CHAPTER 16--S.F.No. 667

An act relating to children; making changes to the Minnesota Indian Family Preservation Act; amending Minnesota Statutes 2022, sections 260.753; 260.755, subdivisions 1a, 3, 20, 22, by adding subdivisions; 260.761; 260.7611; 260.762; 260.765, subdivisions 1, 2, 3, 4, by adding subdivisions; 260.771; 260.781; 260.785, subdivision 2; 260.791; 260.795, subdivision 1; 260.805; 260.821, subdivision 2; 260.835, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 260; repealing Minnesota Statutes 2022, section 260.755, subdivision 17.

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

Section 1. **[260.752] APPLICABILITY.**

Unless otherwise stated, sections 260.751 to 260.835 and the federal Indian Child Welfare Act are applicable without exception in any child placement proceeding involving an Indian child where custody is granted to someone other than a parent or an Indian custodian. Nothing in sections 260.751 to 260.835 is intended to apply to custody actions between parents or between a parent and Indian custodian.

Sec. 2. Minnesota Statutes 2022, section 260.753, is amended to read:

260.753 PURPOSES.

The purposes of ~~Laws 2015, chapter 78,~~ the Minnesota Indian Family Preservation Act are to (1) protect the long-term interests, as defined by the Tribes, of Indian children, their families as defined by law or custom, and the child's Tribe; and (2) preserve the Indian family and Tribal identity, including an understanding that Indian children are damaged if family and child Tribal identity and contact are denied. Indian children are the future of the Tribes and are vital to their very existence.

Sec. 3. **[260.754] POLICY ON TRIBAL-STATE RELATIONS.**

(a) The state of Minnesota acknowledges federally recognized Indian Tribes as sovereign political entities that predate the existence of the United States and that have retained inherent sovereign authority to pass their own laws, maintain their own systems of governance, and determine their own jurisdiction. The sovereign authority of Tribes may only be limited by the federal government and not by any action of the state, including the state legislature and state courts.

(b) Inherently, as members of Indian Tribes recognized by the federal government, Indian people have rights and privileges as members of their Tribe which the state of Minnesota recognizes and protects.

(c) Indian people have a right to be protected from being disfranchised or deprived of any of the rights and privileges secured to any citizen in the state and to have the recognition and protection of the rights and privileges flowing from their membership in an Indian Tribe by any state action.

(d) The state of Minnesota recognizes all federally recognized Indian Tribes as having the inherent authority to determine their own jurisdiction for any and all Indian child custody or child placement proceedings regardless of whether the Tribe's members are on or off the reservation and regardless of the procedural posture of the proceeding.

(e) The state of Minnesota has long recognized the importance of Indian children to their Tribes not only as members of Tribal families and communities, but also as the Tribe's greatest resource as future members and leaders of the Tribe. The vitality of Indian children in the state of Minnesota is essential to the health and welfare of both the state and the Tribes and is essential to the future welfare and continued existence of the child's Tribe.

(f) The state of Minnesota recognizes that the historical deprivation of rights of Indian people and Indian Tribes has led to disparate out-of-home placement of Indian children.

Sec. 4. Minnesota Statutes 2022, section 260.755, subdivision 1a, is amended to read:

Subd. 1a. **Active efforts.** "Active efforts" means a rigorous and concerted level of effort that is ongoing throughout the involvement of the ~~local social services~~ child-placing agency to continuously involve the Indian child's Tribe and that uses the prevailing social and cultural values, conditions, and way of life of the Indian child's Tribe to preserve the Indian child's family and prevent placement of an Indian child and, if placement occurs, to return the Indian child to the child's family at the earliest possible time. Active efforts ~~sets~~ under section 260.762 requires a higher standard than reasonable efforts to preserve the family, prevent breakup of the family, and reunify the family~~, according to section 260.762~~. Active efforts ~~includes~~ include reasonable efforts as required by Title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 679c.

Sec. 5. Minnesota Statutes 2022, section 260.755, subdivision 3, is amended to read:

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

~~(a)~~ (1) "adoptive placement," ~~means~~ meaning the permanent placement of an Indian child for adoption, including an action resulting in a final decree of adoption~~.~~;

~~(b)~~ (2) "involuntary foster care placement," ~~means~~ meaning an action removing an Indian child from ~~its~~ the child's 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 Indian child returned upon demand, but parental rights have not been terminated~~.~~;

~~(c)~~ (3) "preadoptive placement," ~~means~~ meaning 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~~.~~; or

~~(d)~~ (4) "termination of parental rights," ~~means~~ meaning an action resulting in the termination of the parent-child relationship under section 260C.301.

(b) The ~~terms include~~ term child placement proceeding includes all placements where Indian children are placed out-of-home or away from the care, custody, and control of their parent or parents or Indian custodian that do not implicate custody between the parents. Child placement proceeding also includes any placement based upon juvenile status offenses, but ~~do~~ does 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.

Sec. 6. Minnesota Statutes 2022, section 260.755, is amended by adding a subdivision to read:

Subd. 3a. **Child-placing agency.** "Child-placing agency" means a public, private, or nonprofit legal entity: (1) providing assistance to a child and the child's parent or parents; or (2) placing a child in foster care or for adoption on a voluntary or involuntary basis.

Sec. 7. Minnesota Statutes 2022, section 260.755, is amended by adding a subdivision to read:

Subd. 3b. **Child placement.** "Child placement" means placement of an Indian child on a voluntary or involuntary basis in foster care, preadoptive placement, or adoption by a child-placing agency, parent, parents, Indian custodian, or individual.

Sec. 8. Minnesota Statutes 2022, section 260.755, is amended by adding a subdivision to read:

Subd. 4a. **Custody.** "Custody" means the physical or legal custody, or both, of an Indian child under any applicable Tribal law, Tribal custom, or state law. A party may demonstrate the existence of custody by looking to Tribal law, Tribal custom, or state law.

