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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 1740

03/01/2021 Authored by Hanson, J.,
The bill was read for the first time and referred to the Committee on Human Services Finance and Policy

1.1 A bill for an act
1.2 relating to adoption proceedings; amending provisions related to recognition of
1.3 parentage, the putative father registry, and consents to adoption; amending
1.4 Minnesota Statutes 2020, sections 257.75, subdivision 2, by adding a subdivision;
1.5 259.21, subdivisions 8, 12, by adding a subdivision; 259.24, subdivision 6a, by
1.6 adding subdivisions; 259.52, subdivisions 7, 8, 10.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2020, section 257.75, subdivision 2, is amended to read:

1.9 Subd. 2. **Revocation of recognition.** A recognition may be revoked in a writing signed
1.10 by the mother or father before a notary public and filed with the state registrar of vital
1.11 records within the earlier of 60 days after the recognition is executed or the date of an
1.12 administrative or judicial hearing relating to the child in which the revoking party is a party
1.13 to the related action. For purposes of this section, an "administrative or judicial hearing"
1.14 means a hearing where the revoking party has been served with a notice of the hearing and
1.15 had an opportunity to be heard at such hearing. A joinder in a recognition may be revoked
1.16 in a writing signed by the man who executed the joinder and filed with the state registrar
1.17 of vital records within 60 days after the joinder is executed. Upon receipt of a revocation
1.18 of the recognition of parentage or joinder in a recognition, the state registrar of vital records
1.19 shall forward a copy of the revocation to the nonrevoking parent, or, in the case of a joinder
1.20 in a recognition, to the mother and father who executed the recognition.

2.1 Sec. 2. Minnesota Statutes 2020, section 257.75, is amended by adding a subdivision to
2.2 read:

2.3 Subd. 2a. **Void recognition.** A recognition of parentage executed more than 30 days
2.4 after the child's birth is void if the child has been placed for adoption.

2.5 Sec. 3. Minnesota Statutes 2020, section 259.21, is amended by adding a subdivision to
2.6 read:

2.7 Subd. 2b. **Adoption proceedings.** "Adoption proceedings" means:

2.8 (1) a placement by a birth parent under section 259.47, a legal guardian, or agency to a
2.9 prospective adoptive home made before a petition for adoption is filed; or

2.10 (2) judicial proceedings subsequent to the filing of a petition to adopt.

2.11 Sec. 4. Minnesota Statutes 2020, section 259.21, subdivision 8, is amended to read:

2.12 Subd. 8. **Placement.** "Placement" means the transfer of physical custody of a child from
2.13 a birth parent pursuant to a preadoptive custody order, agency, or legal guardian to a
2.14 prospective adoptive home parent.

2.15 Sec. 5. Minnesota Statutes 2020, section 259.21, subdivision 12, is amended to read:

2.16 Subd. 12. **Putative father.** "Putative father" means a man who may be a child's father,
2.17 but who:

2.18 (1) is not married to the child's mother on or before the date that the child was or is to
2.19 be born; and

2.20 (2) has not established paternity of the child according to section 257.57 in a court
2.21 proceeding before the filing of a petition for the adoption within 30 days of the birth of the
2.22 child.

2.23 "Putative father" includes a male who is less than 18 years old.

2.24 Sec. 6. Minnesota Statutes 2020, section 259.24, is amended by adding a subdivision to
2.25 read:

2.26 Subd. 5a. **Consent executed in response to father's adoption registry notices.** A
2.27 consent to adoption signed by a putative father, on the form generated by the Office of the
2.28 State Court Administrator pursuant to section 259.52, subdivision 11, is valid and binding

3.1 for purposes of the adoption of the child regardless of whether execution is before or after
3.2 the child's birth.

