

## CHAPTER 259

## CHANGE OF NAME, ADOPTION

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**259.23 JUVENILE COURT, JURISDICTION.**

Subdivision 1. **Venue.** Except as provided in section 260C.101, subdivision 2, the juvenile court shall have original jurisdiction in all adoption proceedings. The proper venue for an adoption proceeding shall be the county of the petitioner's residence. However, if the petitioner has acquired a new residence in another county and requests a transfer of the adoption proceeding, the court in which an adoption is initiated may transfer the proceeding to the appropriate court in the new county of residence if the transfer is in the best interests of the person to be adopted. The court transfers the proceeding by ordering a continuance and by forwarding to the court administrator of the appropriate court a certified copy of all papers filed, together with an order of transfer. The transferring court also shall forward copies of the order of transfer to the commissioner of human services and any agency participating in the proceedings. The judge of the receiving court shall accept the order of the transfer and any other documents transmitted and hear the case; provided, however, the receiving court may in its discretion require the filing of a new petition prior to the hearing.

*[For text of subs 2 and 3, see M.S.1998]*

**History:** 1999 c 139 art 4 s 2

**259.29 PROTECTION OF BEST INTERESTS IN ADOPTIVE PLACEMENTS.**

Subdivision 1. **Best interests of the child.** (a) The policy of the state of Minnesota is to ensure that the best interests of the child are met by requiring individualized determination of the needs of the child and of how the adoptive placement will serve the needs of the child.

(b) Among the factors the agency shall consider in determining the needs of the child are those specified under section 260C.193, subdivision 3, paragraph (b).

Subd. 2. **Placement with relative or friend.** The authorized child-placing agency shall consider placement, consistent with the child's best interests and in the following order, with (1) a relative or relatives of the child, or (2) an important friend with whom the child has resided or had significant contact. In implementing this section, an authorized child-placing agency may disclose private or confidential data, as defined in section 13.02, to relatives of the child for the purpose of locating a suitable adoptive home. The agency shall disclose only data that is necessary to facilitate implementing the preference.

If the child's birth parent or parents explicitly request that placement with relatives or important friends not be considered, the authorized child-placing agency shall honor that request consistent with the best interests of the child.

If the child's birth parent or parents express a preference for placing the child in an adoptive home of the same or a similar religious background to that of the birth parent or parents, the agency shall place the child with a family that meets the birth parent's religious preference.

This subdivision does not affect the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923, and the Minnesota Indian Family Preservation Act, sections 260.751 to 260.835.

**History:** 1999 c 139 art 4 s 2

**259.41 ADOPTION STUDY.**

*[For text of subds 1 and 2, see M.S.1998]*

Subd. 3. **Background check; affidavit of history.** (a) At the time an adoption study is commenced, each prospective adoptive parent must:

- (1) authorize access by the agency to any private data needed to complete the study;
- (2) provide all addresses at which the prospective adoptive parent and anyone in the household over the age of 13 has resided in the previous ten years;
- (3) disclose any names used previously other than the name used at the time of the study; and
- (4) provide a set of fingerprints, which shall be forwarded to the bureau of criminal apprehension to facilitate the criminal conviction background check required under paragraph (b).

(b) When the requirements of paragraph (a) have been met, the agency shall immediately begin a background check, on each person over the age of 13 living in the home, consisting, at a minimum, of the following:

- (1) a check of criminal conviction data with the bureau of criminal apprehension and local law enforcement authorities;
- (2) a check for data on substantiated maltreatment of a child or vulnerable adult and domestic violence data with local law enforcement and social services agencies and district courts; and
- (3) for those persons under the age of 25, a check of juvenile court records.

Notwithstanding the provisions of section 260B.171 or 260C.171, the bureau of criminal apprehension, local law enforcement and social services agencies, district courts, and juvenile courts shall release the requested information to the agency completing the adoption study.