Sec. 9. Minnesota Statutes 2022, section 260.755, is amended by adding a subdivision to read:

Subd. 5a. **Emergency proceeding.** "Emergency proceeding" means and includes any court action that involves an emergency removal or emergency placement of an Indian child.

Sec. 10. Minnesota Statutes 2022, section 260.755, is amended by adding a subdivision to read:

Subd. 5b. **Extended family member.** "Extended family member" is as defined by the law or custom of the Indian child's Tribe or, in the absence of any law or custom of the Tribe, is a person who has reached the age of 18 and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent.

Sec. 11. Minnesota Statutes 2022, section 260.755, is amended by adding a subdivision to read:

Subd. 6a. **Imminent physical damage or harm.** "Imminent physical damage or harm" means that a child is threatened with immediate and present conditions that are life threatening or likely to result in abandonment, sexual abuse, or serious physical injury.

Sec. 12. Minnesota Statutes 2022, section 260.755, is amended by adding a subdivision to read:

Subd. 16a. **Public act.** "Public act" means an act of legislation by a political body affecting the public as a whole.

Sec. 13. Minnesota Statutes 2022, section 260.755, subdivision 20, is amended to read:

Subd. 20. **Tribal court.** "Tribal court" means a court with jurisdiction over child custody proceedings and which is either a court of Indian offenses, or a court established and operated under the code or custom of an Indian Tribe, or any other administrative body of a Tribe which is vested with authority over child custody proceedings. ~~Except as provided in section 260.771, subdivision 5, nothing in this chapter shall be construed as conferring jurisdiction on an Indian Tribe.~~

Sec. 14. Minnesota Statutes 2022, section 260.755, subdivision 22, is amended to read:

Subd. 22. **Voluntary foster care placement.** "Voluntary foster care placement" means a decision in which there has been participation by a ~~local social services~~ child-placing 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.

Sec. 15. **[260.758] EMERGENCY REMOVAL OR PLACEMENT OF INDIAN CHILD; TERMINATION; APPROPRIATE ACTION.**

Subdivision 1. **Emergency removal or placement permitted.** Nothing in sections 260.751 to 260.835 shall be construed to prevent the emergency removal of an Indian child from the Indian child's parent or Indian custodian, including an Indian child who is a resident of or is domiciled on a reservation but temporarily located off the reservation, or the emergency placement of the Indian child in a foster home or institution under sections 260.751 to 260.835, in order to prevent imminent physical damage or harm to the Indian child.

Subd. 2. **Temporary emergency jurisdiction of state courts.** (a) The child-placing agency or court shall ensure that the emergency removal or placement terminates immediately when removal or placement is no longer necessary to prevent imminent physical damage or harm to the Indian child. The child-placing agency or court shall expeditiously initiate a child placement proceeding subject to the provisions of sections 260. 751 to 260.835, transfer the child to the jurisdiction of the appropriate Indian Tribe, or return the Indian child to the Indian child's parent or Indian custodian as may be appropriate.

(b) If the Indian child is a resident of or is domiciled on a reservation but temporarily located off the reservation, a court of this state has only temporary emergency jurisdiction until the Indian child is transferred to the jurisdiction of the appropriate Indian Tribe unless the Indian child's Tribe has expressly declined to exercise its jurisdiction, or the Indian child is returned to the Indian child's parent or Indian custodian.

Subd. 3. **Petition for emergency removal; placement requirements.** A petition for a court order authorizing the emergency removal or continued emergency placement of an Indian child, or the petition's accompanying documents, must contain a statement of the risk of imminent physical damage or harm to the Indian child and any evidence that the emergency removal or placement continues to be necessary to prevent imminent physical damage or harm to the Indian child. The petition or its accompanying documents must also contain the following information:

(1) the name, age, and last known address of the Indian child;

(2) the name and address of the Indian child's parents and Indian custodians, if any;

(3) the steps taken to provide notice to the Indian child's parents, Indian custodians, and Tribe about the emergency proceeding;

(4) if the Indian child's parents and Indian custodians are unknown, a detailed explanation of what efforts have been made to locate and contact them;

(5) the residence and domicile of the Indian child;

(6) if either the residence or domicile of the Indian child is believed to be on a reservation or in an Alaska Native village, the name of the Tribe affiliated with that reservation or village;

(7) the Tribal affiliation of the Indian child and of the Indian child's parents or Indian custodians;

(8) a specific and detailed account of the circumstances that led the agency responsible for the emergency removal of the Indian child to take that action;

(9) if the child is believed to reside or be domiciled on a reservation where the Tribe exercises exclusive jurisdiction over Indian child custody matters, a statement of the efforts that have been made and are being made to contact the Tribe and transfer the Indian child to the Tribe's jurisdiction; and

(10) a statement of the efforts that have been taken to assist the Indian child's parents or Indian custodians so that the Indian child may safely be returned to their custody.

Subd. 4. **Emergency proceeding requirements.** (a) The court shall hold a hearing no later than 72 hours, excluding weekends and holidays, after the emergency removal of the Indian child. The court shall determine whether the emergency removal continues to be necessary to prevent imminent physical damage or harm to the Indian child.

(b) The court shall hold additional hearings whenever new information indicates that the emergency situation has ended and at any court hearing during the emergency proceeding to determine whether the emergency removal or placement is no longer necessary to prevent imminent physical damage or harm to the Indian child.

Subd. 5. **Termination of emergency removal or placement.** (a) An emergency removal or placement of an Indian child must immediately terminate once the child-placing agency or court possesses sufficient evidence to determine that the emergency removal or placement is no longer necessary to prevent imminent physical damage or harm to the Indian child and the Indian child shall be immediately returned to the custody of the Indian child's parent or Indian custodian.