3.3 Sec. 7. Minnesota Statutes 2020, section 259.24, subdivision 6a, is amended to read:

3.4 Subd. 6a. **Withdrawal of consent.** A parent's consent to adoption under this chapter
3.5 may be withdrawn for any reason within ten working days after the consent is executed and
3.6 acknowledged. No later than the tenth working day after the consent is executed and
3.7 acknowledged, written notification of withdrawal of consent must be received by: (1) the
3.8 agency to which the child was surrendered; (2) the agency supervising the adoptive placement
3.9 of the child; or (3) in the case of adoption by the stepparent or any adoption not involving
3.10 agency placement or supervision, by the district court where the adopting stepparent or
3.11 parent resides. ~~On the day following~~ After 5 p.m. on the tenth working day after execution
3.12 and acknowledgment, the consent shall become irrevocable, except upon order of a court
3.13 of competent jurisdiction after written findings that consent was obtained by fraud. The
3.14 proceedings shall be conducted to preserve the confidentiality of the adoption process. There
3.15 shall be no presumption in the proceedings favoring the birth parents over the adoptive
3.16 parents.

3.17 Sec. 8. Minnesota Statutes 2020, section 259.24, is amended by adding a subdivision to
3.18 read:

3.19 Subd. 9. **Rights of parents and guardians upon irrevocable consent.** If the consent
3.20 of a child's parent or guardian is deemed irrevocable, the parent or guardian remains a party
3.21 to any proceeding brought by another party, other than the adoptive parents, to establish an
3.22 interest in the child. There shall be no presumption in any proceedings against a parent or
3.23 guardian whose consent is irrevocable.

3.24 Sec. 9. Minnesota Statutes 2020, section 259.52, subdivision 7, is amended to read:

3.25 Subd. 7. **When and how to register.** A putative father may register with the Department
3.26 of Health before the birth of the child but must register no later than 30 days after the birth
3.27 of the child. Registrations must be ~~in writing~~ notarized and signed by the putative father.
3.28 A registration is timely if the date the registration is postmarked or the date it was delivered
3.29 by means other than mail to the address specified on the registration form is not later than
3.30 30 days after the birth of the child.

4.1 Sec. 10. Minnesota Statutes 2020, section 259.52, subdivision 8, is amended to read:

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

4.6 (1) is barred thereafter from bringing or maintaining an action to assert any interest in
 4.7 the child ~~during the pending adoption proceeding concerning the child~~ if the child has been
 4.8 placed by an agency or by a birth parent under section 259.47;

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

4.12 (3) is considered to have abandoned the child.

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

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

4.18 (i) it was not possible for him to register within the period of time specified in subdivision
 4.19 7;

4.20 (ii) his failure to register was through no fault of his own; and

4.21 (iii) he registered within ten days after it became possible for him to file.

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

4.24 Sec. 11. Minnesota Statutes 2020, section 259.52, subdivision 10, is amended to read:

4.25 Subd. 10. **Response to notice to registered putative father; limitation of rights for**
 4.26 **failure to respond and upon filing of denial of paternity.** (a) Within 30 days of receipt
 4.27 of the notice to registered putative father, the intent to claim parental rights form, the denial
 4.28 of paternity form, and the consent to adoption form, the putative father must file a completed
 4.29 intent to claim parental rights form with the court administrator in the county in which the
 4.30 adoption petition will be filed as provided by the petitioner, stating that he intends to ~~initiate~~
 4.31 commence a paternity action within 30 days of receipt of the notice to registered putative
 4.32 father in order to preserve the right to maintain an interest in the child and receive notice

5.1 during the pending adoption proceeding. Failure to ~~initiate~~ commence a paternity action
5.2 within 30 days of receipt of the notice to registered putative father does not act as a bar to
5.3 receiving notice under section 259.49. If good cause is shown, the putative father must be
5.4 allowed more time to ~~initiate~~ commence the paternity action. A putative father who files a
5.5 completed denial of paternity form and consent to adoption form or who fails to timely file
5.6 an intent to claim parental rights form with the court:

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

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

5.12 (3) is considered to have abandoned the child.

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

5.15 (b) A putative father who timely commences a paternity action must demonstrate that
5.16 he promptly came forward and demonstrated a full commitment to parental responsibilities
5.17 as the biological mother allowed and circumstances permitted shortly after he learned or
5.18 reasonably should have learned that the biological mother was pregnant with his child. If
5.19 the court determines that the putative father failed to make such a showing, the court shall
5.20 find that the putative father abandoned the child and the adoption may be finalized without
5.21 the putative father's consent or further notice to him.