When paragraph (b) requires checking the data or records of local law enforcement and social services agencies and district and juvenile courts, the agency shall check with the law enforcement and social services agencies and courts whose jurisdictions cover the addresses under paragraph (a), clause (2). In the event that the agency is unable to complete any of the record checks required by paragraph (b), the agency shall document the fact and the agency's efforts to obtain the information.

(c) At any time prior to completion of the background check required under paragraph (b), a prospective adoptive parent may submit to the agency conducting the study a sworn affidavit stating whether they or any person residing in the household have been convicted of a crime. The affidavit shall also state whether the adoptive parent or any other person residing in the household is the subject of an open investigation of, or have been the subject of a substantiated allegation of, child or vulnerable-adult maltreatment within the past ten years. A complete description of the crime, open investigation, or substantiated abuse, and a complete description of any sentence, treatment, or disposition must be included. The affidavit must contain an acknowledgment that if, at any time before the adoption is final, a court receives evidence leading to a conclusion that a prospective adoptive parent knowingly gave false information in the affidavit, it shall be determined that the adoption of the child by the prospective adoptive parent is not in the best interests of the child.

(d) For the purposes of subdivision 1 and section 259.47, subdivisions 3 and 6, an adoption study is complete for placement, even though the background checks required by paragraph (b) have not been completed, if each prospective adoptive parent has completed the affidavit allowed by paragraph (c) and the other requirements of this section have been met. The background checks required by paragraph (b) must be completed before an adoption petition is filed. If an adoption study has been submitted to the court under section 259.47, subdivision 3 or 6, before the background checks required by paragraph (b) were complete, an updated adoption study report which includes the results of the background check must be filed with the adoption petition. In the event that an agency is unable to complete any of the

records checks required by paragraph (b), the agency shall submit with the petition to adopt an affidavit documenting the agency's efforts to complete the checks.

*[For text of subd 4, see M.S.1998]*

**History:** 1999 c 139 art 4 s 2

#### 259.47 DIRECT ADOPTIVE PLACEMENT.

*[For text of subs 1 to 7, see M.S.1998]*

Subd. 8. **Failure to execute consents.** With the exception of cases where a person receives notice under section 259.24, subdivision 2a, if a birth parent whose consent is required under section 259.24 does not execute a consent by the end of the period specified in section 259.24, subdivision 2a, the agency which is supervising the placement shall notify the court and the court shall issue an order regarding continued placement of the child. The court shall order the local social services agency to determine whether to commence proceedings for termination of parental rights on grounds of abandonment as defined in section 260C.301. The court may disregard the six- and 12-month requirements of section 260.221, in finding abandonment if the birth parent has failed to execute a consent within the time required under this section and has made no effort to obtain custody of the child.

*[For text of subs 10 and 11, see M.S.1998]*

**History:** 1999 c 139 art 4 s 2

#### 259.49 NOTICE, HEARING ON PETITION.

Subdivision 1. **To whom given.** Except as provided in subdivision 3, and subject to section 259.52, notice of the hearing upon a petition to adopt a child must be given to:

(a) the guardian, if any, of a child;

(b) the parent of a child if:

(1) the person's name appears on the child's birth certificate, as a parent;

(2) the person has substantially supported the child;

(3) the person either was married to the person designated on the birth certificate as the natural mother within the 325 days before the child's birth or married that person within the ten days after the child's birth;

(4) the person is openly living with the child or the person designated on the birth certificate as the natural mother of the child, or both;

(5) the person has been adjudicated the child's parent;

(6) the person has filed a paternity action within 30 days after the child's birth and the action is still pending;

(7) the person and the mother of the child have signed a declaration of parentage under section 257.34 before August 1, 1995, which has not been revoked or a recognition of parentage under section 257.75, which has not been revoked or vacated; or

(8) the person:

(i) is not entitled to notice under clauses (1) to (7);

(ii) has registered with the fathers' adoption registry;

(iii) after receiving a fathers' adoption registry notice, has timely filed an intent to retain parental rights with entry of appearance form under section 259.52; and

(iv) within 30 days of receipt of the fathers' adoption registry notice has initiated a paternity action, unless, for good cause shown, he is unable to do so within the 30 days; a paternity action must be initiated by the putative father in district court; application to the public authority for paternity establishment services does not constitute initiation of an action; and

(c) the child's tribe pursuant to section 260.761, subdivision 3, if the child is an Indian child.