(b) An emergency removal or placement ends when the Indian child is transferred to the jurisdiction of the Indian child's Tribe, or when the court orders, after service upon the Indian child's parents, Indian custodian, and Indian child's Tribe, that the Indian child shall be placed in foster care upon a determination supported by clear and convincing evidence, including testimony by a qualified expert witness, that custody of the Indian child by the Indian child's parent or Indian custodian is likely to result in serious emotional or physical damage to the Indian child.

(c) In no instance shall emergency removal or emergency placement of an Indian child extend beyond 30 days unless the court finds by a showing of clear and convincing evidence that: (1) continued emergency removal or placement is necessary to prevent imminent physical damage or harm to the Indian child; (2) the court has been unable to transfer the proceeding to the jurisdiction of the Indian child's Tribal court; and (3) it has not been possible to initiate a child placement proceeding with all of the protections under sections 260.751 to 260.835, including obtaining the testimony of a qualified expert witness.

Sec. 16. Minnesota Statutes 2022, section 260.761, is amended to read:

260.761 ~~SOCIAL SERVICES AGENCY AND PRIVATE LICENSED CHILD-PLACING AGENCY~~ INQUIRY OF TRIBAL LINEAGE; NOTICE TO TRIBES, PARENTS, AND INDIAN CUSTODIANS; ACCESS TO FILES.

Subdivision 1. **Inquiry of Tribal lineage.** The ~~local social services agency or private licensed~~ child-placing agency or individual petitioner shall inquire of the child, the child's parents and custodians, and other appropriate persons whether there is any reason to believe that a child brought to the agency's attention may have lineage to an Indian Tribe. This inquiry shall occur at the time the child comes to the

attention of the ~~local social services~~ child-placing agency or individual petitioner and shall continue throughout the involvement of the child-placing agency or individual petitioner.

Subd. 2. ~~**Agency and court notice to Tribes**~~ **Notice to Tribes of services or court proceedings involving an Indian child.** (a) When a ~~local social services~~ child-placing agency has information that a family assessment or investigation being conducted may involve an Indian child, the ~~local social services~~ child-placing agency shall notify the Indian child's Tribe of the family assessment or investigation according to section 260E.18. Initial notice shall be provided by telephone and by email or facsimile and shall include the child's full name and date of birth; the full names and dates of birth of the child's biological parents; and if known the full names and dates of birth of the child's grandparents and of the child's Indian custodian. If information regarding the child's grandparents or Indian custodian is not immediately available, the child-placing agency shall continue to request this information and shall notify the Tribe when it is received. Notice shall be provided to all Tribes to which the child may have any Tribal lineage. The ~~local social services~~ child-placing agency shall request that the Tribe or a designated Tribal representative participate in evaluating the family circumstances, identifying family and Tribal community resources, and developing case plans. The child-placing agency shall continue to include the Tribe in service planning and updates as to the progress of the case.

(b) When a ~~local social services~~ child-placing agency has information that a child receiving services may be an Indian child, the ~~local social services~~ child-placing agency shall notify the Tribe by telephone and by email or facsimile of the child's full name and date of birth, the full names and dates of birth of the child's biological parents, and, if known, the full names and dates of birth of the child's grandparents and of the child's Indian custodian. This notification must be provided so the Tribe can determine if the child is ~~enrolled in the Tribe~~ a member or eligible for membership in the Tribe, and must be provided within seven days. If information regarding the child's grandparents or Indian custodian is not available within the seven-day period, the ~~local social services~~ child-placing agency shall continue to request this information and shall notify the Tribe when it is received. Notice shall be provided to all Tribes to which the child may have any Tribal lineage. ~~If the identity or location of the child's parent or Indian custodian and Tribe cannot be determined, the local social services agency shall provide the notice required in this paragraph to the United States secretary of the interior.~~

(c) ~~In accordance with sections 260C.151 and 260C.152~~ In all child placement proceedings, when a court has reason to believe that a child placed in emergency protective care is an Indian child, the court administrator or a designee shall, as soon as possible and before a hearing takes place, notify the Tribal social services agency by telephone and by email or facsimile of the date, time, and location of the emergency protective ~~ease~~ care or other initial hearing. The court shall make efforts to allow appearances by telephone or video conference for Tribal representatives, parents, and Indian custodians.

(d) The child-placing agency or individual petitioner shall effect service of any petition governed by sections 260.751 to 260.835 by certified mail or registered mail, return receipt requested upon the Indian child's parents, Indian custodian, and Indian child's Tribe at least 10 days before the admit-deny hearing is held. If the identity or location of the Indian child's parents or Indian custodian and Tribe cannot be determined, the child-placing agency shall provide the notice required in this paragraph to the United States Secretary of the Interior, Bureau of Indian Affairs by certified mail, return receipt requested.

(e) A Tribe, the Indian child's parents, or the Indian custodian may request up to 20 additional days to prepare for the admit-deny hearing. The court shall allow appearances by telephone, video conference, or other electronic medium for Tribal representatives, the Indian child's parents, or the Indian custodian.

~~(d)~~ (f) A ~~local social services~~ child-placing agency or individual petitioner must provide the notices required under this subdivision at the earliest possible time to facilitate involvement of the Indian child's Tribe. Nothing in this subdivision is intended to hinder the ability of the ~~local social services~~ child-placing agency, individual petitioner, and the court to respond to an emergency situation. Lack of participation by a Tribe shall not prevent the Tribe from intervening in services and proceedings at a later date. A Tribe may participate at any time. At any stage of the ~~local social services~~ child-placing agency's involvement with an Indian child, the agency shall provide full cooperation to the Tribal social services agency, including disclosure of all data concerning the Indian child. Nothing in this subdivision relieves the ~~local social services~~ child-placing agency of satisfying the notice requirements in ~~the Indian Child Welfare Act~~ state or federal law.

