

CHAPTER 257

CHILDREN; CUSTODY, LEGITIMACY

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CUSTODY

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 birth 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 the child 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 human services.

History: (4560) *Ex1919 c 51 s 1; 1951 c 644 s 1; 1973 c 725 s 47; 1983 c 278 s 1; 1984 c 654 art 5 s 58; 1986 c 444; 1994 c 631 s 31*

257.02 SURRENDER OF PARENTAL RIGHTS.

No person other than the parents or relatives may assume the permanent care and custody of a child under 14 years of age unless authorized so to do by an order or decree of court. However, if a parent of a child who is being cared for by a relative dies, or if the parent is not or cannot fulfill parental duties with respect to the child, the relative may bring a petition under section 260.131. Except in proceedings for adoption or by a consent decree entered under section 257.0215, no parent may assign or otherwise transfer to another parental rights or duties with respect to the permanent care and custody of a child under 14 years of age. Any such transfer shall be void.

History: (4561) *Ex1919 c 51 s 2; 1986 c 444; 1996 c 421 s 2; 1997 c 112 s 1*

257.021 [Repealed, 3Sp1981 c 3 s 20]

257.0215 CUSTODY CONSENT DECREE.

A parent may transfer legal and physical custody of a child to a relative by a consent decree entered under this section. The court may approve a proposed consent decree if the custody arrangement is in the best interests of the child and all parties to the decree agree to it after being fully informed of its contents. A consent decree under this section must:

(1) transfer legal and physical custody of the child to a named relative and state that this includes the ability to determine the child's residence; make decisions regarding the child's education, religious training, and health care; and obtain information and public services on behalf of the child in the same manner as a parent;

(2) indicate whether the transfer of custody is temporary or permanent; and

(3) include an order for child support in the guidelines amount and an allocation of child care costs as provided by section 518.551, subject to income withholding under section 518.6111 and including an order for medical support under section 518.171.

Either a parent or a relative who is party to a consent decree under this section may file a motion to modify or terminate the consent decree at any time. A party who has custody of a child under this section must seek modification of the consent decree before transferring physical or legal custody of the child to anyone.

For purposes of this section, "relative" means an adult who is a stepparent, grandparent, brother, sister, uncle, aunt, or other extended family member of a minor by blood, marriage, or adoption.

History: *1997 c 112 s 2; 1997 c 203 art 6 s 92*

257.022 RIGHTS OF VISITATION TO UNMARRIED PERSONS.

Subdivision 1. **When parent is deceased.** If a parent of an unmarried minor child is deceased, the parents and grandparents of the deceased parent may be granted reasonable visitation rights to the unmarried minor child during minority by the district court upon finding that visitation rights would be in the best interests of the child and would not interfere with the parent child relationship. The court shall consider the amount of personal contact between the parents or grandparents of the deceased parent and the child prior to the application.

Subd. 2. **Family court proceedings.** (a) In all proceedings for dissolution, custody, legal separation, annulment, or parentage, after the commencement of the proceeding, or at any time after completion of the proceedings, and continuing during the minority of the child, the court may, upon the request of the parent or grandparent of a party, grant reasonable visitation rights to the unmarried minor child, after dissolution of marriage, legal separation, annulment, or determination of parentage during minority if it finds that: (1) visitation rights would be in the best interests of the child; and (2) such visitation would not interfere with the parent-child relationship. The court shall consider the amount of personal contact between the parents or grandparents of the party and the child prior to the application.

(b) If a motion for grandparent visitation has been heard and denied, unless agreed to in writing by the parties, no subsequent motion may be filed within six months after disposition of a prior motion on its merits.

Subd. 2a. **When child has resided with grandparents.** If an unmarried minor has resided with grandparents or great-grandparents for a period of 12 months or more, and is subsequently removed from the home by the minor's parents, the grandparents or great-grandparents may petition the district court for an order granting them reasonable visitation rights to the child during minority. The court shall grant the petition if it finds that visitation rights would be in the best interests of the child and would not interfere with the parent and child relationship.

Subd. 2b. **When child has resided with other person.** If an unmarried minor has resided in a household with a person, other than a foster parent, for two years or more and no longer resides with the person, the person may petition the district court for an order granting the person reasonable visitation rights to the child during the child's minority. The court shall grant the petition if it finds that:

- (1) visitation rights would be in the best interests of the child;
- (2) the petitioner and child had established emotional ties creating a parent and child relationship; and
- (3) visitation rights would not interfere with the relationship between the custodial parent and the child.

The court shall consider the reasonable preference of the child, if the court considers the child to be of sufficient age to express a preference.

Subd. 3. **Exception for adopted children.** This section shall not apply if the child has been adopted by a person other than a stepparent or grandparent. Any visitation rights granted pursuant to this section prior to the adoption of the child shall be automatically terminated upon such adoption.

Subd. 3a. **Grandparent visitation with an adopted child.** (a) A grandparent of a child adopted by a stepparent may petition and a court may grant an order setting visitation with the child if:

- (1) the grandparent is the parent of:
 - (i) a deceased parent of the child; or
 - (ii) a parent of the child whose parental relationship was terminated by a decree of adoption according to section 259.57, subdivision 1; and
- (2) the court determines that the requested visitation:
 - (i) is in the best interests of the child; and
 - (ii) would not interfere with the parent and child relationship.

(b) Failure to comply with the terms of an order for visitation granted under this subdivision is not a basis for revoking, setting aside, or otherwise challenging the validity of a consent, relinquishment, or adoption of a child.

Subd. 4. **Establishment of interference with parent and child relationship.** The court may not deny visitation rights under this section based on allegations that the visitation rights would interfere with the relationship between the custodial parent and the child unless after a hearing the court determines by a preponderance of the evidence that interference would occur.

Subd. 5. **Visitation proceeding may not be combined with proceeding under chapter 518b.** Proceedings under this section may not be combined with a proceeding under chapter 518B.

History: 1976 c 198 s 1; 1977 c 238 s 1,2; 1986 c 444; 1988 c 668 s 4; 1989 c 248 s 1; 1993 c 62 s 1; 1993 c 322 s 3,4; 1997 c 177 s 2,3; 1998 c 254 art 2 s 27,28

257.025 CUSTODY DISPUTES.

(a) In any proceeding where two or more parties seek custody of a child the court shall consider and evaluate all relevant factors in determining the best interests of the child, including the following factors:

- (1) the wishes of the party or parties as to custody;
- (2) the reasonable preference of the child, if the court deems the child to be of sufficient age to express preference;
- (3) the child's primary caretaker;
- (4) the intimacy of the relationship between each party and the child;
- (5) the interaction and interrelationship of the child with a party or parties, siblings, and any other person who may significantly affect the child's best interests;
- (6) the child's adjustment to home, school, and community;
- (7) the length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity;
- (8) the permanence, as a family unit, of the existing or proposed custodial home;
- (9) the mental and physical health of all individuals involved; except that a disability, as defined in section 363.01, of a proposed custodian or the child shall not be determinative of the custody of the child, unless the proposed custodial arrangement is not in the best interest of the child;
- (10) the capacity and disposition of the parties to give the child love, affection, and guidance, and to continue educating and raising the child in the child's culture, religion, or creed, if any;
- (11) the child's cultural background; and
- (12) the effect on the child of the actions of an abuser, if related to domestic abuse as defined in section 518B.01, that has occurred between the parents or the parties.

The court may not use one factor to the exclusion of all others. The court must make detailed findings on each of the factors and explain how the factors led to its conclusions and to the determination of the best interests of the child.

(b) The fact that the parents of the child are not or were never married to each other shall not be determinative of the custody of the child.

(c) The court shall not consider conduct of a proposed custodian that does not affect the custodian's relationship to the child.

(d) The court shall consider evidence of a violation of section 609.507 in determining the best interests of the child.

(e) A person may seek custody of a child by filing a petition or motion pursuant to section 518.156.

(f) Section 518.619 applies to this section.

History: 1974 c 330 s 1; 1980 c 589 s 29; 1990 c 574 s 2; 1992 c 557 s 1

257.03 NOTICE TO COMMISSIONER OF HUMAN SERVICES.

Any person not exempted from the requirement for licensure under chapter 245A receiving a child in the person's home:

(1) because of the death, injury, or illness of the child's parent if the person intends to keep the child for more than 30 days; or

(2) with intent to adopt the child or keep the child permanently, except a person receiving a child from an authorized agency, must notify the commissioner of human services in writing within 30 days after the child is received. Notice shall state the true name of the child;

the child's last previous address; the name and address of the child's parents or legal guardian and of persons with whom the child last resided; and the names and addresses of persons who placed the child in the home, arranged for, or assisted with arrangements for the child's placement there; and such other facts about the child or the home as the commissioner may require. It is the duty of the commissioner or a designated agent to investigate the circumstances surrounding the child's entry into the home and to take appropriate action to assure for the child, the biological parents, and the foster parents the full protection of all laws of Minnesota relating to custody and foster care of children. Except as provided by section 317A.907, no person shall solicit, receive, or accept any payment, promise of payment, or compensation, for placing a child in foster care or for assisting to place a child in foster care. Nor shall any person pay or promise to pay or in any way compensate any person, for placing or for assisting to place a child in foster care.

History: (4562) *Ex1919 c 51 s 3; 1949 c 227 s 1; 1951 c 644 s 2; 1955 c 587 s 1; 1984 c 654 art 5 s 58; 1986 c 444; 1987 c 403 art 3 s 96; 1989 c 304 s 132; 1996 c 421 s 3*

257.035 EMERGENCY.

A relative who acts to protect a child in an emergency or when a parent dies is not a custodian as defined under section 260.015. If the relative is unable or unwilling to provide for the ongoing care, custody, and control of the child, the child may be considered a child in need of protection or services under section 260.015. The relative may report the death or emergency to the local social service agency. Upon receiving the report, the local social service agency shall assess the circumstances and the needs of the child. The agency may place the child in foster care with a relative who meets the licensing standards under chapter 245A, and may pursue court action on behalf of the child.

History: *1996 c 421 s 4*

257.04 INVESTIGATION.

Upon receipt of the notice provided for in section 257.03 the commissioner of human services or a designated agent of the commissioner shall visit the child and the home and shall continue to visit and supervise the home and the child or take other appropriate action to assure that the welfare of the child, biological parents and foster parents are fully protected.

History: (4563) *Ex1919 c 51 s 4; 1935 c 112 s 2; 1949 c 227 s 2; 1955 c 587 s 2; 1984 c 654 art 5 s 58; 1986 c 444; 1987 c 403 art 3 s 94*

257.05 IMPORTATION.

Subdivision 1. No person, except as provided by subdivision 2, shall bring or send into the state any child for the purpose of placing the child out or procuring the child's adoption without first obtaining the consent of the commissioner of human services, and such person shall conform to all rules of the commissioner of human services and laws of the state of Minnesota relating to protection of children in foster care. Before any child shall be brought or sent into the state for the purpose of being placed in foster care, the person bringing or sending the child into the state shall first notify the commissioner of human services of the person's intention, and shall obtain from the commissioner of human services a certificate stating that the home in which the child is to be placed is, in the opinion of the commissioner of human services, a suitable adoptive home for the child if legal adoption is contemplated or that the home meets the commissioner's requirements for licensing of foster homes if legal adoption is not contemplated. The commissioner is responsible for protecting the child's interests so long as the child remains within the state and until the child reaches the age of 18 or is legally adopted. Notice to the commissioner shall state the name, age, and personal description of the child, and the name and address of the person with whom the child is to be placed, and such other information about the child and the foster home as may be required by the commissioner.

Subd. 2. A parent, stepparent, grandparent, brother, sister and aunt or uncle in the first degree of the minor child who bring a child into the state for placement within their own

home shall be exempt from the provisions of subdivision 1. This relationship may be by blood or marriage.

History: (4564) *Ex1919 c 51 s 5; 1949 c 21 s 1; 1955 c 587 s 3; 1965 c 115 s 1; 1973 c 725 s 48; 1984 c 654 art 5 s 58; 1986 c 444; 1991 c 326 s 11*

257.06 EXPORTATION.

No person except a parent or guardian may take or send a child out of the state for purposes of placing the child in foster care without first obtaining the approval of the commissioner of human services.

History: (4565) *Ex1919 c 51 s 6; 1955 c 587 s 4; 1984 c 654 art 5 s 58; 1986 c 444*

257.065 AUTHORIZED CHILD-PLACING AGENCY DEFINITION.

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

History: 1983 c 278 s 2; 1984 c 654 art 5 s 58; 1994 c 631 s 31

257.0651 COMPLIANCE WITH INDIAN CHILD WELFARE ACT.

Sections 257.03 to 257.075 must be construed consistently with the Indian Child Welfare Act of 1978, United States Code, title 25, sections 1901 to 1963.

History: 1993 c 291 s 1

257.066 RULES.

By December 31, 1989, the commissioner of human services shall revise Minnesota Rules, parts 9545.0750 to 9545.0830, 9560.0010 to 9560.0180, and 9560.0500 to 9560.0670 to ensure that, as conditions of licensure, social services and child-placing agencies meet the requirements of section 257.072, subdivisions 7 and 8, and keep records in compliance with sections 257.01 and 259.79.

History: 1988 c 689 art 2 s 210; 1994 c 631 s 31

257.069 INFORMATION FOR CHILD PLACEMENT.

Subdivision 1. **Agency with placement authority.** An agency with legal responsibility for the placement of a child may request and shall receive all information pertaining to the child that it considers necessary to appropriately carry out its duties. That information must include educational, medical, psychological, psychiatric, and social or family history data retained in any form by any individual or entity. The agency may gather appropriate data regarding the child's parents in order to develop and implement a case plan required by section 257.071. Upon request of the court responsible for overseeing the provision of services to the child and family and for implementing orders that are in the best interest of the child, the responsible local social service agency or tribal social service agency shall provide appropriate written or oral reports from any individual or entity that has provided services to the child or family. The reports must include the nature of the services being provided the child or family; the reason for the services; the nature, extent, and quality of the child's or parent's participation in the services, where appropriate; and recommendations for continued services, where appropriate. The individual or entity shall report all observations and information upon which it bases its report as well as its conclusions. If necessary to facilitate the receipt of the reports, the court may issue appropriate orders.

Subd. 2. **Access to specific data.** A social service agency responsible for the residential placement of a child under this section and the residential facility in which the child is placed shall have access to the following data on the child:

- (1) medical data under section 13.42;
- (2) corrections and detention data under section 13.85;

(3) juvenile court data under section 260.161; and

(4) health records under section 144.335.

History: 1997 c 239 art 6 s 2

257.07 [Repealed, 1978 c 602 s 13]

257.071 CHILDREN IN FOSTER HOMES; PLACEMENT; REVIEW.

Subdivision 1. **Placement; plan.** A case plan shall be prepared within 30 days after any child is placed in a residential facility by court order or by the voluntary release of the child by the parent or parents.

For purposes of this section, a residential facility means any group home, family foster home or other publicly supported out-of-home residential facility, including any out-of-home residential facility under contract with the state, county or other political subdivision, or any agency thereof, to provide those services or foster care as defined in section 260.015, subdivision 7.

For the purposes of this section, a case plan means a written document which is ordered by the court or which is prepared by the social service agency responsible for the residential facility placement and is signed by the parent or parents, or other custodian, of the child, the child's legal guardian, the social service agency responsible for the residential facility placement, and, if possible, the child. The document shall be explained to all persons involved in its implementation, including the child who has signed the document, and shall set forth:

(1) The specific reasons for the placement of the child in a residential facility, including a description of the problems or conditions in the home of the parent or parents which necessitated removal of the child from home;

(2) The specific actions to be taken by the parent or parents of the child to eliminate or correct the problems or conditions identified in clause (1), and the time period during which the actions are to be taken;

(3) The financial responsibilities and obligations, if any, of the parents for the support of the child during the period the child is in the residential facility;

(4) The visitation rights and obligations of the parent or parents or other relatives as defined in section 260.181, if such visitation is consistent with the best interest of the child, during the period the child is in the residential facility;

(5) The social and other supportive services to be provided to the parent or parents of the child, the child, and the residential facility during the period the child is in the residential facility;

(6) The date on which the child is expected to be returned to the home of the parent or parents;

(7) The nature of the effort to be made by the social service agency responsible for the placement to reunite the family; and

(8) Notice to the parent or parents that placement of the child in foster care may result in termination of parental rights but only after notice and a hearing as provided in chapter 260.

