

CHAPTER 259

CHANGE OF NAME, ADOPTION

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259.47 DIRECT ADOPTIVE PLACEMENT.

[For text of subs 1 to 8, see M.S.2000]

Subd. 10. **Records.** In any adoption completed according to a direct adoptive placement under this section, a record, consisting of the adoption study report and updates required by section 259.41; the birth parent history required by section 259.43; the original birth record; and the hospital discharge form, must be permanently maintained by the agency which supervised the placement. The birth parents, adoptive parents, or their representatives shall provide copies of these documents to the agency upon request. Notwithstanding the provisions of section 259.61, an agency shall, upon request, be given any court records needed to provide postadoption services according to section 259.83 at the request of adoptive parents, birth parents, or adopted individuals age 19 or older.

[For text of subd 11, see M.S.2000]

History: 1Sp2001 c 9 art 15 s 32

259.49 NOTICE, HEARING ON PETITION.

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

- (a) the guardian, if any, of a child;
- (b) the parent of a child if:
 - (1) the person's name appears on the child's birth record, as a parent;
 - (2) the person has substantially supported the child;
 - (3) the person either was married to the person designated on the birth record as the natural mother within the 325 days before the child's birth or married that person within the ten days after the child's birth;
 - (4) the person is openly living with the child or the person designated on the birth record as the natural mother of the child, or both;
 - (5) the person has been adjudicated the child's parent;
 - (6) the person has filed a paternity action within 30 days after the child's birth and the action is still pending;
 - (7) the person and the mother of the child have signed a declaration of parentage under section 257.34 before August 1, 1995, which has not been revoked or a recognition of parentage under section 257.75, which has not been revoked or vacated; or
 - (8) the person:
 - (i) is not entitled to notice under clauses (1) to (7);
 - (ii) has registered with the fathers' adoption registry;
 - (iii) after receiving a fathers' adoption registry notice, has timely filed an intent to retain parental rights with entry of appearance form under section 259.52; and
 - (iv) within 30 days of receipt of the fathers' adoption registry notice has initiated a paternity action, unless, for good cause shown, he is unable to do so within the 30 days; a paternity action must be initiated by the putative father in district court; application

to the public authority for paternity establishment services does not constitute initiation of an action; and

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

Notice under this section need not be given to a person listed in this subdivision whose parental rights have been terminated. The notice of the hearing may be waived by a parent, guardian, or other interested party by a writing executed before two competent witnesses and duly acknowledged. The waiver must be filed in the adoption proceedings before the matter is heard.

[For text of subds 2 and 3, see M.S.2000]

History: *1Sp2001 c 9 art 15 s 32*

259.60 INTERCOUNTRY ADOPTIONS; OBTAINING AMENDED BIRTH RECORD.

[For text of subd 1, see M.S.2000]

Subd. 2. Amended birth record; procedure and order; decree recognizing adoption.

(a) Under the procedures in paragraph (b), a person, whose adoption of a child under the laws of a foreign country is valid in this state under subdivision 1, may petition the district court in the county where the adoptive parent resides for a decree confirming and recognizing the adoption, changing the child's legal name, if requested in the petition, and authorizing the commissioner of health to issue a new birth record for the child under section 144.218, subdivision 2.

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

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

(2) a copy of the child's original birth record, if available;

(3) a copy of the final adoption certificate or equivalent as issued by the foreign jurisdiction;

(4) a copy of the child's passport including the United States visa indicating IR-3 immigration status; and

(5) certified English translations of any of the documents in clauses (2) to (4) that are not written in the English language.

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

[For text of subd 3, see M.S.2000]

History: *1Sp2001 c 9 art 15 s 32*

259.83 POSTADOPTION SERVICES.

[For text of subds 1 and 2, see M.S.2000]

Subd. 3. **Identifying information.** In adoptive placements made on and after August 1, 1982, the agency responsible for or supervising the placement shall obtain from the birth parents named on the original birth record an affidavit attesting to the following:

(a) That the birth parent has been informed of the right of the adopted person at the age specified in section 259.89 to request from the agency the name, last known

address, birthdate and birthplace of the birth parents named on the adopted person's original birth record;

(b) That each birth parent may file in the agency record an affidavit objecting to the release of any or all of the information listed in clause (a) about that birth parent, and that parent only, to the adopted person;

(c) That if the birth parent does not file an affidavit objecting to release of information before the adopted person reaches the age specified in section 259.89, the agency will provide the adopted person with the information upon request;

(d) That notwithstanding the filing of an affidavit, the adopted person may petition the court according to section 259.61 for release of identifying information about a birth parent;

(e) That the birth parent shall then have the opportunity to present evidence to the court that nondisclosure of identifying information is of greater benefit to the birth parent than disclosure to the adopted person; and

(f) That any objection filed by the birth parent shall become invalid when withdrawn by the birth parent or when the birth parent dies. Upon receipt of a death record for the birth parent, the agency shall release the identifying information to the adopted person if requested.