Subd. 3. **Notice of potential preadoptive or adoptive placement.** In any ~~voluntary~~ adoptive or preadoptive placement proceeding ~~in which a local social services agency, private child-placing agency, petitioner in the adoption, or any other~~, including voluntary proceedings, where any party or participant 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 260.755, subdivision 8, and United States Code, title 25, section 1903(4), the child-placing agency or ~~person~~ individual petitioner shall notify the Indian child's ~~Tribal social services agency~~ Tribe by registered mail or certified mail with return receipt requested of the pending proceeding and of the right of intervention under subdivision 6. 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~~ 20 days after receipt of the notice by the Tribe or the secretary. Upon request, the Tribe must be granted up to 20 additional days to prepare for the proceeding. The child-placing agency or ~~notifying party~~ individual petitioner 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 services agency, including child placement services, and shall additionally provide the birth parents of the Indian child with all information sent from the Tribal social services agency in response to the notice.

Subd. 4. **Unknown father.** If the ~~local social services agency, private~~ child-placing agency, individual petitioner, the court, ~~petitioner,~~ or any ~~other~~ party has reason to believe that a child who is the subject of ~~an adoptive~~ a child 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 child-placing agency or ~~person~~ individual petitioner 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. 5. **Proof of service of notice upon Tribe or secretary.** In cases where ~~an~~ a child-placing 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. 6. **Indian Tribe's right of intervention.** In any ~~state court~~ child placement proceeding ~~for the voluntary adoptive or preadoptive placement of an Indian child~~ under sections 260.751 to 260.835, the Indian child's Tribe shall have a right to intervene at any point in the proceeding.

Subd. 6a. **Indian Tribe's access to files.** At any stage of the child-placing agency's involvement with an Indian child, the child-placing agency shall, upon request, give the Tribal social services agency full

cooperation including access to all files concerning the Indian child. If the files contain confidential or private data, the child-placing agency may require execution of an agreement with the Tribal social services agency to maintain the data according to statutory provisions applicable to the data.

~~Subd. 7. **Identification of extended family members.** Any agency considering placement of an Indian child shall make active efforts to identify and locate extended family members.~~

Sec. 17. Minnesota Statutes 2022, section 260.7611, is amended to read:

260.7611 COUNTY AND TRIBAL AGREEMENTS; MALTREATMENT ASSESSMENTS AND INVESTIGATIONS OF INDIAN CHILDREN.

A Tribe and a county may enter a written agreement transferring responsibility for the screening and initial response to a child maltreatment report regarding an Indian child residing in the county where the child's reservation is located, from the county to the Tribe. An agreement under this ~~subdivision~~ section shall include a provision clarifying whether the county or the Tribe is responsible for ongoing case management stemming from a child maltreatment report.

Sec. 18. Minnesota Statutes 2022, section 260.762, is amended to read:

260.762 DUTY TO PREVENT OUT-OF-HOME PLACEMENT AND PROMOTE FAMILY REUNIFICATION; ACTIVE EFFORTS.

Subdivision 1. **Active efforts.** Active efforts includes acknowledging traditional helping and healing systems of an Indian child's Tribe and using these systems as the core to help and heal the Indian child and family. Active efforts are not required to prevent voluntary out-of-home placement and to effect voluntary permanency for the Indian child.

Subd. 2. **Requirements for ~~local social services~~ child-placing agencies and individual petitioners.** A ~~local social services~~ child-placing agency or individual petitioner shall:

(1) work with the Indian child's Tribe and family to develop an alternative plan to out-of-home placement;

(2) before making a decision that may affect an Indian child's safety and well-being or when contemplating out-of-home placement of an Indian child, seek guidance from the Indian child's Tribe on family structure, how the family can seek help, what family and Tribal resources are available, and what barriers the family faces at that time that could threaten its preservation; and

(3) request participation of the Indian child's Tribe at the earliest possible time and request the Tribe's active participation throughout the case.

Subd. 3. **Required findings that active efforts were provided.** (a) Any party seeking to affect a termination of parental rights, other permanency action, or a placement where custody of an Indian child may be temporarily or permanently transferred to a person or entity who is not the Indian child's parent or Indian custodian, and where the Indian child's parent or Indian custodian cannot have the Indian child returned to their care upon demand, must satisfy the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful.

(b) A court shall not order an out-of-home or permanency placement for an Indian child unless the court finds that the ~~local social services~~ child-placing agency made active efforts to, as required by section 260.012 and this section, provide remedial services and rehabilitative programs designed to prevent the breakup of

the Indian child's family, and that these efforts have proved unsuccessful. To the extent possible, active efforts must be provided in a manner consistent with the prevailing social and cultural conditions of the Indian child's Tribe and in partnership with the Indian child, Indian parents, extended family, and Tribe.

(c) Regardless of whether the Indian child's Tribe has intervened in the proceedings, the court, in determining whether the ~~local social services~~ child-placing agency made active efforts to preserve the Indian child's family for purposes of out-of-home placement and permanency, ~~the court~~ shall ensure the provision of active efforts designed to correct the conditions that led to the out-of-home placement of the Indian child and shall make findings regarding whether the following activities were appropriate and necessary, and whether the ~~local social services~~ child-placing agency made appropriate and meaningful services, whether listed in this paragraph or not, available to the family based upon that family's specific needs:

(1) whether the ~~local social services~~ child-placing agency made efforts at the earliest point possible to (i) identify whether a child may be an Indian child as defined in ~~the Indian Child Welfare Act, United States Code, title 25, section 1903, and~~ section 260.755, subdivision 8; and (ii) identify and request participation of the Indian child's Tribe at the earliest point possible and throughout the investigation or assessment, case planning, provision of services, and case completion;

(2) whether the ~~local social services~~ child-placing agency requested that a Tribally designated representative with substantial knowledge of prevailing social and cultural standards and child-rearing practices within the Tribal community evaluate the circumstances of the Indian child's family ~~and~~, provided the Tribally designated representative with all information available regarding the case, and requested that the Tribally designated representative assist in developing a case plan that uses Tribal and Indian community resources;