The parent or parents and the child each shall have the right to legal counsel in the preparation of the case plan and shall be informed of the right at the time of placement of the child. The child shall also have the right to a guardian ad litem. If unable to employ counsel from their own resources, the court shall appoint counsel upon the request of the parent or parents or the child or the child's legal guardian. The parent or parents may also receive assistance from any person or social service agency in preparation of the case plan.

After the plan has been agreed upon by the parties involved, the foster parents shall be fully informed of the provisions of the case plan.

When an agency accepts a child for placement, the agency shall determine whether the child has had a physical examination by or under the direction of a licensed physician within the 12 months immediately preceding the date when the child came into the agency's care. If there is documentation that the child has had such an examination within the last 12 months, the agency is responsible for seeing that the child has another physical examination within one year of the documented examination and annually in subsequent years. If the agency de-

termines that the child has not had a physical examination within the 12 months immediately preceding placement, the agency shall ensure that the child has the examination within 30 days of coming into the agency's care and once a year in subsequent years.

Subd. 1a. Placement decisions based on best interest of the child. (a) The policy of the state of Minnesota is to ensure that the child's best interests are met by requiring an individualized determination of the needs of the child and of how the selected placement will serve the needs of the child being placed. 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 considering placement with relatives and important friends consistent with section 260.181, subdivision 3.

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

(c) Placement of a child cannot be delayed or denied based on race, color, or national origin of the foster 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.

Subd. 1b. Limit on multiple placements. If a child has been placed in a residential facility pursuant to a court order under section 260.172 or 260.191, the social service agency responsible for the residential facility placement for the child may not change the child's placement unless the agency specifically documents that the current placement is unsuitable or another placement is in the best interests of the child. This subdivision does not apply if the new placement is in an adoptive home or other permanent placement.

Subd. 1c. Notice before voluntary placement. The local social service agency shall inform a parent considering voluntary placement of a child who is not developmentally disabled or emotionally handicapped of the following:

(1) the parent and the child each has a right to separate legal counsel before signing a voluntary placement agreement, but not to counsel appointed at public expense;

(2) the parent is not required to agree to the voluntary placement, and a parent who enters a voluntary placement agreement may at any time request that the agency return the child. If the parent so requests, the child must be returned within 24 hours of the receipt of the request;

(3) evidence gathered during the time the child is voluntarily placed may be used at a later time as the basis for a petition alleging that the child is in need of protection or services or as the basis for a petition seeking termination of parental rights;

(4) if the local social service agency files a petition alleging that the child is in need of protection or services or a petition seeking the termination of parental rights, the parent would have the right to appointment of separate legal counsel and the child would have a right to the appointment of counsel and a guardian ad litem as provided by law, and that counsel will be appointed at public expense if they are unable to afford counsel; and

(5) the timelines and procedures for review of voluntary placements under subdivision 3, and the effect the time spent in voluntary placement on the scheduling of a permanent placement determination hearing under section 260.191, subdivision 3b.

Subd. 1d. Relative search; nature. (a) Within six months after a child is initially placed in a residential facility, the local social services agency shall identify any relatives of the child and notify them of the need for a foster care home for the child and of the possibility of the need for a permanent out-of-home placement of the child. Relatives should also be notified that a decision not to be a placement resource at the beginning of the case may affect the relative being considered for placement of the child with that relative later. The relatives must be notified that they must keep the local social services agency informed of their current address in order to receive notice that a permanent placement is being sought for the child. A relative who fails to provide a current address to the local social services agency forfeits the right to notice of the possibility of permanent placement.

(b) Unless relieved of this duty by the court because the child is placed with an appropriate relative who wishes to provide a permanent home for the child, when the agency determines that it is necessary to prepare for the permanent placement determination hearing, or in anticipation of filing a termination of parental rights petition, the agency shall send notice to the relatives, any adult with whom the child is currently residing, any adult with whom the

child has resided for one year or longer in the past, and any adults who have maintained a relationship or exercised visitation with the child as identified in the agency case plan. The notice must state that a permanent home is sought for the child and that the individuals receiving the notice may indicate to the agency their interest in providing a permanent home. The notice must state that within 30 days of receipt of the notice an individual receiving the notice must indicate to the agency the individual's interest in providing a permanent home for the child or that the individual may lose the opportunity to be considered for a permanent placement. This notice need not be sent if the child is placed with an appropriate relative who wishes to provide a permanent home for the child.

Subd. 1e. Change in placement. If a child is removed from a permanent placement disposition authorized under section 260.191, subdivision 3b, within one year after the placement was made:

(1) the child must be returned to the residential facility where the child was placed immediately preceding the permanent placement; or

(2) the court shall hold a hearing within ten days after the child is taken into custody to determine where the child is to be placed. A guardian ad litem must be appointed for the child for this hearing.

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 the parent or parents within that time. The case plan must be monitored and updated at each administrative review. 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. A court review conducted pursuant to section 260.191, subdivision 3b, shall satisfy the requirement for an administrative review so long as the other requirements of this section are met.

Subd. 3. Review of voluntary placements. Except as provided in subdivision 4, if the child has been placed in a residential facility pursuant to a voluntary release by the parent or parents, and is not returned home within 90 days after initial placement in the residential facility, the social service agency responsible for the placement shall:

(1) return the child to the home of the parent or parents; or

(2) file a petition to extend the placement for 90 days.

The case plan must be updated when a petition is filed and must include a specific plan for permanency.

If the court approves the extension, at the end of the second 90-day period, the child must be returned to the parent's home, unless a petition is filed for a child in need of protection or services.

Subd. 4. Review of developmentally disabled and emotionally handicapped child placements. If a developmentally disabled child, as that term is defined in United States Code, title 42, section 6001 (7), as amended through December 31, 1979, or a child diagnosed with an emotional handicap as defined in section 252.27, subdivision 1a, has been placed in a residential facility pursuant to a voluntary release by the child's parent or parents because of the child's handicapping conditions or need for long-term residential treatment or supervision, the social service agency responsible for the placement shall bring a petition for review of the child's foster care status, pursuant to section 260.131, subdivision 1a, rather than a petition as required by section 260.191, subdivision 3b, after the child has been in foster care for six months or, in the case of a child with an emotional handicap, after the child has been in a residential facility for six months. Whenever a petition for review is brought pursuant to this subdivision, a guardian ad litem shall be appointed for the child.

Subd. 5. Rules; children in residential facilities. The commissioner of human services shall promulgate all rules necessary to carry out the provisions of Public Law Number 96-272 as regards the establishment of a state goal for the reduction of the number of children in residential facilities beyond 24 months.

Subd. 6. [Repealed, 1988 c 689 art 2 s 269 subd 1]

Subd. 7. **Rules.** The commissioner shall revise Minnesota Rules, parts 9545.0010 to 9545.0260, the rules setting standards for family and group family foster care. The commissioner shall:

(1) require that, as a condition of licensure, foster care providers attend training on understanding and validating the cultural heritage of all children in their care, and on the importance of the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923, and the Minnesota Indian Family Preservation Act, sections 257.35 to 257.3579; and

(2) review and, where necessary, revise foster care rules to reflect sensitivity to cultural diversity and differing lifestyles. Specifically, the commissioner shall examine whether space and other requirements discriminate against single-parent, minority, or low-income families who may be able to provide quality foster care reflecting the values of their own respective cultures.

Subd. 8. **Rules on removal of children.** The commissioner shall adopt rules establishing criteria for removal of children from their homes and return of children to their homes.

Subd. 9. **Fair hearing review.** Any person whose claim for foster care payment pursuant to the placement of a child resulting from a child protection assessment under section 626.556 is denied or not acted upon with reasonable promptness may appeal the decision under section 256.045, subdivision 3. The application and fair hearing procedures set forth in the administration of community social services rule, Minnesota Rules, parts 9550.0070 to 9550.0092, do not apply to foster care payment issues appealable under this subdivision.

Subd. 10. **Rules; foster care fair hearings.** The commissioner shall review and, where necessary, revise foster care rules to ensure that the rules provide adequate guidance for implementation of foster care fair hearings, pursuant to section 256.045, subdivision 3, clause (5), that comply with all applicable federal requirements and the requirements of section 256.045.

History: 1978 c 602 s 1; 1980 c 555 s 1,2; 1980 c 580 s 2; 1981 c 290 s 1-3; 1982 c 553 s 2; 1983 c 278 s 3-5; 1984 c 654 art 5 s 58; 1986 c 444; 1988 c 514 s 1,2; 1988 c 689 art 2 s 211-214; 1989 c 282 art 2 s 160; 1990 c 426 art 2 s 1; 1991 c 292 art 3 s 19; 1992 c 464 art 1 s 55; 1992 c 557 s 2; 1993 c 291 s 2-6; 1Sp1993 c 6 s 16; 1994 c 598 s 3; 1996 c 416 s 3-5; 1997 c 86 s 1,2; 1997 c 107 s 14; 1997 c 239 art 6 s 3-7; 1998 c 406 art 1 s 11,37; 1998 c 407 art 9 s 11

257.0711 CONCURRENT PERMANENCY PLANNING.

Subdivision 1. **Program; goals.** (a) The commissioner of human services shall establish a program for concurrent permanency planning for child protection services.

(b) Concurrent permanency planning involves a planning process for children who are placed out of the home of their parents pursuant to a court order, or who have been voluntarily placed out of the home by the parents for 60 days or more and who are not developmentally disabled or emotionally handicapped under section 257.071, subdivision 4. The local social service agency shall develop an alternative permanency plan while making reasonable efforts for reunification of the child with the family, if required by section 260.012. The goals of concurrent permanency planning are to:

- (1) achieve early permanency for children;
- (2) decrease children's length of stay in foster care and reduce the number of moves children experience in foster care; and
- (3) develop a group of families who will work towards reunification and also serve as permanent families for children.

Subd. 2. **Development of guidelines and protocols.** The commissioner shall establish guidelines and protocols for social service agencies involved in concurrent permanency planning, including criteria for conducting concurrent permanency planning based on relevant factors such as:

- (1) age of the child and duration of out-of-home placement;
- (2) prognosis for successful reunification with parents;
- (3) availability of relatives and other concerned individuals to provide support or a permanent placement for the child; and

(4) special needs of the child and other factors affecting the child's best interests.

In developing the guidelines and protocols, the commissioner shall consult with interest groups within the child protection system, including child protection workers, child protection advocates, county attorneys, law enforcement, community service organizations, the councils of color, and the ombudsperson for families.

Subd. 3. Parental involvement and disclosure. Concurrent permanency planning programs must include involvement of parents and full disclosure of their rights and responsibilities; goals of concurrent permanency planning; support services that are available for families; permanency options; and the consequences of not complying with case plans.

Subd. 4. Technical assistance. The commissioner of human services shall provide ongoing technical assistance, support, and training for local social service agencies and other individuals and agencies involved in concurrent permanency planning.

Subd. 5. Availability of funding. The requirements of this section relating to concurrent permanency planning are effective only for state fiscal years when aid is distributed under section 256F.05 for concurrent permanency planning.

History: 1998 c 406 art 2 s 2

257.072 WELFARE OF CHILDREN.

Subdivision 1. 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. In recruiting placements for each child, the agency must focus on that child's particular needs and the capacities of the particular prospective foster parents to meet those needs. Each agency shall provide for diligent recruitment of potential foster families that reflect the ethnic and racial diversity of the children in the state for whom foster 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, conducting outreach activities, and increasing the number of minority recruitment staff employed by the agency. The requirement of special efforts to locate relatives in this section is satisfied on the earlier of the following occasions:

(1) when the child is placed with a relative who is interested in providing a permanent placement for the child; or

(2) when the responsible child-placing agency has made special efforts for six months following the child's placement in a residential facility and the court approves the agency's efforts pursuant to section 260.191, subdivision 3a. The agency may accept any gifts, grants, offers of services, and other contributions to use in making special recruitment efforts.

Subd. 2. Duties of commissioner. The commissioner of human services shall:

(1) in cooperation with child-placing agencies, develop a cost-effective campaign using radio and television to recruit adoptive and foster families that reflect the ethnic and racial diversity of children in the state for whom adoptive and foster homes are needed; and

(2) require that agency staff people who work in the area of adoption and foster family recruitment participate in cultural competency training.

Subd. 3. Recruitment specialist. The commissioner shall designate a permanent professional staff position for recruitment of foster and adoptive families. The recruitment specialist shall provide services to child-placing agencies seeking to recruit adoptive and foster care families and qualified professional staff. The recruitment specialist shall:

(1) develop materials for use by the agencies in training staff;

(2) conduct in-service workshops for agency personnel;

(3) provide consultation, technical assistance, and other appropriate services to agencies to strengthen and improve service delivery to diverse populations; and

(4) conduct workshops for foster care and adoption recruiters to evaluate the effectiveness of techniques for recruiting foster and adoptive families; and

(5) perform other duties as assigned by the commissioner to implement the Minnesota Indian Family Preservation Act, sections 257.35 to 257.3579.

The commissioner may contract for portions of these services.

Subd. 4. Consultation with representatives. The commissioner of human services, after seeking and considering advice from representatives reflecting diverse populations from the councils established under sections 3.922, 3.9223, 3.9225, and 3.9226, and other state, local, and community organizations shall:

(1) review, and where necessary, revise the department of human services social service manual and practice guide to reflect federal and state policy direction on placement of children;

(2) develop criteria for determining whether a prospective adoptive or foster family has the ability to understand and validate the child's cultural background;

(3) develop a standardized training curriculum for adoption and foster care workers, family-based providers, and administrators who work with children. Training must address the following objectives:

(a) developing and maintaining sensitivity to all cultures;

(b) assessing values and their cultural implications; and

(c) making individualized decisions that advance the best interests of a particular child under section 257.071, subdivision 1a;

(4) develop a training curriculum for family and extended family members of adoptive and foster children. The curriculum must address issues relating to cross-cultural placements as well as issues that arise after a foster or adoptive placement is made; and

(5) develop and provide to agencies an assessment tool to be used in combination with group interviews and other preplacement activities to evaluate prospective adoptive and foster families. The tool must assess problem-solving skills; identify parenting skills; and evaluate the degree to which the prospective family has the ability to understand and validate the child's cultural background.

Subd. 5. Placement reports. Beginning December 1, 1996, the commissioner shall provide to the Indian affairs council, the council on affairs of Chicano/Latino people, the council on Black Minnesotans, and the council on Asian-Pacific Minnesotans the annual report required under section 257.0725.

Subd. 6. [Repealed, 1993 c 337 s 20]

Subd. 7. Duties of child-placing agencies. (a) Each authorized child-placing agency must:

(1) develop and follow procedures for implementing the requirements of section 260.181, subdivision 3, and the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923;

(2) have a written plan for recruiting adoptive and foster families that reflect the ethnic and racial diversity of children who are in need of foster and adoptive homes. The plan must include (a) strategies for using existing resources in diverse communities, (b) use of diverse outreach staff wherever possible, (c) use of diverse foster homes for placements after birth and before adoption, and (d) other techniques as appropriate;

(3) have a written plan for training adoptive and foster families;

(4) have a written plan for employing staff in adoption and foster care who have the capacity to assess the foster and adoptive parents' ability to understand and validate a child's cultural needs, and to advance the best interests of the child. The plan must include staffing goals and objectives;

(5) ensure that adoption and foster care workers attend training offered or approved by the department of human services regarding cultural diversity and the needs of special needs children; and

(6) develop and implement procedures for implementing the requirements of the Indian Child Welfare Act and the Minnesota Indian Family Preservation Act.

(b) In implementing the requirement to consider relatives for placement, 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 placement. The agency shall disclose only data that is necessary to facilitate implementing the preference. If a parent

makes an explicit request that the relative preference not be followed, the agency shall bring the matter to the attention of the court to determine whether the parent's request is consistent with the best interests of the child and the agency shall not contact relatives unless ordered to do so by the juvenile court; and

(c) In determining the suitability of a proposed placement of an Indian child, the standards to be applied must be the prevailing social and cultural standards of the Indian child's community, and the agency shall defer to tribal judgment as to suitability of a particular home when the tribe has intervened pursuant to the Indian Child Welfare Act;

Subd. 8. **Reporting requirements.** Each authorized child-placing agency shall provide to the commissioner of human services all data needed by the commissioner for the report required by section 257.0725. The agency shall provide the data within 15 days of the end of the period for which the data is applicable.

Subd. 9. **Rules.** The commissioner of human services shall adopt rules to establish standards for conducting relative searches, recruiting foster and adoptive families, evaluating the role of relative status in the reconsideration of disqualifications under section 245A.04, subdivision 3b, and granting variances of licensing requirements under section 245A.04, subdivision 9, in licensing or approving an individual related to a child.

