

Legal Definitions of Father for Child Welfare

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Parents under *Minnesota Statutes § 260C.007, Subd. 25 (2011)*

(a) "Parent" means a person who has a legal parent and child relationship with a child which confers or imposes on the person legal rights, privileges, duties, and obligations consistent with sections 257.51 to 257.74 or 257.75. It includes the mother and child relationship and the father and child relationship. For matters governed by the Indian Child Welfare Act, parent includes any Indian person who has adopted a child by tribal law or custom, as provided in section 260.755, subdivision 14, and does not include the unwed father where paternity has not been acknowledged or established.

(b) A legally recognized parent and child relationship is established for purposes of this chapter between ... [a child and a father when]:

Fathers

Chapter 260C definition	Chapter 257 cross-reference from 260C definition	Plain English Definition of Father under Chapter 260C
(i) there is a presumption of paternity under section 257.55, subdivision 1, paragraph (a), (b), or (c), and no action has been taken to declare the nonexistence of the father and child relationship;	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	<i>Presumed father</i> Unless a court case is brought to declare the father isn't the father, a man is presumed to be the father when: (a) He is married to the mother of the child at or near the time the child was conceived or born;

Chapter 260C definition	Chapter 257 cross-reference from 260C definition	Plain English Definition of Father under Chapter 260C
	<p>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;</p> <p>(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:</p> <p>(1) if the attempted</p>	<p>(b) He and the child's mother attempted to marry prior to the child's birth, but the marriage is or could be invalid;</p>

Chapter 260C definition	Chapter 257 cross-reference from 260C definition	Plain English Definition of Father under Chapter 260C
	<p>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</p> <p>(2) if the attempted marriage is invalid without a court order, the child is born within 280 days after the termination of cohabitation;</p> <p>(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:</p>	<p>(c) He and the child's mother attempted to marry after the child's birth and one of the following is also true:</p>

Chapter 260C definition	Chapter 257 cross-reference from 260C definition	Plain English Definition of Father under Chapter 260C
	<p>(1) he has acknowledged his paternity of the child in writing filed with the state registrar of vital statistics;</p> <p>(2) with his consent, he is named as the child's father on the child's birth record; or</p> <p>(3) he is obligated to support the child under a written voluntary promise or by court order;</p>	<p>(1) He signed a written paper saying he was father and the paper is filed with vital statistics;</p> <p>(2) He is named on the child's birth record (birth certificate);</p> <p>(3) He promised, in writing, to pay child support or a court ordered him to pay child support.</p>
<p>(ii) there is a presumption of paternity under section 257.55, subdivision 1, paragraph (d), and there is an adjudication of paternity under sections 257.51 to 257.74, or the father and mother have signed a recognition of parentage having the effect of an adjudication under section</p>	<p>(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;</p>	<p style="text-align: center;"><i>Adjudicated father</i></p> <p>(d) He and the child live together as father and child and he says he is the child's father</p> <p><u>and:</u></p> <p>(1) there is a paternity adjudication; or</p> <p>(2) he and the child's mother have signed a "recognition of parentage" which has the effect of adjudication of paternity¹</p>

¹ "Recognition of parentage" has the same effect as a court order adjudicating paternity when it is signed, notarized and filed with the state registrar of vital statistics except: (1) when mother is married to another man; one or both of the signers are under age 18; OR (2) mother has signed a recognition of parental with another man.

Chapter 260C definition	Chapter 257 cross-reference from 260C definition	Plain English Definition of Father under Chapter 260C
257.75;		
<p>(iii) there is a presumption of paternity under section 257.55, subdivision 1, paragraph (e), (f), (g), or (h), and there is an adjudication of paternity under sections 257.51 to 257.74;</p>	<p>(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;</p> <p>(f) he and the child's biological mother have executed a recognition of parentage in accordance with section 257.75 and another man is presumed</p>	<p><i>Adjudicated father: other circumstances</i></p> <p><i>Declaration of Parentage Father – only for older youth</i></p> <p>(e) There is a signed declaration of parentage on file with the state registrar of vital statistics. This is for children born prior to August 1, 1995; father must also be adjudicated;</p> <p>(f) There is a signed and filed recognition of parentage and there is another presumed father (<i>example</i>: mother is married to one man – who is the presumed father of the child and she and another man sign and file a recognition of parentage); there are two presumed fathers –</p> <p>(1) one of them must be adjudicated; or</p>

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	<p>to be the father under this subdivision;</p> <p>(g) 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</p> <p>(h) 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.</p>	<p>(2) the recognition of parentage vacated or revoked.</p> <p>(g) There are two recognitions of parentage signed for the same child; there are two presumed fathers; there are two presumed fathers –</p> <ol style="list-style-type: none"> (1) one of them must be adjudicated; or (2) the recognition of parentage vacated or revoked. <p>(h) One or both of the parents who signed the recognition of parentage is under age 18; this recognition of parentage has the effect of adjudication upon the last signatory becoming age 18 unless there is a competing presumption.</p>
<p>(iv) there is no presumption of paternity under section 257.55, but the father has been adjudicated by court order under sections 257.51 to</p>		<p><i>Father adjudicated by court order</i></p> <p>There is a final court order establishing the father as father of the child.</p>

Chapter 260C definition	Chapter 257 cross-reference from 260C definition	Plain English Definition of Father under Chapter 260C
257.74;		
(v) there is no presumption of paternity under section 257.55, but the father and mother have signed a recognition of parentage having the effect of adjudication under section 257.75;		<p style="text-align: center;"><i>Recognition of parentage having effect of adjudication</i></p> <p>A recognition of parentage has the effect of adjudication when both parents, who are adults, sign and have notarized a recognition of parentage form which is filed with the state registrar of vital statistics and there are no competing presumptions.</p>
(vi) there is a positive test result under section 257.62, subdivision 5, and the father is adjudicated as the father of the child either by court order under sections 257.51 to 257.74, or because the father and the child's mother have signed a recognition of parentage having the effect of adjudication		<p style="text-align: center;"><i>Genetic test</i></p> <p>There is a positive genetic test and:</p> <ol style="list-style-type: none"> (1) a signed recognition of parentage having the effect of adjudication or (2) there is a court ordered adjudication

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under section 257.75; or		
(vii) the parent and child relationship is established under section 260.755, subdivision 14;	260.755, Subd. 14. 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.	Indian Child Welfare Act or Minnesota Indian Family Preservation Act Father means the biological parent of an Indian child or an Indian person who has adopted an Indian child. Parent does not include an unmarried father whose paternity has not been acknowledged or established.
[There is proof of adoption.]		Father may prove he is father by proving his adoption of the child.

Fathers Adoption Registry definition of putative father.

Minn. Stat. 259.21 Subd. 12. Putative father.

"Putative father" means a man who may be a child's father, but who:

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

(2) has not established paternity of the child according to section 257.57 in a court proceeding before the filing of a petition for the adoption of the child.

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