Notice under this section need not be given to a person listed in this subdivision whose parental rights have been terminated. The notice of the hearing may be waived by a parent,

guardian, or other interested party by a writing executed before two competent witnesses and duly acknowledged. The waiver must be filed in the adoption proceedings before the matter is heard.

[For text of subs 2 and 3, see M.S.1998]

**History:** 1999 c 139 art 4 s 2

### **259.52 PUTATIVE FATHERS' ADOPTION REGISTRY.**

**Subdivision 1. Establishment of registry; purpose; fees.** (a) The commissioner of health shall establish a fathers' adoption registry for the purpose of determining the identity and location of a putative father interested in a minor child who is, or is expected to be, the subject of an adoption proceeding, in order to provide notice of the adoption proceeding to the putative father who is not otherwise entitled to notice under section 259.49, subdivision 1, paragraph (a) or (b), clauses (1) to (7). The commissioner of health may establish informational material and public service announcements necessary to implement this section. Any limitation on a putative father's right to assert an interest in the child as provided in this section applies only in adoption proceedings and only to those putative fathers not entitled to notice and consent under sections 259.24 and 259.49, subdivision 1, paragraph (a) or (b), clauses (1) to (7). The commissioner of health has no independent obligation to gather or update the information to be maintained on the registry. It is the registrant's responsibility to update his personal information on the registry.

(b) The fathers' adoption registry must contain the following information:

(1) with respect to the putative father, the:

(i) name, including any other names by which the putative father may be known and that he may provide to the registry;

(ii) address at which he may be served with notice of a petition under this chapter, including any change of address;

(iii) social security number, if known;

(iv) date of birth; and

(v) if applicable, a certified copy of an order by a court of another state or territory of the United States adjudicating the putative father to be the father of this child;

(2) with respect to the mother of the child:

(i) name, including all other names known to the putative father by which the mother may be known;

(ii) if known to the putative father, her last address;

(iii) social security number, if known; and

(iv) date of birth;

(3) if known to the putative father, the name, gender, place of birth, and date of birth or anticipated date of birth of the child;

(4) the date that the commissioner of health received the putative father's registration, which is the date the registration is postmarked or the date it was delivered by means other than mail to the address on the registration form; and

(5) other information the commissioner of health determines by rule to be necessary for the orderly administration of the registry.

(c) The commissioner of health shall notify the mother of the child whenever a putative father has registered with the father's adoption registry under this section. Notice shall be sent to the name and address submitted by the putative father under paragraph (b), clause (2). If no current address for the mother is submitted by the putative father under paragraph (b), clause (2), the commissioner of health shall not notify the mother. The commissioner of health has no independent obligation to locate the mother. The notice shall be mailed within 14 days of the date that the commissioner received the putative father's adoption registration unless a search has been requested under subdivision 2. There shall be no charge to the birth mother for this notice.

(d) The commissioner of health shall set reasonable fees for the use of the registry; however, a putative father shall not be charged a fee for registering. Revenues generated by the

fee must be deposited in the state government special revenue fund and appropriated to the commissioner of health to administer the fathers' adoption registry.

*[For text of subds 2 and 3, see M.S.1998]*

**Subd. 4. Classification of registry data.** Data in the fathers' adoption registry, including all data provided in requesting the search of the registry, are private data on individuals, as defined in section 13.02, subdivision 2, and are nonpublic data with respect to data not on individuals, as defined in section 13.02, subdivision 9. Data in the registry may be released to:

- (1) a person who is required to search the registry under subdivision 2, if the data relate to the child who is or may be the subject of the adoption petition;
- (2) the mother of the child listed on the putative father's registration form who the commissioner of health is required to notify under subdivision 1, paragraph (c);
- (3) a public authority as provided in subdivision 3; or
- (4) an attorney who has signed an affidavit from the commissioner of health attesting that the attorney represents the birth mother or the prospective adoptive parents.