(3) whether the ~~local social services~~ child-placing agency provided concrete services and access to both Tribal and non-Tribal services to members of the Indian child's family, including but not limited to financial assistance, food, housing, health care, transportation, in-home services, community support services, and specialized services; and whether these services are being provided in an ongoing manner throughout the agency's involvement with the family, to directly assist the family in accessing and utilizing services to maintain the Indian family, or reunify the Indian family as soon as safety can be assured if out-of-home placement has occurred;

(4) whether the child-placing agency made early and ongoing efforts to identify, locate, and include extended family members;

~~(4)~~ (5) whether the ~~local social services~~ child-placing agency notified and consulted with the Indian child's extended family members, as identified by the child, the child's parents, or the Tribe; whether extended family members were consulted to provide support to the child and parents, to inform the ~~local social services~~ child-placing agency and court as to cultural connections and family structure, to assist in identifying appropriate cultural services and supports for the child and parents, and to identify and serve as a placement and permanency resource for the child; and if there was difficulty contacting or engaging with extended family members, whether assistance was sought from the Tribe, the Department of Human Services, or other agencies with expertise in working with Indian families;

~~(5)~~ (6) whether the ~~local social services~~ child-placing agency provided services and resources to relatives who are considered the primary placement option for an Indian child, as agreed by the ~~local social services~~ child-placing agency and the Tribe, to overcome barriers to providing care to an Indian child. Services and resources shall include but are not limited to child care assistance, financial assistance, housing resources, emergency resources, and foster care licensing assistance and resources; and

~~(6)~~ (7) whether the ~~local social services~~ child-placing agency arranged for visitation to occur, whenever possible, in the home of the Indian child's parent, Indian custodian, or other family member or in another noninstitutional setting, in order to keep the child in close contact with parents, siblings, and other relatives regardless of the child's age and to allow the child and those with whom the child visits to have natural, unsupervised interaction when consistent with protecting the child's safety; and whether the ~~local social services~~ child-placing agency consulted with a Tribal representative to determine and arrange for visitation in the most natural setting that ensures the child's safety, when the child's safety requires supervised visitation.

Sec. 19. Minnesota Statutes 2022, section 260.765, subdivision 1, is amended to read:

Subdivision 1. **Determination of Indian child's tribe.** The ~~local social services 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~~ follow the notice provisions in section 260.761.

Sec. 20. Minnesota Statutes 2022, section 260.765, is amended by adding a subdivision to read:

Subd. 1b. **Access to files.** At any subsequent stage of a child-placing agency's involvement with an Indian child, the child-placing agency shall, upon request, give the Tribal social services agency full cooperation including access to all files concerning the child. If the files contain confidential or private data, the child-placing agency or individual may require execution of an agreement with the Tribal social services agency that the Tribal social services agency shall maintain the data according to statutory provisions applicable to the data.

Sec. 21. Minnesota Statutes 2022, section 260.765, subdivision 2, is amended to read:

Subd. 2. **Notice.** When an Indian child is voluntarily placed in foster care, the ~~local social services~~ child-placing agency involved in the decision to place the child shall give notice of the placement to the child's parent, parents, Indian custodian, and the Tribal social services 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 services 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 services 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 services agency that the Tribal social services agency shall maintain the data according to statutory provisions applicable to the data.~~

Sec. 22. Minnesota Statutes 2022, section 260.765, subdivision 3, is amended to read:

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

Sec. 23. Minnesota Statutes 2022, section 260.765, is amended by adding a subdivision to read:

Subd. 3a. **Court requirements for consent.** Where any parent or Indian custodian voluntarily consents to a foster care placement or to termination of parental rights, the consent shall not be valid unless executed in writing and recorded before a judge and accompanied by the presiding judge's finding that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The court shall also find that either the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language the parent or Indian custodian understood. Any consent given prior to, or within ten days after, the birth of an Indian child shall not be valid.

Sec. 24. Minnesota Statutes 2022, section 260.765, subdivision 4, is amended to read:

Subd. 4. **Withdrawal of consent to voluntary placement; return of child in voluntary placement.** Any parent or Indian custodian may withdraw consent to a child placement at any time and, upon the withdrawal of consent, the child shall be returned to the parent or the Indian custodian. Upon demand by the parent or Indian custodian of an Indian child, the ~~local social services agency or private licensed~~ child-placing agency that placed the child 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 260.755, subdivision 5, the ~~local social services agency or private~~ child-placing agency shall immediately inform the parent or Indian custodian of the Indian child of the requirement.

Sec. 25. Minnesota Statutes 2022, section 260.765, is amended by adding a subdivision to read:

Subd. 4a. **Withdrawal of consent to voluntary termination of parental rights or adoptive placement; return of custody.** In any voluntary proceeding for termination of parental rights to, or adoptive placement of, an Indian child, the consent of the parent may be withdrawn for any reason at any time prior to the entry of a final decree of termination or adoption, as the case may be, and the child shall be returned to the parent.

Sec. 26. Minnesota Statutes 2022, section 260.765, is amended by adding a subdivision to read:

Subd. 4b. **Collateral attack; vacation of decree and return of custody; limitations.** After the entry of a final decree of adoption of an Indian child in any state court, the parent may withdraw consent upon the grounds that consent was obtained through fraud or duress and may petition the court to vacate the decree. Upon a finding that consent was obtained through fraud or duress, the court shall vacate the decree and return the child to the parent. No adoption that has been effective for at least two years may be invalidated under the provisions of this subdivision unless otherwise permitted under a provision of state law.