History: 1983 c 278 s 6; 1988 c 689 art 2 s 215; 1991 c 199 art 2 s 1; 1992 c 557 s 3; 1993 c 291 s 7-9; 1994 c 598 s 4; 1996 c 416 s 6-8; 1997 c 7 art 3 s 6; 1997 c 86 s 3-8; 1997 c 239 art 6 s 8

257.0725 ANNUAL REPORT.

The commissioner of human services shall publish an annual report on children in out-of-home placement. The report shall include, by county and statewide, information on legal status, living arrangement, age, sex, race, accumulated length of time in placement, reason for most recent placement, race of family with whom placed, and other information deemed appropriate on all children in out-of-home placement. Out-of-home placement includes placement in any facility by an authorized child-placing agency.

History: 1988 c 689 art 2 s 216; 1996 c 416 s 9

257.075 GRANTS FOR SUPPORT SERVICES.

The commissioner of human services may make grants to authorized child-placing agencies that provide services to minority children in out-of-home placements. Support services may include, but are not limited to:

- (1) development of foster and adoptive placement resources, including recruitment, licensing, and support;
- (2) advocacy in working with the county and private social service agencies, and activities to help provide access to agency services;
- (3) family and community involvement strategies to combat child abuse and chronic neglect of children;
- (4) coordinated child welfare and mental health services to minority families;
- (5) preadoption, postadoption, and foster care support groups for minority children and prospective adoptive and foster families;
- (6) the use of minority foster parents as continuing support for children returned to birth homes;
- (7) information, counseling, and support groups to assist minority children approaching age 18 in setting permanent goals for independent living;
- (8) minority adolescent support groups for children in long-term foster care, new adoptive placements, and nonminority homes where identity issues threaten the adoptive relationship and adjustment;
- (9) services listed at section 256F.07; and
- (10) other activities and services approved by the commissioner that further the goals of the Minority Heritage Preservation Act.

History: 1988 c 689 art 2 s 217

OMBUDSPERSON FOR FAMILIES

257.0755 OFFICE OF OMBUDSPERSON; CREATION; QUALIFICATIONS; FUNCTION.

Subdivision 1. **Creation.** One ombudsperson shall operate independently from but in collaboration with each of the following groups: the Indian affairs council, the council on affairs of Chicano/Latino people, the council on Black Minnesotans, and the council on Asian-Pacific Minnesotans.

Subd. 2. **Selection; qualifications.** The ombudsperson for each community shall be selected by the applicable community-specific board established in section 257.0768. Each ombudsperson serves in the unclassified service at the pleasure of the community-specific board and may be removed only for just cause. Each ombudsperson must be selected without regard to political affiliation, and shall be a person highly competent and qualified to analyze questions of law, administration, and public policy regarding the protection and placement of children from families of color. In addition, the ombudsperson must be experienced in dealing with communities of color and knowledgeable about the needs of those communities. No individual may serve as ombudsperson while holding any other public office.

Subd. 3. **Appropriation.** Money appropriated for each ombudsperson from the general fund or the special fund authorized by section 256.01, subdivision 2, clause (15), is under the control of each ombudsperson for which it is appropriated.

History: 1991 c 292 art 3 s 20; 1993 c 369 s 77; 1994 c 632 art 4 s 62; 1997 c 7 art 3 s 7

257.076 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of sections 257.0755 to 257.0768, the following terms shall have the meanings given them in this section.

Subd. 2. **Agency.** "Agency" means the divisions, officials, or employees of the state departments of human services and health and local district courts or a designated county social service agency as defined in section 256G.02, subdivision 7, engaged in providing child protection and placement services for children. "Agency" also means any individual, service, or program providing child protection or placement services in coordination with or under contract to any other entity specified in this subdivision.

Subd. 3. **Communities of color.** "Communities of color" means the following: American Indian, Hispanic-Latino, Asian-Pacific, African, and African-American communities.

Subd. 4. **Compadrazgo.** "Compadrazgo" is a kinship institution within the Hispanic-Latino community used as a means of parenting and caring for children from birth to adulthood.

Subd. 5. **Family of color.** "Family of color" means any family with a child under the age of 18 who is identified by one or both parents or another trusted adult to be of American Indian, Hispanic-Latino, Asian-Pacific, African, or African-American descent.

Subd. 6. **Facility.** "Facility" means any entity required to be licensed under chapter 245A.

Subd. 7. **Trusted adult.** "Trusted adult" means an individual recognized by the child's parent or legal guardian, the child's community, or both, as speaking for the child's best interest. The term includes compadrazgo and other individuals with a kinship or community relationship with the child.

History: 1991 c 292 art 3 s 21

257.0761 ORGANIZATION OF OFFICE OF OMBUDSPERSON.

Subdivision 1. **Staff; unclassified status; retirement.** The ombudsperson for each group specified in section 257.0755 may select, appoint, and compensate out of available funds the assistants and employees as deemed necessary to discharge responsibilities. All employees, except the secretarial and clerical staff, shall serve at the pleasure of the ombudsperson in the unclassified service. The ombudsperson and full-time staff shall be members of the Minnesota state retirement association.

Subd. 2. **Delegation to staff.** The ombudsperson may delegate to staff members any of the ombudsperson's authority or duties except the duty of formally making recommendations to an administrative agency or reports to the office of the governor, or to the legislature.

History: 1991 c 292 art 3 s 22

257.0762 DUTIES AND POWERS.

Subdivision 1. **Duties.** (a) Each ombudsperson shall monitor agency compliance with all laws governing child protection and placement, as they impact on children of color. In particular, the ombudsperson shall monitor agency compliance with sections 256F.07, subdivision 3a; 256F.08; 257.072; 257.075; 257.35 to 257.3579; and 260.181, subdivision 3.

(b) The ombudsperson shall work with local state courts to ensure that:

(1) court officials, public policymakers, and service providers are trained in cultural diversity. The ombudsperson shall document and monitor court activities in order to heighten awareness of diverse belief systems and family relationships;

(2) experts from the appropriate community of color including tribal advocates are used as court advocates and are consulted in placement decisions that involve children of color;

(3) guardians ad litem and other individuals from communities of color are recruited, trained, and used in court proceedings to advocate on behalf of children of color; and

(4) training programs for bilingual workers are provided.

Subd. 2. **Powers.** Each ombudsperson has the authority to investigate decisions, acts, and other matters of an agency, program, or facility providing protection or placement services to children of color. In carrying out this authority and the duties in subdivision 1, each ombudsperson has the power to:

(1) prescribe the methods by which complaints are to be made, reviewed, and acted upon;

(2) determine the scope and manner of investigations to be made;

(3) investigate, upon a complaint or upon personal initiative, any action of any agency;

(4) request and be given access to any information in the possession of any agency deemed necessary for the discharge of responsibilities. The ombudsperson is authorized to set reasonable deadlines within which an agency must respond to requests for information. Data obtained from any agency under this clause shall retain the classification which it had under section 13.02 and shall be maintained and disseminated by the ombudsperson according to chapter 13;

(5) examine the records and documents of an agency;

(6) enter and inspect, during normal business hours, premises within the control of an agency; and

(7) subpoena any agency personnel to appear, testify, or produce documentary or other evidence which the ombudsperson deems relevant to a matter under inquiry, and may petition the appropriate state court to seek enforcement with the subpoena; provided, however, that any witness at a hearing or before an investigation as herein provided, shall possess the same privileges reserved to such a witness in the courts or under the laws of this state. The ombudsperson may compel nonagency individuals to testify or produce evidence according to procedures developed by the advisory board.

History: 1991 c 292 art 3 s 23; 1994 c 632 art 4 s 63

257.0763 MATTERS APPROPRIATE FOR REVIEW.

(a) In selecting matters for review, an ombudsperson should give particular attention to actions of an agency, facility, or program that:

(1) may be contrary to law or rule;

(2) may be unreasonable, unfair, oppressive, or inconsistent with a policy or order of an agency, facility, or program;

(3) may result in abuse or neglect of a child;

(4) may disregard the rights of a child or other individual served by an agency or facility;

or

(5) may be unclear or inadequately explained, when reasons should have been revealed.

(b) An ombudsperson shall, in selecting matters for review, inform other interested agencies in order to avoid duplicating other investigations or regulatory efforts, including activities undertaken by a tribal organization under the authority of sections 257.35 to 257.3579.

History: 1991 c 292 art 3 s 24

257.0764 COMPLAINTS.

An ombudsperson may receive a complaint from any source concerning an action of an agency, facility, or program. After completing a review, the ombudsperson shall inform the complainant, agency, facility, or program. Services to a child shall not be unfavorably altered as a result of an investigation or complaint. An agency, facility, or program shall not retaliate or take adverse action, as defined in section 626.556, subdivision 4a, paragraph (c), against an individual who, in good faith, makes a complaint or assists in an investigation.

History: 1991 c 292 art 3 s 25

257.0765 RECOMMENDATIONS TO AGENCY.

(a) If, after reviewing a complaint or conducting an investigation and considering the response of an agency, facility, or program and any other pertinent material, the ombudsperson determines that the complaint has merit or the investigation reveals a problem, the ombudsperson may recommend that the agency, facility, or program:

- (1) consider the matter further;
- (2) modify or cancel its actions;
- (3) alter a rule, order, or internal policy;
- (4) explain more fully the action in question; or
- (5) take other action as authorized under section 257.0762.

(b) At the ombudsperson's request, the agency, facility, or program shall, within a reasonable time, inform the ombudsperson about the action taken on the recommendation or the reasons for not complying with it.

History: 1991 c 292 art 3 s 26

257.0766 RECOMMENDATIONS AND PUBLIC REPORTS.

Subdivision 1. **Specific reports.** An ombudsperson may send conclusions and suggestions concerning any matter reviewed to the governor and shall provide copies of all reports to the advisory board and to the groups specified in section 257.0768, subdivision 1. Before making public a conclusion or recommendation that expressly or implicitly criticizes an agency, facility, program, or any person, the ombudsperson shall inform the governor and the affected agency, facility, program, or person concerning the conclusion or recommendation. When sending a conclusion or recommendation to the governor that is adverse to an agency, facility, program, or any person, the ombudsperson shall include any statement of reasonable length made by that agency, facility, program, or person in defense or mitigation of the ombudsperson's conclusion or recommendation.

Subd. 2. **General reports.** In addition to whatever conclusions or recommendations the ombudsperson may make to the governor on an ad hoc basis, the ombudsperson shall at the end of each year report to the governor concerning the exercise of the ombudsperson's functions during the preceding year.

History: 1991 c 292 art 3 s 27

257.0767 CIVIL ACTIONS.

The ombudsperson and designees are not civilly liable for any action taken under sections 257.0755 to 257.0768 if the action was taken in good faith, was within the scope of the ombudsperson's authority, and did not constitute willful or reckless misconduct.

History: 1991 c 292 art 3 s 28

257.0768 COMMUNITY-SPECIFIC BOARDS.

Subdivision 1. **Membership.** Four community-specific boards are created. Each board consists of five members. The chair of each of the following groups shall appoint the board for the community represented by the group: the Indian affairs council; the council on affairs of Chicano/Latino people; the council on Black Minnesotans; and the council on Asian-Pacific Minnesotans. In making appointments, the chair must consult with other members of the council.

Subd. 2. **Compensation; chair.** Members do not receive compensation but are entitled to receive reimbursement for reasonable and necessary expenses incurred.

Subd. 3. **Meetings.** Each board shall meet regularly at the request of the appointing chair or the ombudsperson.

Subd. 4. **Duties.** Each board shall appoint the ombudsperson for its community. Each board shall advise and assist the ombudsperson for its community in selecting matters for attention; developing policies, plans, and programs to carry out the ombudspersons' functions and powers; establishing protocols for working with the communities of color; developing procedures for the ombudspersons' use of the subpoena power to compel testimony and evidence from nonagency individuals; and making reports and recommendations for changes designed to improve standards of competence, efficiency, justice, and protection of rights.

Subd. 5. **Terms, compensation, removal, and expiration.** The membership terms, compensation, and removal of members of each board and the filling of membership vacancies are governed by section 15.0575.

Subd. 6. **Joint meetings.** The members of the four community-specific boards shall meet jointly at least four times each year to advise the ombudspersons on overall policies, plans, protocols, and programs for the office.

History: 1986 c 444; 1991 c 292 art 3 s 29; 1994 c 632 art 4 s 64; 1997 c 7 art 3 s 8

257.0769 FUNDING FOR THE OMBUDSPERSON PROGRAM.

(a) Money is appropriated from the special fund authorized by section 256.01, subdivision 2, clause (15), to the Indian affairs council for the purposes of sections 257.0755 to 257.0768.

(b) Money is appropriated from the special fund authorized by section 256.01, subdivision 2, clause (15), to the council on affairs of Chicano/Latino people for the purposes of sections 257.0755 to 257.0768.

(c) Money is appropriated from the special fund authorized by section 256.01, subdivision 2, clause (15), to the Council of Black Minnesotans for the purposes of sections 257.0755 to 257.0768.

(d) Money is appropriated from the special fund authorized by section 256.01, subdivision 2, clause (15), to the Council on Asian-Pacific Minnesotans for the purposes of sections 257.0755 to 257.0768.

History: 1991 c 292 art 3 s 30; 1997 c 7 art 3 s 9

257.08 [Repealed, 1953 c 613 s 4]

257.081 Subdivision 1. [Repealed, 1976 c 243 s 15]

Subd. 2. [Repealed, 1976 c 243 s 15]

Subd. 3. [Repealed, 1976 c 243 s 15]

Subd. 4. [Repealed, 1976 c 243 s 15]

Subd. 5. [Repealed, 1976 c 243 s 15]

Subd. 6. [Repealed, 1976 c 243 s 15]

Subd. 7. [Repealed, 1976 c 243 s 15]

Subd. 8. [Renumbered 257.082 subdivision 1]

Subd. 9. [Renumbered 257.082 subd 2]

Subd. 10. [Repealed, 1976 c 243 s 15]

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- 257.082 [Repealed, 1976 c 243 s 15]
- 257.09 [Repealed, 1953 c 613 s 10]
- 257.091 [Repealed, 1976 c 243 s 15]
- 257.10 [Repealed, 1953 c 613 s 2]
- 257.101 [Repealed, 1976 c 243 s 15]
- 257.102 [Repealed, 1976 c 243 s 15]
- 257.11 [Repealed, 1953 c 613 s 6]
- 257.111 Subdivision 1. [Repealed, 1976 c 243 s 15]
 - Subd. 2. [Repealed, 1971 c 539 s 8]
 - Subd. 3. [Repealed, 1971 c 539 s 8]
 - Subd. 4. [Repealed, 1971 c 539 s 8]
 - Subd. 5. [Repealed, 1971 c 539 s 8]
 - Subd. 6. [Repealed, 1971 c 539 s 8]
- 257.12 [Repealed, 1953 c 613 s 6]
- 257.121 [Repealed, 1971 c 539 s 8]
- 257.123 [Repealed, 1976 c 243 s 15]
- 257.124 [Repealed, 1976 c 243 s 15]
- 257.13 [Repealed, 1971 c 539 s 8]
- 257.14 [Repealed, 1971 c 539 s 8]
- 257.15 [Repealed, 1971 c 539 s 8]
- 257.16 [Repealed, 1953 c 613 s 10]
- 257.17 [Repealed, 1953 c 613 s 10]

257.175 DUTIES OF COMMISSIONER OF HUMAN SERVICES.

It shall be the duty of the commissioner of human services to promote the enforcement of all laws for the protection of defective, dependent, neglected, and delinquent children, to cooperate to this end with juvenile courts and all reputable child-helping and child-placing agencies of a public or private character, and to take the initiative in all matters involving the interests of such children where adequate provision therefor has not already been made. The commissioner may appoint a chief executive officer and such assistants as shall be necessary to carry out the purposes of this section and section 257.33.