A person who receives data under this subdivision may use the data only for purposes authorized under this section or other law.

*[For text of subds 5 and 6, see M.S.1998]*

**Subd. 7. When and how to register.** A putative father may register with the department of health before the birth of the child but must register no later than 30 days after the birth of the child. Registrations must be in writing and signed by the putative father. A registration is timely if the date the registration is postmarked or the date it was delivered by means other than mail to the address specified on the registration form is not later than 30 days after the birth of the child.

**Subd. 8. Failure to register.** Except for a putative father who is entitled to notice and consent under sections 259.24 and 259.49, subdivision 1, paragraph (a) or (b), clauses (1) to (7), a putative father who fails to timely register with the fathers' adoption registry under subdivision 7:

- (1) is barred thereafter from bringing or maintaining an action to assert any interest in the child during the pending adoption proceeding concerning the child;
- (2) is considered to have waived and surrendered any right to notice of any hearing in any judicial proceeding for adoption of the child, and consent of that person to the adoption of the child is not required; and
- (3) is considered to have abandoned the child.

Failure to register under subdivision 7 is prima facie evidence of sufficient grounds to support termination of the putative father's parental rights under section 260C.301, subdivision 1.

A putative father who has not timely registered under subdivision 7 is considered to have timely registered if he proves by clear and convincing evidence that:

- (i) it was not possible for him to register within the period of time specified in subdivision 7;
- (ii) his failure to register was through no fault of his own; and
- (iii) he registered within ten days after it became possible for him to file.

A lack of knowledge of the pregnancy or birth is not an acceptable reason for failure to register.

**Subd. 9. Notice and service for those on fathers' adoption registry who are not otherwise entitled to notice.** Any time after conception, an interested party, including persons intending to adopt a child; a child welfare agency with whom the mother has placed or has given written notice of her intention to place a child for adoption, the mother of a child, or any attorney representing an interested party, may serve by certified mail a notice to registered putative father, an intent to claim parental rights form, a denial of paternity form, and a consent to adoption form pursuant to subdivision 11. These documents may be served on a

putative father in the same manner as a summons is served in other civil proceedings, or, in lieu of personal service, service may be made as follows:

(a) The interested party or that party's attorney shall mail to the putative father, at the address provided to the registry, the copy of the notice to registered putative father, the intent to claim parental rights form, the denial of paternity form, and the consent to adoption form by certified mail, return receipt requested, and shall provide notice of the jurisdiction in which the adoption petition will be filed. The receipt for certified mail must state the name and address of the addressee and the date of mailing and must be attached to the original notice.

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

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

**Subd. 10. Response to notice to registered putative father; limitation of rights for failure to respond and upon filing of denial of paternity.** Within 30 days of receipt of the notice to registered putative father, the intent to claim parental rights form, the denial of paternity form, and the consent to adoption form, the putative father must file a completed intent to claim parental rights form with the court administrator in the county in which the adoption petition will be filed as provided by the petitioner, stating that he intends to initiate a paternity action within 30 days of receipt of the notice to registered putative father in order to preserve the right to maintain an interest in the child and receive notice during the pending adoption proceeding. Failure to initiate a paternity action within 30 days of receipt of the notice to registered putative father does not act as a bar to receiving notice under section 259.49. If good cause is shown, the putative father must be allowed more time to initiate the paternity action. A putative father who files a completed denial of paternity form and consent to adoption form or who fails to timely file an intent to claim parental rights form with the court:

(1) is barred from later bringing or maintaining an action to assert any interest in the child during the pending adoption proceeding concerning the child;

(2) is considered to have waived and surrendered a right to notice of a hearing in any judicial proceeding for adoption of the child, and consent of that person to the adoption of the child is not required; and

(3) is considered to have abandoned the child.

Failure to register is prima facie evidence of sufficient grounds to support termination of the putative father's parental rights.