Sec. 27. Minnesota Statutes 2022, section 260.771, is amended to read:

260.771 INVOLUNTARY CHILD PLACEMENT PROCEEDINGS.

Subdivision 1. **Indian Tribe jurisdiction.** (a) An Indian Tribe has exclusive jurisdiction over ~~a~~ all child placement ~~proceeding~~ proceedings involving an Indian child who resides or is domiciled within the reservation of the Tribe, except where jurisdiction is otherwise vested in the state by existing federal law. ~~When~~

(b) Where an Indian child is a ward of the Tribal court, the Indian Tribe retains exclusive jurisdiction, notwithstanding the residence or domicile of the child unless the Tribe agrees to allow concurrent jurisdiction with the state.

(c) An Indian Tribe and the state of Minnesota share concurrent jurisdiction over a child placement proceeding involving an Indian child who resides or is domiciled outside of the reservation of the Tribe.

Subd. 1a. **Active efforts.** In any child placement proceeding, the child-placing agency or individual petitioner shall ensure that appropriate active efforts as described in section 260.762 are provided to the Indian child's parent or parents, Indian custodian, and family to support reunification and preservation of the child's placement with and relationship to the Indian child's family.

Subd. 1b. **Placement preference.** In any child placement proceeding, the child-placing agency or individual petitioner shall follow the placement preferences described in subdivision 7 or, where preferred placement is not available even with the provisions of active efforts, shall follow subdivision 7, paragraphs (k) to (p).

Subd. 1c. **Identification of extended family members.** Any child-placing agency or individual petitioner considering placement of an Indian child shall make active efforts to identify and locate siblings and extended family members and to explore placement with an extended family member and facilitate continued involvement in the Indian child's life.

Subd. 1d. **Notice of hearings.** The notice provisions in section 260.761 apply to all involuntary child placement proceedings under this section. An Indian child ten years of age and older, the Indian child's parent or parents, the Indian custodian, and the Indian child's Tribe shall have notice of the right to participate in all hearings regarding the Indian 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. ~~This chapter~~ Sections 260.751 to 260.835 and the federal Indian Child Welfare Act are applicable without exception in any child ~~custody~~ placement proceeding~~, as defined in the federal act,~~ involving an Indian child. ~~This chapter applies~~ Sections 260.751 to 260.835 apply to child ~~custody~~ placement proceedings involving an Indian child whether the child is in the physical or legal custody of an Indian parent or parents, Indian custodian, Indian extended family member, or other person at the commencement of the proceedings. A court shall not determine the applicability of ~~this chapter~~ sections 260.751 to 260.835 or the federal Indian Child Welfare Act to a child ~~custody~~ placement proceeding based upon whether an Indian child is part of an existing Indian family or based upon the level of contact a child has with the child's Indian Tribe, reservation, society, or off-reservation community.

Subd. 2a. **Right of intervention.** In any state court child placement proceeding of an Indian child, the Indian child's Tribe, parent or parents, and Indian custodian shall have the right to intervene at any point in the proceeding.

Subd. 2b. **Appointment of counsel.** (a) In any state court child placement proceeding, the parent or parents or Indian custodian shall have the right to be represented by an attorney. If the parent or parents or Indian custodian cannot afford an attorney and meet the requirements of section 611.17, an attorney will be appointed to represent them.

(b) In any state court child placement proceeding, any child ten years of age or older shall have the right to court-appointed counsel.

Subd. 2c. **Examination of reports or other documents.** Each party to a proceeding under this section involving an Indian child shall have the right to examine all the reports or other documents filed with the court upon which any decision with respect to the action may be based.

Subd. 2d. **Tribal access to files and other documents.** At any subsequent stage of the child-placing agency involvement with an Indian child, the child-placing agency or individual shall, upon request, give the Tribal social services agency full cooperation including access to all files concerning the Indian child. If the files contain confidential or private data, the child-placing agency or individual may require execution of an agreement with the Tribal social services agency specifying that the Tribal social services agency shall maintain the data according to statutory provisions applicable to the data.

Subd. 3. **Transfer of proceedings.** ~~(a)~~ In ~~a~~ any child placement proceeding ~~for: (1) the termination of parental rights; or (2) the 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~~ to transfer may be filed by the Indian child's parent, the Indian custodian, or the Indian child's Tribe. The transfer is subject to declination by the Tribal court of the Tribe.

~~(b) In a proceeding for the preadoptive or adoptive 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. The transfer is subject to declination by the Tribal court of the Tribe. For the purposes of this subdivision, "preadoptive placement" and "adoptive placement" have the meanings give in section 260.755, subdivision 3.~~

~~(c) At any point in a proceeding for finalizing a permanency plan, the court, in the absence of good cause to the contrary and in the absence of an objection by either parent, shall transfer the proceeding to Tribal court for the purpose of achieving a customary adoption or other culturally appropriate permanency option. This transfer shall be made upon the petition of a parent whose parental rights have not been terminated, the Indian custodian, or the Indian child's Tribe. The transfer is subject to declination by the Tribal court of the Tribe.~~

Subd. 3a. **Good cause to deny transfer.** (a) Establishing good cause to deny transfer of jurisdiction to a Tribal court is a fact-specific inquiry to be determined on a case-by-case basis. Socioeconomic conditions and the perceived adequacy of Tribal or Bureau of Indian Affairs social services or judicial systems must not be considered in a determination that good cause exists. The party opposed to transfer of jurisdiction to a Tribal court has the burden to prove by clear and convincing evidence that good cause to deny transfer exists. Opposition to a motion to transfer jurisdiction to Tribal court must be in writing and must be served upon all parties.

(b) The court may find good cause to deny transfer to Tribal court if:

(1) the Indian child's Tribe does not have a Tribal court or any other administrative body of a Tribe vested with authority over child ~~custody~~ placement proceedings, as defined ~~by the Indian Child Welfare Act, United States Code, title 25, chapter 21~~ in section 260.755, subdivision 3, to which the case can be transferred, and no other Tribal court has been designated by the Indian child's Tribe; or

(2) the evidence necessary to decide the case could not be adequately presented in the Tribal court without undue hardship to the parties or the witnesses and the Tribal court is unable to mitigate the hardship by any means permitted in the Tribal court's rules. Without evidence of undue hardship, travel distance alone is not a basis for denying a transfer.