[For text of subds 4 and 5, see M.S.2000]

History: *1Sp2001 c 9 art 15 s 32*

259.89 ACCESS TO ORIGINAL BIRTH RECORD INFORMATION.

Subdivision 1. **Request.** An adopted person who is 19 years of age or over may request the commissioner of health to disclose the information on the adopted person's original birth record. The commissioner of health shall, within five days of receipt of the request, notify the commissioner of human services in writing of the request by the adopted person.

Subd. 2. **Search.** Within six months after receiving notice of the request of the adopted person, the commissioner of human services shall make complete and reasonable efforts to notify each parent identified on the original birth record of the adopted person. The commissioner, the commissioner's agents, and licensed child-placing agencies may charge a reasonable fee to the adopted person for the cost of making a search pursuant to this subdivision. Every licensed child-placing agency in the state shall cooperate with the commissioner of human services in efforts to notify an identified parent. All communications under this subdivision are confidential pursuant to section 13.02, subdivision 3.

For purposes of this subdivision, "notify" means a personal and confidential contact with the birth parents named on the original birth record of the adopted person. The contact shall not be by mail and shall be by an employee or agent of the licensed child-placing agency which processed the pertinent adoption or some other licensed child-placing agency designated by the commissioner of human services. The contact shall be evidenced by filing with the commissioner of health an affidavit of notification executed by the person who notified each parent certifying that each parent was given the following information:

(a) The nature of the information requested by the adopted person;

(b) The date of the request of the adopted person;

(c) The right of the parent to file, within 30 days of receipt of the notice, an affidavit with the commissioner of health stating that the information on the original birth record should not be disclosed;

(d) The right of the parent to file a consent to disclosure with the commissioner of health at any time; and

(e) The effect of a failure of the parent to file either a consent to disclosure or an affidavit stating that the information on the original birth record should not be disclosed.

Subd. 3. **Failure to notify parent.** If the commissioner of human services certifies to the commissioner of health an inability to notify a parent identified on the original birth record within six months, and if neither identified parent has at any time filed an unrevoked consent to disclosure with the commissioner of health, the information may be disclosed as follows:

(a) If the person was adopted prior to August 1, 1977, the person may petition the appropriate court for disclosure of the original birth record pursuant to section 259.61, and the court shall grant the petition if, after consideration of the interests of all known persons involved, the court determines that disclosure of the information would be of greater benefit than nondisclosure.

(b) If the person was adopted on or after August 1, 1977, the commissioner of health shall release the requested information to the adopted person.

If either parent identified on the birth record has at any time filed with the commissioner of health an unrevoked affidavit stating that the information on the original birth record should not be disclosed, the commissioner of health shall not disclose the information to the adopted person until the affidavit is revoked by the filing of a consent to disclosure by that parent.

Subd. 4. **Release of information after notice.** If, within six months, the commissioner of human services certifies to the commissioner of health notification of each parent identified on the original birth record pursuant to subdivision 2, the commissioner of health shall disclose the information requested by the adopted person 31 days after the date of the latest notice to either parent. This disclosure will occur if, at any time during the 31 days both of the parents identified on the original birth record have filed a consent to disclosure with the commissioner of health and neither consent to disclosure has been revoked by the subsequent filing by a parent of an affidavit stating that the information should not be disclosed. If only one parent has filed a consent to disclosure and the consent has not been revoked, the commissioner of health shall disclose, to the adopted person, original birth record information on the consenting parent only.

Subd. 5. **Death of parent.** Notwithstanding the provisions of subdivisions 3 and 4, if a parent named on the original birth record of an adopted person has died, and at any time prior to the death the parent has filed an unrevoked affidavit with the commissioner of health stating that the information on the original birth record should not be disclosed, the adopted person may petition the court of original jurisdiction of the adoption proceeding for disclosure of the original birth record pursuant to section 259.61. The court shall grant the petition if, after consideration of the interests of all known persons involved, the court determines that disclosure of the information would be of greater benefit than nondisclosure.

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 record 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: *1Sp2001 c 9 art 15 s 32*