**Subd. 11. Forms.** The office of the state court administrator shall develop the following forms:

(1) notice to registered putative father;

(2) intent to claim parental rights;

(3) denial of paternity;

(4) consent to adoption; and

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

*[For text of subd 12, see M.S.1998]*

**Subd. 13. Applicability of Indian Child Welfare Act.** In an action involving an American Indian child, sections 260.751 to 260.835, and the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923, control to the extent that the provisions of this section are inconsistent with those laws. The public acts, records, and judicial proceedings of any Indian tribe that provide an acknowledgment of paternity or that establish paternity pursuant to tribal law or custom shall be given full faith and credit as provided in United States Code, title 25, section 1911(d). Nothing in this section defeats the right of an Indian father who has acknowledged or established his paternity pursuant to tribal law or custom to com-

mence a paternity proceeding, except that no father may file a paternity proceeding after the entry of a final decree of adoption.

*[For text of subs 14 and 15, see M.S.1998]*

**History:** 1999 c 122 s 1-6; 1999 c 139 art 4 s 2

### 259.53 PETITION; INVESTIGATIONS; REPORTS.

Subdivision 1. **Notice to commissioner; referral for postplacement assessment.** (a) Upon the filing of a petition for adoption of a child the court administrator shall immediately transmit a copy of the petition to the commissioner of human services.

(b) The court shall immediately refer the petition to the agency specified below for completion of a postplacement assessment and report as required by subdivision 2.

(1) If the child to be adopted has been committed to the guardianship of the commissioner or an agency under section 260C.317 or an agency has been given authority to place the child under section 259.25, the court shall refer the petition to that agency, unless another agency is supervising the placement, in which case the court shall refer the petition to the supervising agency.

(2) If the child to be adopted has been placed in the petitioner's home by a direct adoptive placement, the court shall refer the petition to the agency supervising the placement under section 259.47, subdivision 3, paragraph (a), clause (6).

(3) If the child is to be adopted by an individual who is related to the child as defined by section 245A.02, subdivision 13, and in all other instances not described in clause (1) or (2), the court shall refer the petition to the local social services agency of the county in which the prospective adoptive parent lives.

*[For text of subs 2 to 6, see M.S.1998]*

**History:** 1999 c 139 art 4 s 2

### 259.57 HEARING, DECREE.

*[For text of subd 1, see M.S.1998]*

Subd. 2. **Protection of child's best interests.** (a) The policy of the state of Minnesota is to ensure that the best interests of children are met by requiring an individualized determination of the needs of the child and how the adoptive placement will serve the needs of the child.

(b) Among the factors the court shall consider in determining the needs of the child are those specified under section 260C.193, subdivision 3, paragraph (b).

(c) In reviewing adoptive placement and in determining appropriate adoption, the court shall consider placement, consistent with the child's best interests and in the following order, with (1) a relative or relatives of the child, or (2) an important friend with whom the child has resided or had significant contact. Placement of a child cannot be delayed or denied based on race, color, or national origin of the adoptive parent or the child. Whenever possible, siblings should be placed together unless it is determined not to be in the best interests of a sibling.

(d) If the child's birth parent or parents explicitly request that relatives and important friends not be considered, the court shall honor that request consistent with the best interests of the child.

If the child's birth parent or parents express a preference for placing the child in an adoptive home of the same or a similar religious background to that of the birth parent or parents, the court shall place the child with a family that also meets the birth parent's religious preference. Only if no family is available as described in clause (a) or (b) may the court give preference to a family described in clause (c) that meets the parent's religious preference.

(e) This subdivision does not affect the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923, and the Minnesota Indian Family Preservation Act, sections 260.751 to 260.835.

*[For text of subd 3, see M.S.1998]*

**History:** 1999 c 139 art 4 s 2

**259.58 COMMUNICATION OR CONTACT AGREEMENTS.**

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

- (1) adoptive parents and a birth parent;
- (2) adoptive parents and any other birth relative or foster parent with whom the child resided before being adopted; or
- (3) adoptive parents and any other birth relative if the child is adopted by a birth relative upon the death of both birth parents.