History: (4456) 1917 c 194 s 3; 1965 c 45 s 37; 1980 c 589 s 30; 1984 c 654 art 5 s 58

- 257.176 [Repealed, 1959 c 480 s 6]
- 257.177 [Repealed, 1959 c 480 s 6]
- 257.18 [Repealed, 1971 c 143 s 16]
- 257.19 [Repealed, 1971 c 143 s 16]
- 257.20 [Repealed, 1971 c 143 s 16]
- 257.21 [Repealed, 1971 c 143 s 16]
- 257.22 [Repealed, 1971 c 143 s 16]
- 257.23 [Repealed, 1971 c 143 s 16]
- 257.24 [Repealed, 1971 c 143 s 16]

257.25 [Repealed, 1971 c 143 s 16]

257.251 [Repealed, 1980 c 589 s 38]

257.252 [Repealed, 1980 c 589 s 38]

257.253 [Repealed, 1980 c 589 s 38]

257.254 [Repealed, 1980 c 589 s 38]

257.255 [Repealed, 1980 c 589 s 38]

257.256 [Repealed, 1980 c 589 s 38]

257.257 [Repealed, 1980 c 589 s 38]

257.258 [Repealed, 1980 c 589 s 38]

257.259 [Repealed, 1980 c 589 s 38]

257.26 [Repealed, 1971 c 143 s 16]

257.261 [Repealed, 1980 c 589 s 38]

257.262 [Repealed, 1980 c 589 s 38]

257.263 [Repealed, 1980 c 589 s 38]

257.264 [Repealed, 1980 c 589 s 38]

257.27 [Repealed, 1980 c 589 s 38]

257.28 [Repealed, 1980 c 589 s 38]

257.29 [Repealed, 1980 c 589 s 38]

257.30 [Repealed, 1980 c 589 s 38]

257.31 [Repealed, 1980 c 589 s 38]

257.32 [Repealed, 1980 c 589 s 38]

257.33 DUTIES OF COMMISSIONER OF HUMAN SERVICES.

Subdivision 1. **Services to pregnant women.** It shall be the duty of the commissioner of human services to offer appropriate social services to any pregnant woman who is in need of social services under criteria prescribed by rule of the commissioner. The commissioner shall also offer appropriate social services to the woman and her child after the birth of the child.

Subd. 2. **Minor parents and their children.** (a) Every birth to a minor shall be reported by the hospital where the birth occurs, within three working days after the birth. The hospital shall make the report to the county social services agency in the county in which the minor mother resides and shall notify the minor that the report has been made. The county social services agency shall contact any minor mother who does not have a case manager who resides in the county and determine whether she has a plan for herself and her child. The plan must consider:

- (1) the age of the minor parent;
- (2) the involvement of the minor's parents or of other adults who provide active, ongoing guidance, support, and supervision;
- (3) the involvement of the father of the minor's child, including steps being taken to establish paternity, if appropriate;
- (4) a decision of the minor to keep and raise her child or place the child for adoption;
- (5) completion of high school or GED;
- (6) current economic support of the minor parent and child and plans for economic self-sufficiency;
- (7) parenting skills of the minor parent;

- (8) living arrangement of the minor parent and child;
- (9) child care and transportation needed for education, training, or employment;
- (10) ongoing health care; and
- (11) other services as needed to address personal or family problems or to facilitate the personal growth and development and economic self-sufficiency of the minor parent and child.

(b) If the minor parent does not have a plan for herself and child, the county social services agency shall work with her to develop a plan and shall provide case management services as needed to assure the resources and services are available to meet the plan requirements.

(c) If the minor parent refuses to plan for herself and her child or fails, without good cause, to follow through on an agreed upon plan, the county social services agency may file a petition under section 260.131 seeking an order for protective supervision under section 260.191, subdivision 1, clause (a), on the grounds that the minor parent's child is dependent due to the state of immaturity of the minor parent. A contract with a minor parent under section 256.736, subdivision 11(a)(4) is an "agreed upon plan" for purposes of this section.

History: (4455) 1917 c 194 s 2; 1980 c 589 s 31; 1981 c 257 s 1; 1984 c 654 art 5 s 58; 1987 c 403 art 3 s 44

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 acknowledgment 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, 197.75, and 197.752;

(c) create a presumption that the signatory is the biological father of the child for the purposes of sections 257.51 to 257.74;

(d) when timely filed with the division of vital statistics of the Minnesota department of health as provided in section 259.51, qualify as an affidavit stating the intention of the signatories to retain parental rights as provided in section 259.51 if it contains the information required by section 259.51 or rules promulgated thereunder;

(e) have the same consequences as a writing declaring paternity of the child for the purposes of section 524.2-109; and

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

Subd. 2. [Repealed, 1987 c 403 art 3 s 98]

Subd. 3. The declaration authorized by subdivision 1 shall not affect the rights or duties arising out of a parent-child relationship of any person not a signatory to the declaration claiming to be the parent of the child nor shall the declaration impair any rights of the child arising out of a parent-child relationship against any person not a signatory to the declaration.

Subd. 4. **Expiration of authority for declarations.** No acknowledgment of parentage shall be entered into on or after August 1, 1995, under this section. 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 before, on, or after August 1, 1995, sign a recognition of parentage under section 257.75.

History: 1980 c 561 s 3; 1981 c 349 s 1; 1983 c 7 s 7; 1983 c 243 s 5 subd 7; 1985 c 250 s 23; 1987 c 384 art 2 s 64; 1987 c 403 art 3 s 45; 1994 c 631 s 31; 1995 c 257 art 4 s 3

**MINNESOTA INDIAN FAMILY
PRESERVATION ACT**

257.35 CITATION.

Sections 257.35 to 257.3579 may be cited as the "Minnesota Indian Family Preservation Act."

History: 1985 c 111 s 1; 1987 c 403 art 2 s 110

257.351 DEFINITIONS.

Subdivision 1. **Scope.** As used in sections 257.35 to 257.3579, the following terms have the meanings given them.

Subd. 2. **Administrative review.** "Administrative review" means review under section 257.071.

Subd. 3. **Child placement proceeding.** "Child placement proceeding" includes a judicial proceeding which could result in the following:

(a) "Adoptive placement" means the permanent placement of an Indian child for adoption, including an action resulting in a final decree of adoption.

(b) "Involuntary foster care placement" means an action removing an Indian child from its parents or Indian custodian for temporary placement in a foster home, institution, or the home of a guardian. The parent or Indian custodian cannot have the child returned upon demand, but parental rights have not been terminated.

(c) "Preadoptive placement" means the temporary placement of an Indian child in a foster home or institution after the termination of parental rights, before or instead of adoptive placement.

(d) "Termination of parental rights" means an action resulting in the termination of the parent-child relationship under section 260.221.

The terms include placements based upon juvenile status offenses, but do not include a placement based upon an act which if committed by an adult would be deemed a crime, or upon an award of custody in a divorce proceeding to one of the parents.

Subd. 3a. **Commissioner.** "Commissioner" means the commissioner of human services.

Subd. 4. **Demand.** "Demand" means a written and notarized statement signed by a parent or Indian custodian of a child which requests the return of the child who has been voluntarily placed in foster care.

Subd. 4a. **Family-based services.** "Family-based services" means intensive family-centered services to families primarily in their own home and for a limited time.

Subd. 5. **Indian.** "Indian" means a person who is a member of an Indian tribe or an Alaskan native and a member of a regional corporation as defined in section 7 of the Alaska Native Claims Settlement Act, United States Code, title 43, section 1606.

Subd. 6. **Indian child.** "Indian child" means an unmarried person who is under age 18 and is:

- (1) a member of an Indian tribe; or
- (2) eligible for membership in an Indian tribe.

Subd. 7. **Indian child's tribe.** "Indian child's tribe" means the Indian tribe in which an Indian child is a member or eligible for membership. In the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian child's tribe is the tribe with which the Indian child has the most significant contacts. If that tribe does not express an interest in the outcome of the actions taken under sections 257.35 to 257.3579 with respect to the child, any other tribe in which the child is eligible for membership that expresses an interest in the outcome may act as the Indian child's tribe.

Subd. 8. **Indian custodian.** "Indian custodian" means an Indian person who has legal custody of an Indian child under tribal law or custom or under state law, or to whom temporary physical care, custody, and control has been transferred by the parent of the child.

Subd. 8a. **Indian organization.** "Indian organization" means an organization providing child welfare services that is legally incorporated as a nonprofit organization, is registered with the secretary of state, and is governed by a board of directors having at least a majority of Indian directors.

Subd. 9. **Indian tribe.** "Indian tribe" means an Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the secretary because of their status as Indians, including any band under the Alaska Native Claims Settlement Act, United States Code, title 43, section 1602, and exercising tribal governmental powers.

Subd. 10. **Local social service agency.** "Local social service agency" means the local agency under the authority of the county welfare or human services board or county board of commissioners which is responsible for human services.

Subd. 11. **Parent.** "Parent" means the biological parent of an Indian child, or any Indian person who has lawfully adopted an Indian child, including a person who has adopted a child by tribal law or custom. It does not include an unmarried father whose paternity has not been acknowledged or established.

Subd. 11a. **Permanency planning.** "Permanency planning" means the systematic process of carrying out, within a short time, a set of goal-oriented activities designed to help children live in families that offer continuity of relationships with nurturing parents or caretakers, and the opportunity to establish lifetime relationships.

Subd. 11b. **Placement prevention and family reunification services.** "Placement prevention and family reunification services" means services designed to help children remain with their families or to reunite children with their parents.

Subd. 12. **Private child-placing agency.** "Private child-placing agency" means a private organization, association, or corporation providing assistance to children and parents in their own homes and placing children in foster care or for adoption.

Subd. 13. **Reservation.** "Reservation" means Indian country as defined in United States Code, title 18, section 1151 and any lands which are either held by the United States in trust for the benefit of an Indian tribe or individual, or held by an Indian tribe or individual subject to a restriction by the United States against alienation.

Subd. 14. **Secretary.** "Secretary" means the secretary of the United States Department of the Interior.

Subd. 15. **Tribal court.** "Tribal court" means a court with federally recognized jurisdiction over child custody proceedings which is either a court of Indian offenses, or a court established and operated under the code or custom of an Indian tribe, or the administrative body of a tribe which is vested with authority over child custody proceedings. Except as provided in section 257.354, subdivision 5, nothing in this chapter shall be construed as conferring jurisdiction on an Indian tribe.

Subd. 16. **Tribal social service agency.** "Tribal social service agency" means the unit under authority of the governing body of the Indian tribe which is responsible for human services.

Subd. 17. **Voluntary foster care placement.** "Voluntary foster care placement" means a decision in which there has been participation by a local social service agency or private child-placing agency resulting in the temporary placement of an Indian child away from the home of the child's parents or Indian custodian in a foster home, institution, or the home of a guardian, and the parent or Indian custodian may have the child returned upon demand.

History: 1985 c 111 s 2; 1986 c 444; 1987 c 403 art 2 s 111-116; 1991 c 199 art 2 s 1

257.352 SOCIAL SERVICE AGENCY AND PRIVATE LICENSED CHILD-PLACING AGENCY NOTICE TO TRIBES.

Subdivision 1. **Determination of Indian child's tribe.** The local social service agency or private licensed child-placing agency shall determine whether a child brought to its attention for the purposes described in this section is an Indian child and the identity of the Indian child's tribe.

Subd. 2. Agency notice of potential out-of-home placement. When a local social service agency or private child-placing agency determines that an Indian child is in a dependent or other condition that could lead to an out-of-home placement and requires the continued involvement of the agency with the child for a period in excess of 30 days, the agency shall send notice of the condition and of the initial steps taken to remedy it to the Indian child's tribal social service agency within seven days of the determination. At this and any subsequent stage of its involvement with an Indian child, the agency shall, upon request, give the tribal social service agency full cooperation including access to all files concerning the child. If the files contain confidential or private data, the agency may require execution of an agreement with the tribal social service agency that the tribal social service agency shall maintain the data, according to statutory provisions applicable to the data. This subdivision applies whenever the court transfers legal custody of an Indian child under section 260.185, subdivision 1, paragraph (c), clause (1), (2), or (3) following an adjudication for a misdemeanor-level delinquent act.

Subd. 3. Notice of potential preadoptive or adoptive placement. In any voluntary adoptive or preadoptive placement proceeding in which a local social service agency, private child-placing agency, petitioner in the adoption, or any other party has reason to believe that a child who is the subject of an adoptive or preadoptive placement proceeding is or may be an "Indian child," as defined in section 257.351, subdivision 6, and United States Code, title 25, section 1903(4), the agency or person shall notify the Indian child's tribal social service agency by registered mail with return receipt requested of the pending proceeding and of the right of intervention under subdivision 3c. If the identity or location of the child's tribe cannot be determined, the notice must be given to the United States secretary of interior in like manner, who will have 15 days after receipt of the notice to provide the requisite notice to the tribe. No preadoptive or adoptive placement proceeding may be held until at least ten days after receipt of the notice by the tribe or secretary. Upon request, the tribe must be granted up to 20 additional days to prepare for the proceeding. The agency or notifying party shall include in the notice the identity of the birth parents and child absent written objection by the birth parents. The private child-placing agency shall inform the birth parents of the Indian child of any services available to the Indian child through the child's tribal social service agency, including child placement services, and shall additionally provide the birth parents of the Indian child with all information sent from the tribal social service agency in response to the notice.

Subd. 3a. Unknown father. If the local social service agency, private child-placing agency, the court, petitioner, or any other party has reason to believe that a child who is the subject of an adoptive placement proceeding is or may be an Indian child but the father of the child is unknown and has not registered with the fathers' adoption registry pursuant to section 259.52, the agency or person shall provide to the tribe believed to be the Indian child's tribe information sufficient to enable the tribe to determine the child's eligibility for membership in the tribe, including, but not limited to, the legal and maiden name of the birth mother, her date of birth, the names and dates of birth of her parents and grandparents, and, if available, information pertaining to the possible identity, tribal affiliation, or location of the birth father.

Subd. 3b. Proof of service of notice upon tribe or secretary. In cases where an agency or party to an adoptive placement knows or has reason to believe that a child is or may be an Indian child, proof of service upon the child's tribe or the secretary of interior must be filed with the adoption petition.

Subd. 3c. Indian tribe's right of intervention. In any state court proceeding for the voluntary adoptive or preadoptive placement of an Indian child, the Indian child's tribe shall have a right to intervene at any point in the proceeding.

Subd. 4. Identification of extended family members. Any agency considering placement of an Indian child shall make reasonable efforts to identify and locate extended family members.

History: 1985 c 111 s 3; 1991 c 292 art 3 s 31; 1997 c 218 s 2-5; 1998 c 382 art 2 s 2

257.353 VOLUNTARY FOSTER CARE PLACEMENT.

Subdivision 1. **Determination of Indian child's tribe.** The local social service agency or private licensed child-placing agency shall determine whether a child brought to its attention for the purposes described in this section is an Indian child and the identity of the Indian child's tribe.

Subd. 2. **Notice.** When an Indian child is voluntarily placed in foster care, the local social service agency involved in the decision to place the child shall give notice of the placement to the child's parents, tribal social service agency, and the Indian custodian within seven days of placement, excluding weekends and holidays.

If a private licensed child-placing agency makes a temporary voluntary foster care placement pending a decision on adoption by a parent, notice of the placement shall be given to the child's parents, tribal social service agency, and the Indian custodian upon the filing of a petition for termination of parental rights or three months following the temporary placement, whichever occurs first.

At this and any subsequent stage of its involvement with an Indian child, the agency shall, upon request, give the tribal social service agency full cooperation including access to all files concerning the child. If the files contain confidential or private data, the agency may require execution of an agreement with the tribal social service agency that the tribal social service agency shall maintain the data according to statutory provisions applicable to the data.

Subd. 3. **Notice of administrative review.** In an administrative review of a voluntary foster care placement, the tribal social service agency of the child, the Indian custodian, and the parents of the child shall have notice and a right of participation in the review.

Subd. 4. **Return of child in voluntary placement.** Upon demand by the parent or Indian custodian of an Indian child, the local social service agency or private licensed child-placing agency shall return the child in voluntary foster care placement to the parent or Indian custodian within 24 hours of the receipt of the demand. If the request for return does not satisfy the requirement of section 257.351, subdivision 4, the local social service agency or private child-placing agency shall immediately inform the parent or Indian custodian of the Indian child of the requirement.

Subd. 5. **Identification of extended family members.** Any agency considering placement of an Indian child shall make reasonable efforts to identify and locate extended family members.

History: 1985 c 111 s 4

257.354 CHILD PLACEMENT PROCEEDINGS.

Subdivision 1. **Indian tribe jurisdiction.** An Indian tribe with a tribal court has exclusive jurisdiction over a child placement proceeding involving an Indian child who resides within the reservation of such tribe at the commencement of the proceedings. When an Indian child is in the legal custody of a person or agency pursuant to an order of a tribal court, the Indian tribe retains exclusive jurisdiction, notwithstanding the residence or domicile of the child.