Subd. 4. **Effect of Tribal court placement orders.** ~~To the extent that any child subject to sections 260.755 to 260.835 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.~~ (a) The court shall give full faith and credit to Tribal court placement orders. In any case where the Tribal court orders placement

~~through a local social services agency, the court shall provide to~~ and services, including but not limited to case planning services, full faith and credit of the Tribal court's order shall be provided so long as the ~~local agency~~ county of financial responsibility was provided notice and an opportunity to be heard regarding the ~~placement~~ expenses. Determination of county of financial responsibility for the placement shall be determined by the ~~local social services~~ child-placing 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.

(b) The court shall give full faith and credit to the public acts, records, and judicial proceedings of any Indian Tribe in all proceedings under sections 260.755 to 260.835. The courts shall give deference to the Tribe's interpretation of the Tribe's own unique system of laws. If further interpretation of a Tribe's laws or order is required, the court shall transfer the proceedings to the jurisdiction of the Tribal court for interpretation of the Tribal court's order.

Subd. 5. **Indian Tribe agreements.** The commissioner or the child-placing agency 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~~ placement 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.

Subd. 6. **Qualified expert witness and evidentiary requirements.** (a) In an involuntary foster care placement proceeding, the court must determine by clear and convincing evidence, including testimony of a qualified expert witness, that continued custody of the child by the parent or Indian custodian is likely to result in serious emotional damage or serious physical damage to the child ~~as defined in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1912(e)~~.

In a termination of parental rights proceeding, the court must determine by evidence beyond a reasonable doubt, including testimony of a qualified expert witness, that continued custody of the child by the parent or Indian custodian is likely to result in serious emotional damage or serious physical damage to the child ~~as defined in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1912(f)~~.

In an involuntary permanent transfer of legal and physical custody proceeding, permanent custody to the agency proceeding, temporary custody to the agency, or other permanency proceeding, the court must determine by clear and convincing evidence, including testimony of a qualified expert witness, that the continued custody of the Indian child by the Indian child's parent or parents or Indian custodian is likely to result in serious emotional damage or serious physical damage to the child. Qualified expert witness testimony is not required where custody is transferred to the Indian child's parent.

Testimony of a qualified expert witness shall be provided for involuntary foster care placement and permanency proceedings independently.

(b) The ~~local social services~~ child-placing agency, individual petitioner, or any other party shall make diligent efforts to locate and present to the court a qualified expert witness designated by the Indian child's Tribe. The qualifications of a qualified expert witness designated by the Indian child's Tribe are not subject to a challenge in Indian child ~~custody~~ placement proceedings.

(c) If a party cannot obtain testimony from a Tribally designated qualified expert witness, the party shall submit to the court the diligent efforts made to obtain a Tribally designated qualified expert witness.

(d) If clear and convincing evidence establishes that a party's diligent efforts cannot produce testimony from a Tribally designated qualified expert witness, the party shall demonstrate to the court that a proposed qualified expert witness is, in descending order of preference:

(1) a member of the child's Tribe who is recognized by the Indian child's Tribal community as knowledgeable in Tribal customs as they pertain to family organization and child-rearing practices; or

(2) an Indian person from an Indian community who has substantial experience in the delivery of child and family services to Indians and extensive knowledge of prevailing social and cultural standards and contemporary and traditional child-rearing practices of the Indian child's Tribe.

If clear and convincing evidence establishes that diligent efforts have been made to obtain a qualified expert witness who meets the criteria in clause (1) or (2), but those efforts have not been successful, a party may use an expert witness, as defined by the Minnesota Rules of Evidence, rule 702, who has substantial experience in providing services to Indian families and who has substantial knowledge of prevailing social and cultural standards and child-rearing practices within the Indian community. The court or any party may request the assistance of the Indian child's Tribe or the Bureau of Indian Affairs agency serving the Indian child's Tribe in locating persons qualified to serve as expert witnesses.

(e) The court may allow alternative methods of participation and testimony in state court proceedings by a qualified expert witness, such as participation or testimony by telephone, videoconferencing, or other methods.

Subd. 7. **Order of placement preference; deviation.** (a) ~~The court must follow the order of placement preferences required by the Indian Child Welfare Act of 1978, United States Code, title 25, section 1915, when placing an Indian child.~~ In all proceedings where custody of the Indian child may be removed from the parent, the Indian child shall be placed in the least restrictive setting which most approximates a family and in which the Indian child's special needs, if any, may be met. The Indian child shall also be placed within reasonable proximity to the Indian child's home, taking into account any special needs of the Indian child.

(b) In the case of a placement under paragraph (c) or (d), if the Indian child's Tribe has established a different order of placement preference by resolution, the child-placing agency and the court shall recognize the Indian child's Tribe's order of placement in the form provided by the Tribe.

(c) Preference shall be given, in the absence of good cause to the contrary, to a placement with:

(1) a noncustodial parent or Indian custodian;

(2) a member of the child's extended family;

(3) a foster home licensed, approved, or specified by the Indian child's Tribe;

(4) an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or

(5) an institution for children approved by an Indian Tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.

(d) In any adoptive placement, transfer of custody placement, or other permanency placement of an Indian child, a preference shall be given, in the absence of good cause to the contrary, to a placement with:

(1) the Indian child's noncustodial parent or Indian custodian;

(2) a member of the child's extended family;

(3) other members of the Indian child's Tribe; or

(4) other persons or entities recognized as appropriate to be a permanency resource for the Indian child, by the Indian child's parent or parents, Indian custodian, or Indian Tribe.