For purposes of this section, "birth relative" means a parent, stepparent, grandparent, brother, sister, uncle, or aunt of a minor adoptee. This relationship may be by blood, adoption, or marriage. For an Indian child, birth relative includes members of the extended family as defined by the law or custom of the Indian child's tribe or, in the absence of laws or custom, nieces, nephews, or first or second cousins, as provided in the Indian Child Welfare Act, United States Code, title 25, section 1903.

(a) An agreement regarding communication with or contact between minor adoptees, adoptive parents, and a birth relative is not legally enforceable unless the terms of the agreement are contained in a written court order entered in accordance with this section. An order may be sought at any time before a decree of adoption is granted. The order must be issued within 30 days of being submitted to the court or by the granting of the decree of adoption, whichever is earlier. The court shall not enter a proposed order unless the terms of the order have been approved in writing by the prospective adoptive parents, a birth relative or foster parent who desires to be a party to the agreement, and, if the child is in the custody of or under the guardianship of an agency, a representative of the agency. A birth parent must approve in writing of an agreement between adoptive parents and any other birth relative or foster parent, unless an action has been filed against the birth parent by a county under chapter 260. An agreement under this section need not disclose the identity of the parties to be legally enforceable. The court shall not enter a proposed order unless the court finds that the communication or contact between the minor adoptee, the adoptive parents, and a birth relative as agreed upon and contained in the proposed order would be in the minor adoptee's best interests. The court shall mail a certified copy of the order to the parties to the agreement or their representatives at the addresses provided by the petitioners.

(b) Failure to comply with the terms of an agreed order regarding communication or contact that has been entered by the court under this section is not grounds for:

- (1) setting aside an adoption decree; or
- (2) revocation of a written consent to an adoption after that consent has become irrevocable.

(c) An agreed order entered under this section may be enforced by filing a petition or motion with the family court that includes a certified copy of the order granting the communication, contact, or visitation, but only if the petition or motion is accompanied by an affidavit that the parties have mediated or attempted to mediate any dispute under the agreement or that the parties agree to a proposed modification. The prevailing party may be awarded reasonable attorney's fees and costs. The court shall not modify an agreed order under this section unless it finds that the modification is necessary to serve the best interests of the minor adoptee, and:

- (1) the modification is agreed to by the parties to the agreement; or
- (2) exceptional circumstances have arisen since the agreed order was entered that justify modification of the order.

**History:** 1999 c 122 s 7

**259.60 INTERCOUNTRY ADOPTIONS; OBTAINING AMENDED BIRTH CERTIFICATE.**

*[For text of subs 1 and 2, see M.S.1998]*

Subd. 3. **Postadoption report.** If a child is adopted by a resident of this state under the laws of a foreign country or if a resident of this state brings a child into the state under an IR-3



or IR-4 visa issued for the child by the United States Immigration and Naturalization Service, the postadoption reporting requirements of the country in which the child was adopted, applicable at the time of the child's adoption, must be given full faith and credit by the courts of this state and apply to the adoptive placement of that child.

**History:** 1999 c 122 s 8

## 259.67 ADOPTION ASSISTANCE PROGRAM.

*[For text of subs 1 to 3, see M.S.1998]*

**Subd. 4. Eligibility conditions.** (a) The placing agency shall use the AFDC requirements as specified in federal law as of July 16, 1996, when determining the child's eligibility for adoption assistance under title IV-E of the Social Security Act. If the child does not qualify, the placing agency shall certify a child as eligible for state funded adoption assistance only if the following criteria are met:

(1) Due to the child's characteristics or circumstances it would be difficult to provide the child an adoptive home without adoption assistance.

(2)(i) A placement agency has made reasonable efforts to place the child for adoption without adoption assistance, but has been unsuccessful; or

(ii) the child's licensed foster parents desire to adopt the child and it is determined by the placing agency that the adoption is in the best interest of the child.

(3) The child has been a ward of the commissioner or a Minnesota-licensed child-placing agency.