Subd. 2. **Court determination of tribal affiliation of child.** In any child placement proceeding, the court shall establish whether an Indian child is involved and the identity of the Indian child's tribe.

Subd. 3. **Transfer of proceedings.** In a proceeding for the termination of parental rights or involuntary foster care placement of an Indian child not within the jurisdiction of subdivision 1, the court, in the absence of good cause to the contrary, shall transfer the proceeding to the jurisdiction of the tribe absent objection by either parent, upon the petition of either parent or the Indian custodian or the Indian child's tribe. The transfer shall be subject to declination by the tribal court of such tribe.

Subd. 4. **Effect of tribal court placement orders.** To the extent that any child subject to sections 257.35 to 257.3579 is otherwise eligible for social services, orders of a tribal court concerning placement of such child shall have the same force and effect as orders of a court of this state. In any case where the tribal court orders placement through a local social service

agency, the court shall provide to the local agency notice and an opportunity to be heard regarding the placement. Determination of county of financial responsibility for the placement shall be determined by the local social service agency in accordance with section 256G.02, subdivision 4. Disputes concerning the county of financial responsibility shall be settled in the manner prescribed in section 256G.09.

Subd. 5. The commissioner is hereby authorized to enter into agreements with Indian tribes pursuant to United States Code, title 25, section 1919, respecting care and custody of Indian children and jurisdiction over child custody proceedings, including agreements which may provide for orderly transfer of jurisdiction on a case-by-case basis and agreements which provide for concurrent jurisdiction between the state and an Indian tribe.

History: 1985 c 111 s 5; 1987 c 403 art 2 s 117,118; 1989 c 209 art 2 s 29; 1990 c 426 art 2 s 1

257.355 PLACEMENT RECORDS.

The commissioner of human services shall publish annually an inventory of all Indian children in residential facilities. The inventory shall include, by county and statewide, information on legal status, living arrangement, age, sex, tribe in which the child is a member or eligible for membership, accumulated length of time in foster care, and other demographic information deemed appropriate concerning all Indian children in residential facilities. The report must also state the extent to which authorized child-placing agencies comply with the order of preference described in United States Code, title 25, section 1901, et seq.

History: 1985 c 111 s 6

257.356 RECORDS; INFORMATION AVAILABILITY.

Subdivision 1. **Court decree information.** A state court entering a final decree or order in an Indian child adoptive placement shall provide the department of human services and the child's tribal social service agency with a copy of the decree or order together with such other information to show:

- (1) the name and tribal affiliation of the child;
- (2) the names and addresses of the biological parents;
- (3) the names and addresses of the adoptive parents; and
- (4) the identity of any agency having files or information relating to the adoptive placement.

If the court records contain an affidavit of the biological or adoptive parent or parents requesting anonymity, the court shall delete the name and address of the biological or adoptive parents from the information sent to the child's tribal social service agency.

Subd. 2. **Disclosure of records.** Upon the request of an adopted Indian person over the age of 18, the adoptive or foster parents of an Indian person, or an Indian tribal social service agency, the department of human services shall disclose to the Indian person's tribe information necessary for membership of an Indian person in the tribe in which the person may be eligible for membership or for determining any rights or benefits associated with that membership. When the documents relating to the person contain an affidavit from the biological or adoptive parent or parents requesting anonymity, the department must use the procedures described in United States Code, title 25, section 1951, paragraph (b).

History: 1985 c 111 s 7

257.357 [Repealed, 1989 c 155 s 5]

257.3571 INDIAN CHILD WELFARE GRANTS.

Subdivision 1. **Primary support grants.** The commissioner shall establish direct grants to Indian tribes, Indian organizations, and tribal social service agency programs located off-reservation that serve Indian children and their families to provide primary support for Indian child welfare programs to implement the Indian Family Preservation Act.

Subd. 2. **Special focus grants.** The commissioner shall establish direct grants to local social service agencies, tribes, Indian organizations, and other organizations for placement prevention and family reunification services for Indian children.

Subd. 2a. **Compliance grants.** The commissioner shall establish direct grants to an Indian child welfare defense corporation, as defined in section 611.216, subdivision 1a, to promote statewide compliance with the Indian Family Preservation Act and the Indian Child Welfare Act, United States Code, title 25, section 1901 et seq. The commissioner shall give priority consideration to applicants with demonstrated capability of providing legal advocacy services statewide.

Subd. 3. **Request for proposals.** The commissioner shall request proposals for grants under subdivisions 1, 2, and 2a, and specify the information and criteria required.

History: 1987 c 403 art 2 s 119; 1994 c 576 s 5,6; 1995 c 207 art 4 s 39

257.3572 GRANT APPLICATIONS.

A tribe, Indian organization, or tribal social service agency program located off-reservation may apply for primary support grants under section 257.3571, subdivision 1. A local social service agency, tribe, Indian organization, or other social service organization may apply for special focus grants under section 257.3571, subdivision 2. Civil legal service organizations eligible for grants under section 257.3571, subdivision 2a, may apply for grants under that section. Application may be made alone or in combination with other tribes or Indian organizations.

History: 1987 c 403 art 2 s 120; 1994 c 576 s 7; 1995 c 207 art 4 s 40

257.3573 ELIGIBLE SERVICES.

Subdivision 1. **Types of services.** (a) Eligible Indian child welfare services provided under primary support grants include:

- (1) placement prevention and reunification services;
- (2) family-based services;
- (3) individual and family counseling;
- (4) access to professional individual, group, and family counseling;
- (5) crisis intervention and crisis counseling;
- (6) development of foster and adoptive placement resources, including recruitment, licensing, and support;
- (7) court advocacy;
- (8) training and consultation to county and private social service agencies regarding the Indian Child Welfare Act and the Minnesota Indian Family Preservation Act;
- (9) advocacy in working with the county and private social service agencies, and activities to help provide access to agency services, including but not limited to 24-hour caretaker and homemaker services, day care, emergency shelter care up to 30 days in 12 months, access to emergency financial assistance, and arrangements to provide temporary respite care to a family for up to 72 hours consecutively or 30 days in 12 months;
- (10) transportation services to the child and parents to prevent placement or reunite the family; and
- (11) other activities and services approved by the commissioner that further the goals of the Indian Child Welfare Act and the Indian Family Preservation Act, including but not limited to recruitment of Indian staff for local social service agencies and licensed child-placing agencies. The commissioner may specify the priority of an activity and service based on its success in furthering these goals.

(b) Eligible services provided under special focus grants include;

- (1) permanency planning activities that meet the special needs of Indian families;
- (2) teenage pregnancy;
- (3) independent living skills;
- (4) family and community involvement strategies to combat child abuse and chronic neglect of children;
- (5) coordinated child welfare and mental health services to Indian families;
- (6) innovative approaches to assist Indian youth to establish better self-image, decrease isolation, and decrease the suicide rate;

(7) expanding or improving services by packaging and disseminating information on successful approaches or by implementing models in Indian communities relating to the development or enhancement of social structures that increase family self-reliance and links with existing community resources;

(8) family retrieval services to help adopted individuals reestablish legal affiliation with the Indian tribe; and

(9) other activities and services approved by the commissioner that further the goals of the Indian Child Welfare Act and the Indian Family Preservation Act. The commissioner may specify the priority of an activity and service based on its success in furthering these goals.

(c) The commissioner shall give preference to programs that use Indian staff, contract with Indian organizations or tribes, or whose application is a joint effort between the Indian and non-Indian community to achieve the goals of the Indian Child Welfare Act and the Minnesota Indian Family Preservation Act. Programs must have input and support from the Indian community.

Subd. 2. Inappropriate expenditures. Indian child welfare grant money must not be used for:

(1) child day care necessary solely because of employment or training for employment of a parent or other relative with whom the child is living;

(2) foster care maintenance or difficulty of care payments;

(3) residential facility payments;

(4) adoption assistance payments;

(5) public assistance payments for aid to families with dependent children, Minnesota family investment program—statewide, supplemental aid, medical assistance, general assistance, general assistance medical care, or community health services authorized by sections 145A.01 to 145A.14; or

(6) administrative costs for income maintenance staff.

Subd. 3. Revenue enhancement. The commissioner shall submit claims for federal reimbursement earned through the activities and services supported through Indian child welfare grants. The commissioner may set aside a portion of the federal funds earned under this subdivision to establish and support a new Indian child welfare position in the department of human services to provide program development. The commissioner shall use any federal revenue not set aside to expand services under section 257.3571. The federal revenue earned under this subdivision is available for these purposes until the funds are expended.

History: 1987 c 403 art 2 s 121; 1991 c 199 art 2 s 1; 1Sp1993 c 1 art 3 s 30; 1997 c 85 art 4 s 22

257.3574 CONTINUED LEGAL RESPONSIBILITY OF LOCAL SOCIAL SERVICE AGENCIES.

The legal responsibility of local social service agencies to provide Indian child welfare services continues, and existing services must not be reduced because of the availability of these funds.

History: 1987 c 403 art 2 s 122

257.3575 PAYMENTS; REQUIRED REPORTS.

Subdivision 1. Payments. The commissioner shall make grant payments to each approved program in four quarterly installments a year. The commissioner may certify an advance payment for the first quarter of the state fiscal year. Later payments must be made upon receipt by the state of a quarterly report on finances and program activities.

Subd. 2. Quarterly report. The commissioner shall specify requirements for reports, including quarterly fiscal reports, according to section 256.01, subdivision 2, paragraph (17). Each quarter, an approved program receiving an Indian child welfare grant shall submit a report to the commissioner that includes:

(1) a detailed accounting of grant money expended during the preceding quarter, specifying expenditures by line item and year to date; and

(2) a description of Indian child welfare activities conducted during the preceding quarter, including the number of clients served and the type of services provided.

The quarterly reports must be submitted no later than 30 days after the end of each quarter of the state fiscal year.

Subd. 3. **Final report.** A final evaluation report must be submitted by each approved program. It must include client outcomes, cost and effectiveness in meeting the goals of the Indian Family Preservation Act and permanency planning goals.

History: 1987 c 403 art 2 s 123; 1989 c 89 s 23

257.3576 MONITORING AND EVALUATION.

The commissioner shall design and implement methods for monitoring the delivery and evaluating the effectiveness of Indian child welfare services funded through these grants.

History: 1987 c 403 art 2 s 124

257.3577 GRANT FORMULA.

Subdivision 1. **Primary support grants.** (a) The amount available for grants established under section 257.3571, subdivision 1, to tribes, Indian organizations, and tribal social service agency programs located off-reservation is four-fifths of the total annual appropriation for Indian child welfare grants.

(b) The commissioner shall award tribes at least 70 percent of the amount set in paragraph (a) for primary support grants. Each tribe shall be awarded a base amount of five percent of the total amount set in this paragraph. In addition, each tribe shall be allocated a proportion of the balance of the amount set in this paragraph, less the total base amounts for all reservations. This proportion must equal the ratio of the tribe's on-reservation population to the state's total on-reservation population. Population data must be based on the most recent federal census data according to the state demographer's office.

(c) The commissioner shall award Indian organizations and tribal social service agency programs located off-reservation that serve Indian children and families up to 30 percent of the amount set in paragraph (a) for primary support grants. A maximum of four multiservice Indian organizations and tribal social service agency programs located off-reservation may be awarded grants under this paragraph. "Multiservice Indian organizations" means Indian organizations recognized by the Indian community as providing a broad continuum of social, educational, or cultural services, including Indian child welfare services designed to meet the unique needs of the Indian communities in Minneapolis, St. Paul, and Duluth. Grants may be awarded to programs that submit acceptable proposals, comply with the goals and the application process of the program, and have budgets that reflect appropriate and efficient use of funds. To maintain continuity of service in Indian communities, primary support grants awarded under this paragraph which meet the grant criteria and have demonstrated satisfactory performance as established by the commissioner may be awarded on a noncompetitive basis. The commissioner may revoke or deny funding for Indian organizations or tribal social service agencies failing to meet the grant criteria established by the commissioner, and the commissioner may request new proposals from Indian organizations or tribal social service agencies to the extent that funding is available.

Subd. 2. **Special focus grants.** The amount available for grants established under section 257.3571, subdivision 2, for local social service agencies, tribes, Indian organizations, and other social services organizations is one-fifth of the total annual appropriation for Indian child welfare grants. The maximum award under this subdivision is \$100,000 a year for programs approved by the commissioner.

History: 1987 c 403 art 2 s 125; 1995 c 207 art 4 s 41

257.3578 UNDISTRIBUTED FUNDS.

Undistributed funds must be reallocated by the department of human services to any other grant categories established under section 257.3571, subdivision 1 or 2, for the goals of this grant process. Undistributed funds are available until expended.

History: 1987 c 403 art 2 s 126

257.3579 AMERICAN INDIAN CHILD WELFARE ADVISORY COUNCIL.

The commissioner shall appoint an American Indian advisory council to help formulate policies and procedures relating to Indian child welfare services and to make recommendations regarding approval of grants provided under section 257.3571, subdivisions 1, 2, and 2a. The council shall consist of 17 members appointed by the commissioner and must include representatives of each of the 11 Minnesota reservations who are authorized by tribal resolution, one representative from the Duluth Urban Indian Community, three representatives from the Minneapolis Urban Indian Community, and two representatives from the St. Paul Urban Indian Community. Representatives from the urban Indian communities must be selected through an open appointments process under section 15.0597. The terms, compensation, and removal of American Indian child welfare advisory council members shall be as provided in section 15.059.

History: 1987 c 403 art 2 s 127; 1992 c 515 s 1; 1994 c 576 s 8

NOTE: See section 15.059, subdivision 5a, for expiration of council.

**INTERSTATE COMPACT ON THE
PLACEMENT OF CHILDREN**

257.40 INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN.

The Interstate Compact on the Placement of Children is hereby enacted into law and entered into with all other jurisdictions legally joining therein in form substantially as follows:

ARTICLE 1

Purpose and Policy

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

(a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(b) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(c) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis on which to evaluate a projected placement before it is made.

(d) Appropriate jurisdictional arrangements for the care of children will be promoted.

ARTICLE 2

Definitions

As used in this compact:

(a) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship or similar control.

(b) "Sending agency" means a party state, officer or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency or other entity which sends, brings, or causes to be sent or brought any child to another party state.

(c) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

(d) "Placement" means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective or persons having epilepsy or any institution primarily educational in character, and any hospital or other medical facility.

ARTICLE 3

Conditions for Placement

(a) No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

(b) Prior to sending, bringing or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

- (1) The name, date and place of birth of the child.
- (2) The identity and address or addresses of the parents or legal guardian.
- (3) The name and address of the person, agency or institution to or with which the sending agency proposes to send, bring, or place the child.
- (4) A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(c) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to paragraph (b) of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

(d) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

ARTICLE 4

Penalty for Illegal Placement

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children.

ARTICLE 5

Retention of Jurisdiction

(a) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

(b) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of such case by the latter as agent for the sending agency.

(c) Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance

of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph (a) hereof.

ARTICLE 6

Institutional Care of Delinquent Children

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to his being sent to such other party jurisdiction for institutional care and the court finds that:

1. Equivalent facilities for the child are not available in the sending agency's jurisdiction; and
2. Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

ARTICLE 7

Compact Administrator

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in his jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE 8

Limitations

This compact shall not apply to:

- (a) The sending or bringing of a child into a receiving state by his parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with any such relative or nonagency guardian in the receiving state.
- (b) Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party; or to any other agreement between said states which has the force of law.

ARTICLE 9

Enactment and Withdrawal

This compact shall be open to joinder by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the Government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.

ARTICLE 10

Construction and Severability

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

History: 1973 c 227 s 1; 1983 c 10 s 1

257.41 FINANCIAL RESPONSIBILITY.

Financial responsibility for any child placed pursuant to the provisions of the Interstate Compact on the Placement of Children shall be determined in accordance with the provisions

of article 5 thereof in the first instance. However, in the event of partial or complete default of performance thereunder, the provisions of sections 518C.101 to 518C.902 also may be invoked.

History: 1973 c 227 s 2; 1990 c 426 art 1 s 34; 1997 c 7 art 1 s 102

257.42 APPROPRIATE PUBLIC AUTHORITY DEFINED.

The "appropriate public authorities" as used in article 3 of the Interstate Compact on the Placement of Children shall, with reference to this state, mean the commissioner of human services. The commissioner of human services or the commissioner's delegate shall receive and act with reference to notices required by said article 3.

