holds out the child as his natural child; or

(e) He and the child's natural mother acknowledge his paternity of the child in a writing signed by both of them under section 257.34 and filed with the state registrar of vital statistics. If another man is presumed under this clause to be the child's father, acknowledgment may be effected only with the written consent of the presumed father or after the presumption has been rebutted.

[For text of subd 2, see M.S.1982]

History: 1983 c 308 s 4

257.58 LIMITATION OF ACTIONS; EXCEPTIONS.

Subdivision 1. **Actions for children without a presumed father.** Except for (a) an action brought by or on behalf of a child whose paternity has not been determined, and (b) an action brought by the public authority responsible for child support enforcement, if a child is over three years old when he or she first receives public assistance in the state of Minnesota, an action to determine the existence of the father and child relationship as to a child who has no presumed father under section 257.55 may not be brought later than three years after the birth of the child, or later than three years after August 1, 1980, whichever is later. An action brought by or on behalf of a child whose paternity has not been determined is not barred until one year after the child reaches the age of majority. If a child is over three years old when he or she first receives public assistance in the state of Minnesota, an action brought by the public authority responsible for child support enforcement is not barred until three years after the public assistance is first provided in this state.

Subd. 2. **Heirship.** Section 257.57 and this section do not extend the time within which a right of inheritance or a right to a succession may be asserted beyond the time provided by law relating to distribution and closing of decedents' estates or to the determination of heirship, or otherwise.

History: 1983 c 308 s 5

257.59 JURISDICTION; VENUE.

Subdivision 1. **Court jurisdiction.** Except in Hennepin and Ramsey counties, the county court has jurisdiction of an action brought under sections 257.51 to 257.74. In Hennepin and Ramsey counties, the district court has jurisdiction of an action brought under sections 257.51 to 257.74. The action may be joined with an action for dissolution, annulment, legal separation, custody under chapter 518, or reciprocal enforcement of support.

[For text of subds 2 and 3, see M.S.1982]

History: 1983 c 308 s 6

257.60 PARTIES.

The child may be made a party to the action. If the child is a minor and is made a party, a general guardian or a guardian ad litem shall be appointed by the court to represent the child. The child's mother or father may not represent the child as guardian or otherwise. If the child is a minor and the case involves a compromise under section 257.64, subdivision 1 or a lump sum payment under section 257.66, subdivision 4, the child and the commissioner of public welfare shall each be made a party before the court approves a compromise or orders a lump sum payment. The natural mother, each man presumed to be the father under section 257.55, and each man alleged to be the natural father, shall be made

parties or, if not subject to the jurisdiction of the court, shall be given notice of the action in a manner prescribed by the court and shall be given an opportunity to be heard. A person who may bring an action under section 257.57 may be made a party to the action. The court may align the parties.

History: 1983 c 308 s 7

257.62 BLOOD AND GENETIC TESTS.

Subdivision 1. **Blood tests required.** The court may, and upon request of a party shall, require the child, mother, or alleged father to submit to blood tests. If the alleged father is dead, the court may, and upon request of a party shall, require the decedent's parents or brothers and sisters or both to submit to blood tests. However, in a case involving these relatives of an alleged father, who is deceased, the court may refuse to order blood tests if the court makes an express finding that submitting to the tests presents a danger to the health of one or more of these relatives that outweighs the child's interest in having the tests performed. Unless the person gives consent to the use, the results of any blood tests of the decedent's parents, brothers, or sisters may be used only to establish the right of the child to public assistance including but not limited to social security and veterans' benefits. The tests shall be performed by a qualified expert appointed by the court.

[For text of subds 2 to 4, see M.S.1982]

Subd. 5. **Positive test results.** If the results of the blood tests indicate that the likelihood of the alleged father's paternity is more than 92 percent, upon motion the court shall order the alleged father to pay temporary child support determined according to chapter 518. The alleged father shall pay the support money into court pursuant to the rules of civil procedure to await the results of the paternity proceedings.

History: 1983 c 308 s 8,9

257.64 PRE-TRIAL ORDERS AND RECOMMENDATIONS.

Subdivision 1. On the basis of the information produced at the pretrial hearing, including information as to the financial status of the parties, the court may:

(a) recommend that the alleged father voluntarily acknowledge his paternity of the child if the parties have agreed on a financial settlement; or

(b) recommend that the matter be compromised by an agreement among the alleged father, the mother, and the child, in which the father and child relationship is not determined but in which a defined economic obligation is undertaken by the alleged father in favor of the child and, if appropriate, in favor of the mother, subject to approval by the court. In reviewing the obligation undertaken by the alleged father in a compromise agreement, the court shall consider the best interest of the child, in the light of the applicable factors enumerated in section 518.17, subdivision 3, discounted by the improbability, as it appears to the court, of establishing the alleged father's paternity or nonpaternity of the child in a trial of the action. In the best interest of the child, the court may order that the alleged father's identity be kept confidential. In that case, the court may designate a person or agency to receive from the alleged father and disburse on behalf of the child all amounts paid by the alleged father in fulfillment of obligations imposed on him. When the child reaches 21 years of age or older he may petition the court to disclose the alleged father's identity. The court shall grant the petition if after

considering the interests of all known persons involved, the court determines that disclosure of the information would be of greater benefit than nondisclosure.

[For text of subds 2 to 5, see M.S.1982]

History: 1983 c 308 s 10

257.66 JUDGMENT OR ORDER.

[For text of subds 1 and 2, see M.S.1982]

Subd. 3. Judgment; order. The judgment or order shall contain provisions concerning the duty of support, the custody of the child, the name of the child, visitation privileges with the child, the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child. Custody and visitation and all subsequent motions related to them shall proceed and be determined under section 257.541. The remaining matters and all subsequent motions related to them shall proceed and be determined in accordance with chapter 518. The judgment or order may direct the appropriate party to pay all or a proportion of the reasonable expenses of the mother's pregnancy and confinement, after consideration of the relevant facts, including the relative financial means of the parents; the earning ability of each parent; and any health insurance policies held by either parent, or by a spouse or parent of the parent, which would provide benefits for the expenses incurred by the mother during her pregnancy and confinement.

Subd. 4. Statute of limitations. Support judgments or orders ordinarily shall be for periodic payments which may vary in amount. In the best interest of the child, a lump sum payment may be ordered in lieu of periodic payments of support. The court shall limit the parent's liability for past support of the child to the proportion of the expenses that the court deems just, which were incurred in the two years immediately preceding the commencement of the action.

History: 1983 c 308 s 11,12

257.69 RIGHT TO COUNSEL; COSTS; FREE TRANSCRIPT ON APPEAL.

[For text of subd 1, see M.S.1982]

Subd. 2. Guardian; legal fees. The court may order expert witness and guardian ad litem fees and other costs of the trial and pre-trial proceedings, including appropriate tests, to be paid by the parties in proportions and at times determined by the court. The court shall require a party to pay part of the fees of court-appointed counsel according to the party's ability to pay, but if counsel has been appointed the appropriate agency shall pay the party's proportion of all other fees and costs. The agency responsible for child support enforcement shall pay the fees and costs for blood tests in a proceeding in which it is a party, is the real party in interest, or is acting on behalf of the child. However, at the close of a proceeding in which paternity has been established under sections 257.51 to 257.74, the court shall order the adjudicated father to reimburse the public agency, if the court finds he has sufficient resources to pay the costs of the blood tests. When a party bringing an action is represented by the county attorney, no filing fee shall be paid to the clerk of court.

[For text of subd 3, see M.S.1982]

History: 1983 c 308 s 13