(b) For purposes of this subdivision, the characteristics or circumstances that may be considered in determining whether a child is a child with special needs under United States Code, title 42, chapter 7, subchapter IV, part E, or meets the requirements of paragraph (a), clause (1), are the following:

(1) The child is a member of a sibling group to be placed as one unit in which at least one sibling is older than 15 months of age or is described in clause (2) or (3).

(2) The child has documented physical, mental, emotional, or behavioral disabilities.

(3) The child has a high risk of developing physical, mental, emotional, or behavioral disabilities.

(c) When a child's eligibility for adoption assistance is based upon the high risk of developing physical, mental, emotional, or behavioral disabilities, payments shall not be made under the adoption assistance agreement unless and until the potential disability manifests itself as documented by an appropriate health care professional.

*[For text of subd 5, see M.S.1998]*

**Subd. 6. Right of appeal.** (a) The adoptive parents have the right to appeal to the commissioner pursuant to section 256.045, when the commissioner denies, discontinues, or modifies the agreement.

(b) Adoptive parents who believe that their adopted child was incorrectly denied adoption assistance, or who did not seek adoption assistance on the child's behalf because of being provided with inaccurate or insufficient information about the child or the adoption assistance program, may request a hearing under section 256.045. Notwithstanding subdivision 2, the purpose of the hearing shall be to determine whether, under standards established by the federal Department of Health and Human Services, the circumstances surrounding the child's adoption warrant making an adoption assistance agreement on behalf of the child after the final decree of adoption has been issued. The commissioner shall enter into an adoption assistance agreement on the child's behalf if it is determined that:

(1) at the time of the adoption and at the time the request for a hearing was submitted the child was eligible for adoption assistance under United States Code, title 42, chapter 7, subchapter IV, part E, sections 670 to 679a, at the time of the adoption or for state funded adoption assistance under subdivision 4; and

(2) an adoption assistance agreement was not entered into on behalf of the child before the final decree of adoption because of extenuating circumstances as the term is used in the

standards established by the federal Department of Health and Human Services. An adoption assistance agreement made under this paragraph shall be effective the date the request for a hearing was received by the commissioner or the local agency.

Subd. 7. **Reimbursement of costs.** (a) Subject to rules of the commissioner, and the provisions of this subdivision a child-placing agency licensed in Minnesota or any other state, or local social services agency shall receive a reimbursement from the commissioner equal to 100 percent of the reasonable and appropriate cost of providing adoption services for a child certified as eligible for adoption assistance under subdivision 4. Such assistance may include adoptive family recruitment, counseling, and special training when needed. A child-placing agency licensed in Minnesota or any other state shall receive reimbursement for adoption services it purchases for or directly provides to an eligible child. A local social services agency shall receive such reimbursement only for adoption services it purchases for an eligible child.

(b) A child-placing agency licensed in Minnesota or any other state or local social services agency seeking reimbursement under this subdivision shall enter into a reimbursement agreement with the commissioner before providing adoption services for which reimbursement is sought. No reimbursement under this subdivision shall be made to an agency for services provided prior to entering a reimbursement agreement. Separate reimbursement agreements shall be made for each child and separate records shall be kept on each child for whom a reimbursement agreement is made. Funds encumbered and obligated under such an agreement for the child remain available until the terms of the agreement are fulfilled or the agreement is terminated.

(c) When a local social services agency uses a purchase of service agreement to provide services reimbursable under a reimbursement agreement, the commissioner may make reimbursement payments directly to the agency providing the service if direct reimbursement is specified by the purchase of service agreement, and if the request for reimbursement is submitted by the local social services agency along with a verification that the service was provided.

*[For text of subds 8 to 10, see M.S.1998]*

**History:** 1999 c 159 s 114; 1999 c 245 art 8 s 34,35

### **259.73 REIMBURSEMENT OF NONRECURRING ADOPTION EXPENSES.**

The commissioner of human services shall provide reimbursement of up to \$2,000 to the adoptive parent or parents for costs incurred in adopting a child with special needs. The commissioner shall determine the child's eligibility for adoption expense reimbursement under title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 676. To be reimbursed, costs must be reasonable, necessary, and directly related to the legal adoption of the child.