History: 1973 c 227 s 3; 1984 c 654 art 5 s 58; 1998 c 406 art 1 s 12,37; 1998 c 407 art 9 s 12

257.43 APPROPRIATE AUTHORITY IN RECEIVING STATE DEFINED.

As used in paragraph (a) of article 5 of the Interstate Compact on the Placement of Children, the phrase "appropriate authority in the receiving state" with reference to this state shall mean the commissioner of human services or the commissioner's delegate.

History: 1973 c 227 s 4; 1984 c 654 art 5 s 58; 1998 c 406 art 1 s 13,37; 1998 c 407 art 9 s 13

257.44 AGREEMENTS.

The officers and agencies of this state and its subdivisions having authority to place children are hereby empowered to enter into agreements with appropriate officers or agencies of or in other party states pursuant to paragraph (b) of article 5 of the Interstate Compact on the Placement of Children. Any such agreement which contains a financial commitment or imposes a financial obligation on this state or subdivision or agency thereof shall not be binding unless it has the approval in writing of the commissioner of human services in the case of the state and of the chief local fiscal officer in the case of a subdivision of the state.

History: 1973 c 227 s 5; 1984 c 654 art 5 s 58

257.45 REQUIREMENTS FOR VISITATION; SUPERVISION.

Any requirements for visitation, inspection or supervision of children, homes, institutions or other agencies in another party state which may apply under section 257.07 shall be deemed to be met if performed pursuant to an agreement entered into by appropriate officers or agencies of this state or a subdivision thereof as contemplated by paragraph (b) of article 5 of the Interstate Compact on the Placement of Children.

History: 1973 c 227 s 6

257.46 CERTAIN LAWS NOT APPLICABLE.

The provisions of section 257.06 shall not apply to placements made pursuant to the Interstate Compact on the Placement of Children.

History: 1973 c 227 s 7

257.47 COURT JURISDICTION RETAINED.

Any court having jurisdiction to place delinquent children may place such a child in an institution or in another state pursuant to article 6 of the Interstate Compact on the Placement of Children and shall retain jurisdiction as provided in article 5 thereof.

History: 1973 c 227 s 8

257.48 EXECUTIVE HEAD DEFINED.

As used in article 7 of the Interstate Compact on the Placement of Children, the term "executive head" means the governor. The governor is hereby authorized to appoint a compact administrator in accordance with the terms of said article 7.

History: 1973 c 227 s 9

PARENTAGE ACT

257.51 CITATION.

Sections 257.51 to 257.74 may be cited as the Parentage Act.

History: 1980 c 589 s 1

257.52 PARENT AND CHILD RELATIONSHIP DEFINED.

As used in sections 257.51 to 257.74, "parent and child relationship" means the legal relationship existing between a child and the child's biological or adoptive parents incident to which the law confers or imposes rights, privileges, duties, and obligations. It includes the mother and child relationship and the father and child relationship.

History: 1980 c 589 s 2; 1986 c 444; 1987 c 403 art 3 s 96

257.53 RELATIONSHIP NOT DEPENDENT ON MARRIAGE.

The parent and child relationship may exist regardless of the marital status of the parents.

History: 1980 c 589 s 3

257.54 HOW PARENT AND CHILD RELATIONSHIP ESTABLISHED.

The parent and child relationship between a child and

(a) the biological mother may be established by proof of her having given birth to the child, or under sections 257.51 to 257.74 or 257.75;

(b) the biological father may be established under sections 257.51 to 257.74 or 257.75;

or

(c) an adoptive parent may be established by proof of adoption.

History: 1980 c 589 s 4; 1987 c 403 art 3 s 96; 1Sp1993 c 1 art 6 s 33

257.541 CUSTODY AND VISITATION OF CHILDREN BORN OUTSIDE OF MARRIAGE.

Subdivision 1. Mother's right to custody. The biological 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 under sections 257.51 to 257.74, or until custody is determined in a separate proceeding under section 518.156.

Subd. 2. Father's right to visitation and custody. (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 biological father may petition for rights of visitation or custody in the paternity proceeding or in a separate proceeding under section 518.156.

Subd. 3. Father's right to visitation and custody; recognition of paternity. If paternity has been recognized under section 257.75, the father may petition for rights of visitation or custody in an independent action under section 518.156. The proceeding must be treated as an initial determination of custody under section 518.17. The provisions of chapter 518 apply with respect to the granting of custody and visitation. These proceedings may not be combined with any proceeding under chapter 518B.

History: 1983 c 308 s 3; 1987 c 403 art 3 s 96; 1990 c 574 s 3; 1Sp1993 c 1 art 6 s 34

257.55 PRESUMPTION OF PATERNITY.

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

(a) He and the child's biological 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. The presumption in this paragraph does not apply if the man has joined in a recognition of parentage recognizing another man as the biological father under section 257.75, subdivision 1a;

(b) Before the child's birth, he and the child's biological 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 biological 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 biological child;

(e) He and the child's biological 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 paragraph 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;

(f) Evidence of statistical probability of paternity based on blood or genetic testing establishes the likelihood that he is the father of the child, calculated with a prior probability of no more than 0.5 (50 percent), is 99 percent or greater;

(g) He and the child's biological mother have executed a recognition of parentage in accordance with section 257.75 and another man is presumed to be the father under this subdivision;

(h) He and the child's biological mother have executed a recognition of parentage in accordance with section 257.75 and another man and the child's mother have executed a recognition of parentage in accordance with section 257.75; or

(i) He and the child's biological mother executed a recognition of parentage in accordance with section 257.75 when either or both of the signatories were less than 18 years of age.

Subd. 2. A presumption under this section may be rebutted in an appropriate action only by clear and convincing evidence. If two or more presumptions arise which conflict with each other, the presumption which on the facts is founded on the weightier considerations of policy and logic controls. The presumption is rebutted by a court decree establishing paternity of the child by another man.

History: 1980 c 589 s 5; 1983 c 308 s 4; 1987 c 403 art 3 s 96; 1989 c 282 art 2 s 161; 1Sp1993 c 1 art 6 s 35; 1995 c 207 art 10 s 7; 1995 c 216 s 1; 1995 c 257 art 4 s 4

257.56 ARTIFICIAL INSEMINATION.

Subdivision 1. If, under the supervision of a licensed physician and with the consent of her husband, a wife is inseminated artificially with semen donated by a man not her husband, the husband is treated in law as if he were the biological father of a child thereby conceived. The husband's consent must be in writing and signed by him and his wife. The consent must be retained by the physician for at least four years after the confirmation of a pregnancy that occurs during the process of artificial insemination.

All papers and records pertaining to the insemination, whether part of the permanent record of a court or of a file held by the supervising physician or elsewhere, are subject to inspection only upon an order of the court for good cause shown.

Subd. 2. The donor of semen provided to a licensed physician for use in artificial insemination of a married woman other than the donor's wife is treated in law as if he were not the biological father of a child thereby conceived.

History: 1980 c 589 s 6; 1987 c 126 s 1; 1987 c 403 art 3 s 96

257.57 DETERMINATION OF FATHER AND CHILD RELATIONSHIP; WHO MAY BRING ACTION; WHEN ACTION MAY BE BROUGHT.

Subdivision 1. A child, the child's biological mother, or a man presumed to be the child's father under section 257.55, subdivision 1, paragraph (a), (b), or (c) may bring an action:

(a) At any time for the purpose of declaring the existence of the father and child relationship presumed under section 257.55, subdivision 1, paragraph (a), (b), or (c); or

(b) For the purpose of declaring the nonexistence of the father and child relationship presumed under section 257.55, subdivision 1, paragraph (a), (b), or (c), only if the action is brought within two years after the person bringing the action has reason to believe that the presumed father is not the father of the child, but in no event later than three years after the child's birth. However, if the presumed father was divorced from the child's mother and if, on or before the 280th day after the judgment and decree of divorce or dissolution became final, he did not know that the child was born during the marriage or within 280 days after the marriage was terminated, the action is not barred until one year after the child reaches the age of majority or one year after the presumed father knows or reasonably should have known of the birth of the child, whichever is earlier. After the presumption has been rebutted, paternity of the child by another man may be determined in the same action, if he has been made a party.

Subd. 2. The child, the mother, or personal representative of the child, the public authority chargeable by law with the support of the child, the personal representative or a parent of the mother if the mother has died or is a minor, a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor may bring an action:

(1) at any time for the purpose of declaring the existence of the father and child relationship presumed under section 257.55, subdivision 1, paragraph (d), (e), (f), (g), or (h), or the nonexistence of the father and child relationship presumed under clause (d) of that subdivision;

(2) for the purpose of declaring the nonexistence of the father and child relationship presumed under section 257.55, subdivision 1, paragraph (e) or (g), only if the action is brought within six months after the person bringing the action obtains the results of blood or genetic tests that indicate that the presumed father is not the father of the child;

(3) for the purpose of declaring the nonexistence of the father and child relationship presumed under section 257.55, subdivision 1, paragraph (f), only if the action is brought within three years after the party bringing the action, or the party's attorney of record, has been provided the blood or genetic test results; or

(4) for the purpose of declaring the nonexistence of the father and child relationship presumed under section 257.75, subdivision 9, only if the action is brought by the minor signatory within six months after the minor signatory reaches the age of 18. In the case of a recognition of parentage executed by two minor signatories, the action to declare the nonexistence of the father and child relationship must be brought within six months after the youngest signatory reaches the age of 18.

Subd. 3. An action to determine the existence of the father and child relationship with respect to a child who has no presumed father under section 257.55 may be brought by the child, the mother or personal representative of the child, the public authority chargeable by law with the support of the child, the personal representative or a parent of the mother if the mother has died or is a minor, a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor.

Subd. 4: Regardless of its terms, an agreement, other than an agreement approved by the court in accordance with section 257.64, between an alleged or presumed father and the mother, does not bar an action under this section by the child or the public authority chargeable by law with the support of the child.

Subd. 5: If an action under this section is brought before the birth of the child, all proceedings shall be stayed until after the birth, except service of process and the taking of depositions to perpetuate testimony.

Subd. 6: If the child has been adopted, an action may not be brought.

History: 1980 c 589 s 7; 1986 c 444; 1987 c 403 art 3 s 46,96; 1989 c 282 art 2 s 162; 1990 c 568 art 2 s 65; 1991 c 292 art 5 s 69; 1993 c 322 s 5; 1Sp1993 c 1 art 6 s 36; 1995 c 207 art 10 s 8; 1995 c 216 s 2; 1995 c 257 art 4 s 5

257.58 LIMITATION OF ACTIONS; EXCEPTIONS.

Subdivision 1. **Actions for children without a presumed father.** Except as otherwise provided in section 259.52, 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 is not barred until one year after the child reaches the age of majority.

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: 1980 c 589 s 8; 1983 c 308 s 5; 1985 c 131 s 5; 1997 c 218 s 6

257.59 JURISDICTION; VENUE.

Subdivision 1. **Court jurisdiction.** 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.

Subd. 2: In addition to any other method provided by rule or statute, personal jurisdiction may be acquired by service in accordance with section 543.19.

Subd. 3: The action may be brought in the county in which the child or the defendant resides or is found or, if the defendant is deceased, in which proceedings for probate of the defendant's estate have been or could be commenced.

History: 1980 c 589 s 9; 1983 c 308 s 6; 1Sp1993 c 1 art 6 s 37; 1998 c 254 art 2 s

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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. The biological mother, each man presumed to be the father under section 257.55, and each man alleged to be the biological 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. The public agency responsible for support enforcement is joined as a party in each case in which rights are assigned under section 256.74, subdivision 5, and in each case in which the public agency is providing services pursuant to an application for child support services. 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. The child shall be made a party whenever:

(1) 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, in which case the commissioner of human services shall also be made a party subject to department of human services rules relating to paternity suit settlements; or

(2) the child is a minor and the action is to declare the nonexistence of the father and child relationship; or

(3) an action to declare the existence of the father and child relationship is brought by a man presumed to be the father under section 257.55, or a man who alleges to be the father, and the mother of the child denies the existence of the father and child relationship.

History: 1980 c 589 s 10; 1983 c 308 s 7; 1984 c 654 art 5 s 58; 1987 c 403 art 3 s 47; 1994 c 529 s 18; 1995 c 257 art 4 s 6

257.61 PRETRIAL PROCEEDINGS.

As soon as practicable, after an action to declare the existence or nonexistence of the father and child relationship has been brought, a pretrial hearing shall be held in accordance with the rules of civil procedure. The public shall be barred from the hearing. A record of the proceeding or any portion thereof shall be kept if any party requests, or the court so orders.

History: 1980 c 589 s 11

257.62 BLOOD AND GENETIC TESTS.

Subdivision 1. Blood or genetic tests required. (a) The court or public authority may, and upon request of a party shall, require the child, mother, or alleged father to submit to blood or genetic tests. A mother or alleged father requesting the tests shall file with the court an affidavit either alleging or denying paternity and setting forth facts that establish the reasonable possibility that there was, or was not, the requisite sexual contact between the parties.

(b) A copy of the test results must be served on each party by first class mail to the party's last known address. Any objection to the results of blood or genetic tests must be made in writing no later than 30 days after service of the results. Test results served upon a party must include notice of this right to object.

(c) 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 or genetic tests. However, in a case involving these relatives of an alleged father, who is deceased, the court may refuse to order blood or genetic 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 or genetic 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.

Subd. 2. Unless otherwise agreed by the parties, a party wanting additional testing must first contest the original tests in subdivision 1, paragraph (b), and must pay in advance for the additional testing. The additional testing must be performed by another qualified expert.

Subd. 3. In all cases, the court shall determine the number and qualifications of the experts.

Subd. 4. [Repealed, 1985 c 131 s 15]

Subd. 5. Positive test results. (a) If the results of blood or genetic tests completed in a laboratory accredited by the American Association of Blood Banks indicate that the likelihood of the alleged father's paternity, calculated with a prior probability of no more than 0.5 (50 percent), is 92 percent or greater, 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.

(b) If the results of blood or genetic tests completed in a laboratory accredited by the American Association of Blood Banks indicate that likelihood of the alleged father's paternity, calculated with a prior probability of no more than 0.5 (50 percent), is 99 percent or greater, the alleged father is presumed to be the parent and the party opposing the establishment of the alleged father's paternity has the burden of proving by clear and convincing evidence that the alleged father is not the father of the child.

Subd. 6. Tests, evidence admissible. In any hearing brought under subdivision 5, a certified report of the facts and results of a laboratory analysis or examination of blood or genet-

ic tests, that is performed in a laboratory accredited to meet the Standards for Parentage Testing of the American Association of Blood Banks and is prepared and attested by a qualified expert appointed by the court, shall be admissible in evidence without proof of the seal, signature, or official character of the person whose name is signed to it. If no objection is made, the blood or genetic test results are admissible as evidence without the need for foundation testimony or other proof of authenticity or accuracy.

History: 1980 c 589 s 12; 1983 c 308 s 8,9; 1987 c 403 art 3 s 48; 1989 c 282 art 2 s 163; 1995 c 207 art 10 s 9-11; 1997 c 203 art 6 s 21,22

257.63 EVIDENCE RELATING TO PATERNITY.

Subdivision 1. Evidence relating to paternity may include:

(a) Evidence of sexual intercourse between the mother and alleged father at any possible time of conception;

(b) An expert's opinion concerning the statistical probability of the alleged father's paternity based upon the duration of the mother's pregnancy;

(c) Genetic and blood test results, weighed in accordance with evidence, if available, of the statistical probability of the alleged father's paternity;

(d) Medical or anthropological evidence relating to the alleged father's paternity of the child based on tests performed by experts. If a man has been identified as a possible father of the child, the court may, and upon request of a party shall, require the child, the mother, and the man to submit to appropriate tests; and

(e) All other evidence relevant to the issue of paternity of the child.

Subd. 2. Upon refusal of a witness, including a party, to testify under oath or produce evidence, the court may order the party to testify under oath and produce evidence concerning all relevant facts. No testimony or other information compelled under the order, or any information directly or indirectly derived from such testimony or other information, may be used against the witness in any criminal case, except for perjury committed in the testimony. The refusal of a witness, who has been granted immunity, to obey an order to testify or produce evidence is subject to the sanctions within the jurisdiction of the court.

Subd. 3. Testimony of a physician concerning the medical circumstances of the pregnancy itself and the condition and characteristics of the child upon birth is not privileged.

History: 1980 c 589 s 13; 1986 c 444; 1987 c 403 art 3 s 49

257.64 PRETRIAL 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. The child, on reaching 21 years of age or older, 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.

Subd. 2. If the parties accept a recommendation made in accordance with subdivision 1, judgment shall be entered accordingly. The court shall advise all parties that pretrial recom-

recommendations are not binding and will have no effect if the recommendation is disregarded and the matter is set for trial.

Subd. 3. If a party refuses to accept a recommendation made under subdivision 1 and blood or genetic tests have not been taken, the court shall require the parties to submit to blood or genetic tests. If a party refuses to accept the final recommendation the action shall be set for trial.

Subd. 4. The guardian ad litem may accept or refuse to accept a recommendation under this section.

Subd. 5. The informal hearing may be terminated and the action set for trial if the court finds it unlikely that all parties would accept a recommendation made under subdivisions 1 or 3.

History: 1980 c 589 s 14; 1Sp1981 c 4 art 2 s 26; 1983 c 308 s 10; 1986 c 444; 1995 c 207 art 10 s 12; 1998 c 382 art 1 s 2

257.65 CIVIL ACTION.

An action under sections 257.51 to 257.74 is a civil action governed by the rules of civil procedure. The mother of the child and the alleged father are competent to testify and may be compelled to testify. Sections 257.62 and 257.63 apply to proceedings under this section.

History: 1980 c 589 s 15

257.651 DEFAULT ORDER OF PARENTAGE.

In an action to determine the existence of the father and child relationship under sections 257.51 to 257.74, if the alleged father fails to appear at a hearing after service duly made and proved, the court shall enter a default judgment or order of paternity.

History: 1995 c 257 art 4 s 7

257.66 JUDGMENT OR ORDER.

Subdivision 1. **Determinative.** The judgment or order of the court determining the existence or nonexistence of the parent and child relationship is determinative for all purposes.

Subd. 2. **New birth certificate.** If the judgment or order of the court is at variance with the child's birth certificate, the court shall order that a new birth certificate be issued under section 257.73.

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, the social security number of the mother, father, and child, if known at the time of adjudication, 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. Pregnancy and confinement expenses and genetic testing costs, submitted by the public authority, are admissible as evidence without third-party foundation testimony and constitute prima facie evidence of the amounts incurred for those services or for the genetic testing. Remedies available for the collection and enforcement of child support apply to confinement costs and are considered additional child support.

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. In determining the amount of the parent's liability for past support, the court may deviate downward from the guidelines if:

- (1) the child for whom child support is sought is more than five years old and the obligor discovered or was informed of the existence of the parent and child relationship within one year of commencement of the action seeking child support;
- (2) the obligor is a custodian for or pays support for other children; and
- (3) the obligor's family income is less than 175 percent of the federal poverty level.

Subd. 5. Entry of judgment. Any order for support or maintenance issued under this section shall provide for a conspicuous notice that, if the obligor fails to make a support payment, the payment owed becomes a judgment by operation of law on and after the date the payment is due and the obligee or a public agency responsible for support enforcement may obtain entry and docketing of the judgment for the unpaid amounts under the provisions of section 548.091.

Subd. 6. Required information. Upon entry of judgment or order, each parent who is a party in a paternity proceeding shall:

- (1) file with the public authority responsible for child support enforcement the party's social security number, residential and mailing address, telephone number, driver's license number, and name, address, and telephone number of any employer if the party is receiving services from the public authority or begins receiving services from the public authority;
- (2) file the information in clause (1) with the district court; and
- (3) notify the court and, if applicable, the public authority responsible for child support enforcement of any change in the information required under this section within ten days of the change.

History: 1980 c 589 s 16; 1983 c 308 s 11,12; 1984 c 547 s 3; 1988 c 593 s 5; 1993 c 340 s 15; 1995 c 257 art 1 s 18; 1997 c 203 art 6 s 23,24.

257.67 ENFORCEMENT OF JUDGMENT OR ORDER.

Subdivision 1. If existence of the parent and child relationship is declared, or parentage or a duty of support has been acknowledged or adjudicated under sections 257.51 to 257.74 or under prior law, the obligation of the noncustodial parent may be enforced in the same or other proceedings by the custodial parent, the child, the public authority that has furnished or may furnish the reasonable expenses of pregnancy, confinement, education, support, or funeral, or by any other person, including a private agency, to the extent that person has furnished or is furnishing these expenses. Full faith and credit shall be given to a determination of paternity made by another state, whether established through voluntary acknowledgment or through administrative or judicial processes.

Subd. 2. The court may order support payments to be made to the custodial parent, the court administrator, or a person, corporation, or agency designated to administer them for the benefit of the child under the supervision of the court.

Subd. 3. Willful failure to obey the judgment or order of the court is a contempt of the court. All remedies for the enforcement of judgments apply including those available under chapters 518 and 518C.

History: 1980 c 589 s 17; 1985 c 248 s 41; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1987 c 384 art 2 s 1; 1993 c 340 s 16; 1994 c 465 art 1 s 32; 1995 c 257 art 4 s 8

257.68 MODIFICATION OF JUDGMENT OR ORDER.

A court entering a judgment or order for the payment of a lump sum under section 257.66, subdivision 4, may specify that the judgment or order may not be modified or revoked.

History: 1980 c 589 s 18

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

Subdivision 1. Representation by counsel. In all proceedings under sections 257.51 to 257.74, any party may be represented by counsel. The county attorney shall represent the

public authority. The court shall appoint counsel for a party who is unable to pay timely for counsel in proceedings under sections 257.51 to 257.74.

Subd. 2. **Guardian; legal fees.** The court may order expert witness and guardian ad litem fees and other costs of the trial and pretrial 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 or genetic 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 or genetic tests. When a party bringing an action is represented by the county attorney, no filing fee shall be paid to the court administrator.

Subd. 3. If a party is financially unable to pay the cost of a transcript, the court shall furnish on request a transcript for purposes of appeal.

History: 1980 c 589 s 19; 1983 c 308 s 13; 1Sp1986 c 3 art 1 s 82; 1995 c 207 art 10 s 13,14

257.70 HEARINGS AND RECORDS; CONFIDENTIALITY.

(a) Notwithstanding any other law concerning public hearings and records, any hearing or trial held under sections 257.51 to 257.74 shall be held in closed court without admittance of any person other than those necessary to the action or proceeding. All papers and records, other than the final judgment, pertaining to the action or proceeding, whether part of the permanent record of the court or of a file in the state department of human services or elsewhere, are subject to inspection only upon consent of the court and all interested persons, or in exceptional cases only upon an order of the court for good cause shown.

(b) In all actions under this chapter in which public assistance is assigned under section 256.741 or the public authority provides services to a party or parties to the action, notwithstanding statutory or other authorization for the public authority to release private data on the location of a party to the action, information on the location of one party may not be released by the public authority to the other party if:

- (1) the public authority has knowledge that a protective order with respect to the other party has been entered; or
- (2) the public authority has reason to believe that the release of the information may result in physical or emotional harm to the other party.

History: 1980 c 589 s 20; 1984 c 654 art 5 s 58; 1997 c 203 art 6 s 25

257.71 ACTION TO DECLARE MOTHER AND CHILD RELATIONSHIP.

A child, the father or personal representative of the child, the public authority chargeable by law with the support of the child, the personal representative or a parent of the father if the father has died, a woman alleged or alleging herself to be the mother, or the personal representative or a parent of the alleged mother if the alleged mother has died or is a minor may bring an action to determine the existence or nonexistence of a mother and child relationship. Insofar as practicable, the provisions of sections 257.51 to 257.74 applicable to the father and child relationship apply.

History: 1980 c 589 s 21

257.72 PROMISE TO RENDER SUPPORT.

Subdivision 1. A person's signed promise to furnish support for a child, growing out of a supposed or alleged parent and child relationship, does not require consideration and is enforceable according to its terms, subject to section 257.57, subdivision 4.

Subd. 2. In the best interest of the child or the custodial parent, the court may, and if a provision of the writing so requires shall, order the promise to be kept in confidence and des-

ignite a person or agency to receive and disburse on behalf of the child all amounts paid in performance of the promise.

History: 1980 c 589 s 22

257.73 BIRTH RECORDS.

Subdivision 1. Upon compliance with the provisions of section 257.55, subdivision 1, paragraph (e), 257.75, or upon order of a court of this state or upon request of a court of another state, the state or local registrar of vital statistics shall prepare a replacement certificate of birth consistent with the acknowledgment or the findings of the court and shall substitute the replacement certificate for the original certificate of birth.

Subd. 2. The fact that the father and child relationship was declared after the child's birth shall not be ascertainable from the replacement certificate but the actual place and date of birth shall be shown.

Subd. 3. The evidence upon which the replacement certificate was made and the original birth certificate shall be kept in a sealed and confidential file and be subject to inspection only upon consent of the court and all interested persons, or in exceptional cases only upon an order of the court for good cause shown.

History: 1980 c 589 s 23; 1Sp1993 c 1 art 6 s 38; 1997 c 205 s 31

257.74 ADOPTION; TERMINATION PROCEEDINGS.

Subdivision 1. If a mother relinquishes or proposes to relinquish for adoption a child who has

(a) a presumed father under section 257.55, subdivision 1,

(b) a father whose relationship to the child has been determined by a court or established under section 257.75, or

(c) a father as to whom the child is a legitimate child under prior law of this state or under the law of another jurisdiction, the father shall be given notice of the adoption proceeding as provided in section 259.49.

Subd. 2. If a mother relinquishes or proposes to relinquish for adoption a child who does not have

(a) a presumed father under section 257.55, subdivision 1,

(b) a father whose relationship to the child has been determined by a court, or

(c) a father as to whom the child is a legitimate child under prior law of this state or under the law of another jurisdiction, notice of the adoption proceeding shall be given as required by sections 259.49 and 259.51.

History: 1980 c 589 s 24; 1Sp1993 c 1 art 6 s 39; 1994 c 631 s 31

257.75 RECOGNITION OF PARENTAGE.

Subdivision 1. **Recognition by parents.** The mother and father of a child born to a mother who was not married to the child's father nor to any other man when the child was conceived nor when the child was born may, in a writing signed by both of them before a notary public and filed with the state registrar of vital statistics, state and acknowledge under oath that they are the biological parents of the child and wish to be recognized as the biological parents. The recognition must be in the form prepared by the commissioner of human services under subdivision 5, except that it may also include the joinder in recognition provisions under subdivision 1a. The requirement that the mother not be married when the child was conceived nor when the child was born does not apply if her husband or former husband joins in the recognition under subdivision 1a.

Subd. 1a. **Joinder in recognition by husband.** A man who is a presumed father under section 257.55, subdivision 1, paragraph (a), may join in a recognition of parentage that recognizes that another man is the child's biological father. The man who is the presumed father under section 257.55, subdivision 1, paragraph (a), must sign an acknowledgment under oath before a notary public that he is renouncing the presumption under section 257.55, subdivision 1, paragraph (a), and recognizing that the father who is executing the recognition under

subdivision 1 is the biological father of the child. A joinder in a recognition under this subdivision must be executed within one year after the child's birth and the joinder must be filed with the state registrar of vital statistics. The joinder must be on a form prepared by the commissioner of human services. Failure to properly execute a joinder in a recognition does not affect the validity of the recognition under subdivision 1. A joinder without a corresponding recognition of parentage has no legal effect.

Subd. 2. Revocation of recognition. A recognition may be revoked in a writing signed by the mother or father before a notary public and filed with the state registrar of vital statistics within the earlier of 30 days after the recognition is executed or the date of an administrative or judicial hearing relating to the child in which the revoking party is a party to the related action. A joinder in a recognition may be revoked in a writing signed by the man who executed the joinder and filed with the state registrar of vital statistics within 30 days after the joinder is executed. Upon receipt of a revocation of the recognition of parentage or joinder in a recognition, the state registrar of vital statistics shall forward a copy of the revocation to the nonrevoking parent, or, in the case of a joinder in a recognition, to the mother and father who executed the recognition.

Subd. 3. Effect of recognition. Subject to subdivision 2 and section 257.55, subdivision 1, paragraph (g) or (h), the recognition has the force and effect of a judgment or order determining the existence of the parent and child relationship under section 257.66. If the conditions in section 257.55, subdivision 1, paragraph (g) or (h), exist, the recognition creates only a presumption of paternity for purposes of sections 257.51 to 257.74. Once a recognition has been properly executed and filed with the state registrar of vital statistics, if there are no competing presumptions of paternity, a judicial or administrative court may not allow further action to determine parentage regarding the signator of the recognition. Until an order is entered granting custody to another, the mother has sole custody. The recognition is:

(1) a basis for bringing an action to award custody or visitation rights to either parent, establishing a child support obligation which may include up to the two years immediately preceding the commencement of the action, ordering a contribution by a parent under section 256.87, or ordering a contribution to the reasonable expenses of the mother's pregnancy and confinement, as provided under section 257.66, subdivision 3, or ordering reimbursement for the costs of blood or genetic testing, as provided under section 257.69, subdivision 2;

(2) determinative for all other purposes related to the existence of the parent and child relationship; and

(3) entitled to full faith and credit in other jurisdictions.

Subd. 4. Action to vacate recognition. (a) An action to vacate a recognition of paternity may be brought by the mother, father, husband or former husband who executed a joinder, or the child. An action to vacate a recognition of parentage may be brought by the public authority. A mother, father, or husband or former husband who executed a joinder must bring the action within one year of the execution of the recognition or within six months after the person bringing the action obtains the results of blood or genetic tests that indicate that the man who executed the recognition is not the father of the child. A child must bring an action to vacate within six months after the child obtains the result of blood or genetic tests that indicate that the man who executed the recognition is not the father of the child, or within one year of reaching the age of majority, whichever is later. If the court finds a prima facie basis for vacating the recognition, the court shall order the child, mother, father, and husband or former husband who executed a joinder to submit to blood tests. If the court issues an order for the taking of blood tests, the court shall require the party seeking to vacate the recognition to make advance payment for the costs of the blood tests. If the party fails to pay for the costs of the blood tests, the court shall dismiss the action to vacate with prejudice. The court may also order the party seeking to vacate the recognition to pay the other party's reasonable attorney fees, costs, and disbursements. If the results of the blood tests establish that the man who executed the recognition is not the father, the court shall vacate the recognition. If a recognition is vacated, any joinder in the recognition under subdivision 1a is also vacated. The court shall terminate the obligation of a party to pay ongoing child support based on the recognition. A modification of child support based on a recognition may be made retroactive with

respect to any period during which the moving party has pending a motion to vacate the recognition but only from the date of service of notice of the motion on the responding party.

(b) The burden of proof in an action to vacate the recognition is on the moving party. The moving party must request the vacation on the basis of fraud, duress, or material mistake of fact. The legal responsibilities in existence at the time of an action to vacate, including child support obligations, may not be suspended during the proceeding, except for good cause shown.

Subd. 5. Recognition form. The commissioner of human services shall prepare a form for the recognition of parentage under this section. In preparing the form, the commissioner shall consult with the individuals specified in subdivision 6. The recognition form must be drafted so that the force and effect of the recognition, the alternatives to executing a recognition, and the benefits and responsibilities of establishing paternity are clear and understandable. The form must include a notice regarding the finality of a recognition and the revocation procedure under subdivision 2. The form must include a provision for each parent to verify that the parent has read or viewed the educational materials prepared by the commissioner of human services describing the recognition of paternity. The individual providing the form to the parents for execution shall provide oral notice of the rights, responsibilities, and alternatives to executing the recognition. Notice may be provided by audiotape, videotape, or similar means. Each parent must receive a copy of the recognition.

Subd. 6. Paternity educational materials. The commissioner of human services shall prepare educational materials for new and prospective parents that describe the benefits and effects of establishing paternity. The materials must include a description and comparison of the procedures for establishment of paternity through a recognition of parentage under this section and an adjudication of paternity under sections 257.51 to 257.74. The commissioner shall consider the use of innovative audio or visual approaches to the presentation of the materials to facilitate understanding and presentation. In preparing the materials, the commissioner shall consult with child advocates and support workers, battered women's advocates, social service providers, educators, attorneys, hospital representatives, and people who work with parents in making decisions related to paternity. The commissioner shall consult with representatives of communities of color. On and after January 1, 1994, the commissioner shall make the materials available without cost to hospitals, requesting agencies, and other persons for distribution to new parents.

Subd. 7. Hospital and department of health distribution of educational materials; recognition form. Hospitals that provide obstetric services and the state registrar of vital statistics shall distribute the educational materials and recognition of parentage forms prepared by the commissioner of human services to new parents and shall assist parents in understanding the recognition of parentage form, including following the provisions for notice under subdivision 5. On and after January 1, 1994, hospitals may not distribute the declaration of parentage forms.