**History:** 1999 c 245 art 8 s 36

### **259.77 FAMILY RECRUITMENT.**

Each authorized child-placing agency shall make special efforts to recruit an adoptive family from among the child's relatives, except as authorized in section 259.57, subdivision 2. Each agency shall provide for the diligent recruitment of potential adoptive families that reflect the ethnic and racial diversity of children in the state for whom adoptive homes are needed. Special efforts include contacting and working with community organizations and religious organizations and may include contracting with these organizations, utilizing local media and other local resources, and conducting outreach activities. The requirement of special efforts to locate relatives in this section is satisfied if special efforts were made to recruit relatives when the child was first placed in out-of-home care or if special efforts have been satisfied and approved by the court according to section 260C.201, subdivision 10. The agency may accept any gifts, grants, offers of services, and other contributions to use in making special recruitment efforts.

**History:** 1999 c 139 art 4 s 2

**259.85 POSTADOPTION SERVICE GRANTS PROGRAM.**

*[For text of subd 1, see M.S.1998]*

Subd. 2. **Eligibility criteria.** A child may be certified by the local social services agency as eligible for a postadoption service grant after a final decree of adoption if:

(1) the child was a ward of the commissioner or a Minnesota licensed child-placing agency before adoption;

(2) the child had special needs at the time of adoption. For the purposes of this section, "special needs" means a child who had a physical, mental, emotional, or behavioral disability at the time of an adoption or has a preadoption background to which the current development of such disabilities can be attributed;

(3) the adoptive parents have exhausted all other available resources. Available resources include public income support programs, medical assistance, health insurance coverage, services available through community resources, and any other private or public benefits or resources available to the family or to the child to meet the child's special needs; and

(4) the child is under 18 years of age, or if the child is under 22 years of age and remains dependent on the adoptive parent or parents for care and financial support and is enrolled in a secondary education program as a full-time student.

Subd. 3. **Certification statement.** The local social services agency shall certify a child's eligibility for a postadoption service grant in writing to the commissioner. The certification statement shall include:

(1) a description and history of the special needs upon which eligibility is based;

(2) separate certification for each of the eligibility criteria under subdivision 2, that the criteria are met; and

(3) applicable supporting documentation including:

(i) the child's individual service plan;

(ii) medical, psychological, or special education evaluations;

(iii) documentation that all other resources have been exhausted; and

(iv) an estimate of the costs necessary to meet the special needs of the child.

*[For text of subd 4, see M.S.1998]*

Subd. 5. **Grant payments.** The amount of the postadoption service grant payment shall be based on the special needs of the child and the determination that other resources to meet those special needs are not available. The amount of any grant payments shall be based on the severity of the child's disability and the effect of the disability on the family and must not exceed \$10,000 annually. Adoptive parents are eligible for grant payments until their child's 18th birthday, or if the child is under 22 years of age and remains dependent on the adoptive parent or parents for care and financial support and is enrolled in a secondary education program as a full-time student.

Permissible expenses that may be paid from grants shall be limited to:

(1) medical expenses not covered by the family's health insurance or medical assistance;

(2) therapeutic expenses, including individual and family therapy; and

(3) nonmedical services, items, or equipment required to meet the special needs of the child.

The grants under this section shall not be used for maintenance for out-of-home placement of the child in substitute care.

**History:** 1999 c 245 art 8 s 37-39

**259.89 ACCESS TO ORIGINAL BIRTH CERTIFICATE INFORMATION.**

*[For text of subs 1 to 5, see M.S.1998]*

Subd. 6. **Determination of eligibility for enrollment or membership in a federally recognized american indian tribe.** The state registrar shall provide a copy of an adopted

person's original birth certificate to an authorized representative of a federally recognized American Indian tribe for the sole purpose of determining the adopted person's eligibility for enrollment or membership in the tribe.

**History:** 1999 c 245 art 8 s 40