Subd. 8. Notice. If the state registrar of vital statistics receives more than one recognition of parentage for the same child, the registrar shall notify both signatories on each recognition that the recognition is no longer final and that each man has only a presumption of paternity under section 257.55, subdivision 1.

Subd. 9. Execution by a minor parent. A recognition of parentage executed and filed in accordance with this section by a minor parent creates a presumption of paternity for the purposes of sections 257.51 to 257.74.

History: *1Sp1993 c 1 art 6 s 40; 1995 c 216 s 3-6; 1995 c 257 art 4 s 9,10; 1997 c 203 art 6 s 26-30; 1997 c 245 art 1 s 11; art 3 s 8*

257.80 [Renumbered 119A.10]

257.801 [Renumbered 119A.11]

257.802 [Renumbered 119A.12]

257.803 [Renumbered 119A.13]

257.804 [Renumbered 119A.14]

257.805 Subdivision 1. [Renumbered 119A.15 subdivision 1]

- Subd. 2. [Renumbered 119A.15 subd 2]
- Subd. 3. [Renumbered 119A.15 subd 3]
- Subd. 4. [Renumbered 119A.15 subd 4]
- Subd. 5. [Renumbered 119A.15 subd 5]
- Subd. 6. [Repealed, 1Sp1987 c 4 art 2 s 9]
- Subd. 7. [Renumbered 119A.15 subd 6]
- Subd. 8. [Renumbered 119A.15 subd 7]

257.806 [Renumbered 119A.16]

257.807 [Renumbered 119A.17]

257.81 TRAINING FOR INTERVIEWERS OF MALTREATED CHILDREN; COMMISSIONER OF HUMAN SERVICES DUTIES.

The commissioner of human services shall develop training programs designed to provide specialized interviewer training to persons who interview allegedly maltreated children. The training must include information on interviewing adolescents and address the best methods of so doing. All training shall be presented within a child development model framework and include information on working with children of color and children with special needs. To accomplish this objective, the commissioner shall:

- (1) establish criteria for adequately trained interviewers;
- (2) determine the number of trained interviewers and evaluate the extent of the need for interviewer training;
- (3) offer forums and tuition to county professionals for specialized interviewer training where the need exists; and
- (4) encourage counties to assess local needs and assist counties in making interviewer training available to meet those needs.

History: 1995 c 226 art 7 s 1

257.85 RELATIVE CUSTODY ASSISTANCE.

Subdivision 1. **Citation.** This section may be cited as the "Relative Custody Assistance Act."

Subd. 2. **Scope.** The provisions of this section apply to those situations in which the legal and physical custody of a child is established with a relative according to section 260.191, subdivision 3b, by a court order issued on or after July 1, 1997.

Subd. 3. **Definitions.** For purposes of this section, the terms defined in this subdivision have the meanings given them.

(a) "AFDC or MFIP standard" means the monthly standard of need used to calculate assistance under the AFDC program, the transitional standard used to calculate assistance under the MFIP-S program, or, if neither of those is applicable, the analogous transitional standard used to calculate assistance under the MFIP or MFIP-R programs.

(b) "Local agency" means the local social service agency with legal custody of a child prior to the transfer of permanent legal and physical custody to a relative.

(c) "Permanent legal and physical custody" means permanent legal and physical custody ordered by a Minnesota juvenile court under section 260.191, subdivision 3b.

(d) "Relative" means an individual, other than a parent, who is related to a child by blood, marriage, or adoption.

(e) "Relative custodian" means a relative of a child for whom the relative has permanent legal and physical custody. When siblings, including half-siblings and step-siblings, are placed together in the permanent legal and physical custody of a relative of one of the siblings, the person receiving permanent legal and physical custody of the siblings is considered a relative custodian of all of the siblings for purposes of this section.

(f) "Relative custody assistance agreement" means an agreement entered into between a local agency and the relative of a child who has been or will be awarded permanent legal and physical custody of the child.

(g) "Relative custody assistance payment" means a monthly cash grant made to a relative custodian pursuant to a relative custody assistance agreement and in an amount calculated under subdivision 7.

(h) "Remains in the physical custody of the relative custodian" means that the relative custodian is providing day-to-day care for the child and that the child lives with the relative custodian; absence from the relative custodian's home for a period of more than 120 days raises a presumption that the child no longer remains in the physical custody of the relative custodian.

Subd. 4. Duties of local agency. (a) When a local agency seeks a court order under section 260.191, subdivision 3b, to establish permanent legal and physical custody of a child with a relative, or if such an order is issued by the court, the local agency shall perform the duties in this subdivision.

(b) As soon as possible after the local agency determines that it will seek to establish permanent legal and physical custody of the child with a relative or, if the agency did not seek to establish custody, as soon as possible after the issuance of the court order establishing custody, the local agency shall inform the relative about the relative custody assistance program, including eligibility criteria and payment levels. Anytime prior to, but not later than seven days after, the date the court issues the order establishing permanent legal and physical custody of the child with a relative, the local agency shall determine whether the eligibility criteria in subdivision 6 are met to allow the relative to receive relative custody assistance. Not later than seven days after determining whether the eligibility criteria are met, the local agency shall inform the relative custodian of its determination and of the process for appealing that determination under subdivision 9.

(c) If the local agency determines that the relative custodian is eligible to receive relative custody assistance, the local agency shall prepare the relative custody assistance agreement and ensure that it meets the criteria of subdivision 6.

(d) The local agency shall make monthly payments to the relative as set forth in the relative custody assistance agreement. On a quarterly basis and on a form to be provided by the commissioner, the local agency shall make claims for reimbursement from the commissioner for relative custody assistance payments made.

(e) For a relative custody assistance agreement that is in place for longer than one year, and as long as the agreement remains in effect, the local agency shall send an annual affidavit form to the relative custodian of the eligible child within the month before the anniversary date of the agreement. The local agency shall monitor whether the annual affidavit is returned by the relative custodian within 30 days following the anniversary date of the agreement. The local agency shall review the affidavit and any other information in its possession to ensure continuing eligibility for relative custody assistance and that the amount of payment made according to the agreement is correct.

(f) When the local agency determines that a relative custody assistance agreement should be terminated or modified, it shall provide notice of the proposed termination or modification to the relative custodian at least ten days before the proposed action along with information about the process for appealing the proposed action.

Subd. 5. Relative custody assistance agreement. (a) A relative custody assistance agreement will not be effective, unless it is signed by the local agency and the relative custodian no later than 30 days after the date of the order establishing permanent legal and physical custody with the relative, except that a local agency may enter into a relative custody assistance agreement with a relative custodian more than 30 days after the date of the order if it certifies that the delay in entering the agreement was through no fault of the relative custodian. There must be a separate agreement for each child for whom the relative custodian is receiving relative custody assistance.

(b) Regardless of when the relative custody assistance agreement is signed by the local agency and relative custodian, the effective date of the agreement shall be the date of the order establishing permanent legal and physical custody.

(c) If MFIP-S is not the applicable program for a child at the time that a relative custody assistance agreement is entered on behalf of the child, when MFIP-S becomes the applicable program, if the relative custodian had been receiving custody assistance payments calculated

based upon a different program, the amount of relative custody assistance payment under subdivision 7 shall be recalculated under the MFIP-S program.

(d) The relative custody assistance agreement shall be in a form specified by the commissioner and shall include provisions relating to the following:

- (1) the responsibilities of all parties to the agreement;
- (2) the payment terms, including the financial circumstances of the relative custodian, the needs of the child, the amount and calculation of the relative custody assistance payments, and that the amount of the payments shall be reevaluated annually;
- (3) the effective date of the agreement, which shall also be the anniversary date for the purpose of submitting the annual affidavit under subdivision 8;
- (4) that failure to submit the affidavit as required by subdivision 8 will be grounds for terminating the agreement;
- (5) the agreement's expected duration, which shall not extend beyond the child's eighteenth birthday;
- (6) any specific known circumstances that could cause the agreement or payments to be modified, reduced, or terminated and the relative custodian's appeal rights under subdivision 9;
- (7) that the relative custodian must notify the local agency within 30 days of any of the following:
 - (i) a change in the child's status;
 - (ii) a change in the relationship between the relative custodian and the child;
 - (iii) a change in composition or level of income of the relative custodian's family;
 - (iv) a change in eligibility or receipt of benefits under AFDC, MFIP-S, or other assistance program; and
 - (v) any other change that could affect eligibility for or amount of relative custody assistance;
- (8) that failure to provide notice of a change as required by clause (7) will be grounds for terminating the agreement;
- (9) that the amount of relative custody assistance is subject to the availability of state funds to reimburse the local agency making the payments;
- (10) that the relative custodian may choose to temporarily stop receiving payments under the agreement at any time by providing 30 days' notice to the local agency and may choose to begin receiving payments again by providing the same notice but any payments the relative custodian chooses not to receive are forfeit; and
- (11) that the local agency will continue to be responsible for making relative custody assistance payments under the agreement regardless of the relative custodian's place of residence.

Subd. 6. Eligibility criteria. A local agency shall enter into a relative custody assistance agreement under subdivision 5 if it certifies that the following criteria are met:

- (1) the juvenile court has determined or is expected to determine that the child, under the former or current custody of the local agency, cannot return to the home of the child's parents;
- (2) the court, upon determining that it is in the child's best interests, has issued or is expected to issue an order transferring permanent legal and physical custody of the child to the relative; and
- (3) the child either:
 - (i) is a member of a sibling group to be placed together; or
 - (ii) has a physical, mental, emotional, or behavioral disability that will require financial support.

When the local agency bases its certification that the criteria in clause (1) or (2) are met upon the expectation that the juvenile court will take a certain action, the relative custody assistance agreement does not become effective until and unless the court acts as expected.

Subd. 7. Amount of relative custody assistance payments. (a) The amount of a monthly relative custody assistance payment shall be determined according to the provisions of this paragraph.

(1) The total maximum assistance rate is equal to the base assistance rate plus, if applicable, the supplemental assistance rate.

(i) The base assistance rate is equal to the maximum amount that could be received as basic maintenance for a child of the same age under the adoption assistance program.

(ii) The local agency shall determine whether the child has physical, mental, emotional, or behavioral disabilities that require care, supervision, or structure beyond that ordinarily provided in a family setting to children of the same age such that the child would be eligible for supplemental maintenance payments under the adoption assistance program if an adoption assistance agreement were entered on the child's behalf. If the local agency determines that the child has such a disability, the supplemental assistance rate shall be the maximum amount of monthly supplemental maintenance payment that could be received on behalf of a child of the same age, disabilities, and circumstances under the adoption assistance program.

(2) The net maximum assistance rate is equal to the total maximum assistance rate from clause (1) less the following offsets:

(i) if the child is or will be part of an assistance unit receiving an AFDC, MFIP-S, or other MFIP grant, the portion of the AFDC or MFIP standard relating to the child;

(ii) Supplemental Security Income payments received by or on behalf of the child;

(iii) veteran's benefits received by or on behalf of the child; and

(iv) any other income of the child, including child support payments made on behalf of the child.

(3) The relative custody assistance payment to be made to the relative custodian shall be a percentage of the net maximum assistance rate calculated in clause (2) based upon the gross income of the relative custodian's family, including the child for whom the relative has permanent legal and physical custody. In no case shall the amount of the relative custody assistance payment exceed that which the child could qualify for under the adoption assistance program if an adoption assistance agreement were entered on the child's behalf. The relative custody assistance payment shall be calculated as follows:

(i) if the relative custodian's gross family income is less than or equal to 200 percent of federal poverty guidelines, the relative custody assistance payment shall be the full amount of the net maximum assistance rate;

(ii) if the relative custodian's gross family income is greater than 200 percent and less than or equal to 225 percent of federal poverty guidelines, the relative custody assistance payment shall be 80 percent of the net maximum assistance rate;

(iii) if the relative custodian's gross family income is greater than 225 percent and less than or equal to 250 percent of federal poverty guidelines, the relative custody assistance payment shall be 60 percent of the net maximum assistance rate;

(iv) if the relative custodian's gross family income is greater than 250 percent and less than or equal to 275 percent of federal poverty guidelines, the relative custody assistance payment shall be 40 percent of the net maximum assistance rate;

(v) if the relative custodian's gross family income is greater than 275 percent and less than or equal to 300 percent of federal poverty guidelines, the relative custody assistance payment shall be 20 percent of the net maximum assistance rate; or

(vi) if the relative custodian's gross family income is greater than 300 percent of federal poverty guidelines, no relative custody assistance payment shall be made.

(b) This paragraph specifies the provisions pertaining to the relationship between relative custody assistance and AFDC, MFIP-S, or other MFIP programs:

(1) the relative custodian of a child for whom the relative is receiving relative custody assistance is expected to seek whatever assistance is available for the child through the AFDC, MFIP-S, or other MFIP programs. If a relative custodian fails to apply for assistance through AFDC, MFIP-S, or other MFIP program for which the child is eligible, the child's portion of the AFDC or MFIP standard will be calculated as if application had been made and assistance received;

(2) the portion of the AFDC or MFIP standard relating to each child for whom relative custody assistance is being received shall be calculated as follows:

(i) determine the total AFDC or MFIP standard for the assistance unit;

(ii) determine the amount that the AFDC or MFIP standard would have been if the assistance unit had not included the children for whom relative custody assistance is being received;

(iii) subtract the amount determined in item (ii) from the amount determined in item (i); and

(iv) divide the result in item (iii) by the number of children for whom relative custody assistance is being received that are part of the assistance unit; or

(3) if a child for whom relative custody assistance is being received is not eligible for assistance through the AFDC, MFIP-S, or other MFIP programs, the portion of AFDC or MFIP standard relating to that child shall be equal to zero.

Subd. 8. Annual affidavit. When a relative custody assistance agreement remains in effect for more than one year, the local agency shall require the relative custodian to annually submit an affidavit in a form to be specified by the commissioner. The affidavit must be submitted to the local agency each year no later than 30 days after the relative custody assistance agreement's anniversary date. The affidavit shall document the following:

(1) that the child remains in the physical custody of the relative custodian;

(2) that there is a continuing need for the relative custody assistance payments due to the child's physical, mental, emotional, or behavioral needs; and

(3) the current gross income of the relative custodian's family.

The relative custody assistance agreement may be modified based on information or documentation presented to the local agency under this requirement and as required by annual adjustments to the federal poverty guidelines.

Subd. 9. Right of appeal. A relative custodian who enters into a relative custody assistance agreement with a local agency has the right to appeal to the commissioner according to section 256.045 when the local agency establishes, denies, terminates, or modifies the agreement. Upon appeal, the commissioner may review only:

(1) whether the local agency has met the legal requirements imposed by this chapter for establishing, denying, terminating, or modifying the agreement;

(2) whether the amount of the relative custody assistance payment was correctly calculated under the method in subdivision 7;

(3) whether the local agency paid for correct time periods under the relative custody assistance agreement;

(4) whether the child remains in the physical custody of the relative custodian;

(5) whether the local agency correctly calculated the amount of the supplemental assistance rate based on a change in the child's physical, mental, emotional, or behavioral needs, the relative custodian's failure to document the continuing need for the supplemental assistance rate after the local agency has requested such documentation; and

(6) whether the local agency correctly calculated or terminated the amount of relative custody assistance based on the relative custodian's failure to provide documentation of the gross income of the relative custodian's family after the local agency has requested such documentation.

Subd. 10. Child's county of residence. For the purposes of the Unitary Residency Act under chapter 256G, time spent by a child in the custody of a relative custodian receiving payments under this section is not excluded time. A child is a resident of the county where the relative custodian is a resident.

Subd. 11. Financial considerations. (a) Payment of relative custody assistance under a relative custody assistance agreement is subject to the availability of state funds and payments may be reduced or suspended on order of the commissioner if insufficient funds are available.

(b) Upon receipt from a local agency of a claim for reimbursement, the commissioner shall reimburse the local agency in an amount equal to 100 percent of the relative custody assistance payments provided to relative custodians. The local agency may not seek and the commissioner shall not provide reimbursement for the administrative costs associated with performing the duties described in subdivision 4.

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(c) For the purposes of determining eligibility or payment amounts under the AFDC, MFIP-S, and other MFIP programs, relative custody assistance payments shall be considered excluded income.

History: 1997 c 203 art 5 s 21; 1998 c 406 art 1 s 14,15,37; 1998 c 407 art 9 s 14