(e) The county shall defer to the judgment of the Indian child's Tribe as to the suitability of a placement.

(f) The court shall consider the preference of the Indian child or parent.

(g) The standards to be applied in meeting the preference requirements of this subdivision shall be the prevailing social and cultural standards of the Indian community in which the parent or extended family resides or with which the parent or extended family members maintain social and cultural ties.

(h) Whenever an Indian child is removed from a foster care home or institution for the purpose of further foster care, preadoptive, or adoptive placement, the placement shall be in accordance with the placement preferences, except in the case where an Indian child is being returned to the parent or Indian custodian from whose custody the Indian child was originally removed.

(i) A record of each such placement of an Indian child under state law shall be maintained by the county in which the placement was made and by the Department of Human Services evidencing the efforts to comply with the order of preference specified in this section. The record shall be made available at any time upon the request of the Secretary of the Interior or the Indian child's Tribe.

~~(b)~~ (j) The court ~~may place a child outside the order of~~ shall follow the placement preferences ~~only if the court determines there is good cause based on~~ in paragraphs (a) to (i), except as follows:

(1) where a parent evidences a desire for anonymity, the child-placing agency and the court shall give weight to the parent's desire for anonymity in applying the preferences. A parent's desire for anonymity does not excuse the application of sections 260.751 to 260.835; or

(2) where the court determines there is good cause based on:

~~(1)~~ (i) the reasonable request of the Indian child's parents, if one or both parents attest that they have reviewed the placement options that comply with the order of placement preferences;

~~(2)~~ (ii) the reasonable request of the Indian child if the child is able to understand and comprehend the decision that is being made;

~~(3)~~ (iii) the testimony of a qualified expert designated by the child's Tribe and, if necessary, testimony from an expert witness who meets qualifications of subdivision 6, paragraph (d), clause (2), that supports placement outside the order of placement preferences due to extraordinary physical or emotional needs of the child that require highly specialized services; or

~~(4)~~ (iv) the testimony by the ~~local social services~~ child-placing agency that a diligent search has been conducted that did not locate any available, suitable families for the child that meet the placement preference criteria.

~~(c)~~ (k) Testimony of the child's bonding or attachment to a foster family alone, without the existence of at least one of the factors in paragraph ~~(b)~~ (j), clause (2), shall not be considered good cause to keep an Indian child in a lower preference or nonpreference placement. Ease of visitation and facilitation of relationship with the Indian child's parents, Indian custodian, extended family, or Tribe may be considered when determining placement.

~~(d)~~ (l) A party who proposes that the required order of placement preferences not be followed bears the burden of establishing by clear and convincing evidence that good cause exists to modify the order of placement preferences.

~~(e)~~ (m) If the court finds there is good cause to place the Indian child outside the order of placement preferences, the court must make written findings.

~~(f)~~ (n) A good cause finding under this subdivision must consider whether active efforts were provided to extended family members who are considered the primary placement option to assist them in becoming a placement option for the Indian child as required by section 260.762.

~~(g)~~ (o) When ~~a~~ an Indian child is placed outside the order of placement preferences, good cause to continue this placement must be determined at every stage of the proceedings.

Subd. 8. **Guardians ad litem for Indian children.** Guardians ad litem shall be specifically trained in the provision of services to Indian children, parent or parents, and Indian custodians under relevant federal and state laws and rules of court pursuant to section 480.35, subdivision 2, clause (3).

Sec. 28. **[260.774] IMPROPER REMOVAL OF CHILD, DECLINATION OF JURISDICTION, INVALIDATION, RETURN OF CUSTODY.**

Subdivision 1. **Improper removal.** In any proceeding where custody of the Indian child was improperly removed from the parent or parents or where the petitioner has improperly retained custody after a visit or other temporary relinquishment of custody, the court shall decline jurisdiction over the petition and shall immediately return the Indian child to the Indian child's parent or parents or Indian custodian unless returning the Indian child to the Indian child's parent or parents or Indian custodian would subject the Indian child to a substantial and immediate danger or threat of such danger.

Subd. 2. **Invalidation.** (a) Any order for out-of-home placement, transfer of custody, termination of parental rights, or other permanent change in custody of an Indian child shall be invalidated upon a showing, by a preponderance of the evidence, that a violation of any one of the provisions in section 260.761, 260.7611, 260.762, 260.765, or 260.771 has occurred.

(b) The Indian child, the Indian child's parent or parents, guardian, Indian custodian, or Indian Tribe may file a petition to invalidate under this subdivision.

(c) Upon a finding that a violation of one of the provisions in section 260.761, 260.7611, 260.762, 260.765, or 260.771 has occurred, the court shall:

(1) dismiss the petition without prejudice; and

(2) return the Indian child to the care, custody, and control of the parent or parents or Indian custodian, unless the Indian child would be subjected to imminent damage or harm.

Subd. 3. **Return of custody following adoption.** (a) Whenever a final decree of adoption of an Indian child has been vacated, set aside, or there is a termination of the parental rights of the adoptive parents to the child, a biological parent or prior Indian custodian may petition for return of custody and the court shall grant the petition unless there is a showing, in proceedings subject to the provision of sections 260.751 to 260.835, that the return of custody is not in the best interests of the Indian child.

(b) The county attorney, Indian child, Indian child's Tribe, or a parent whose parental rights were terminated under a previous order of the court may file a petition for the return of custody.

(c) A petition for return of custody may be filed in court when:

(1) the parent or Indian custodian has corrected the conditions that led to an order terminating parental rights;

(2) the parent or Indian custodian is willing and has the capability to provide day-to-day care and maintain the health, safety, and welfare of the Indian child; and

(3) the adoption has been vacated, set aside, or termination of the parental rights of the adoptive parents to the Indian child has occurred.

(d) A petition for reestablishment of the legal parent and child relationship for a child who has not been adopted must meet the requirements in section 260C.329.

Sec. 29. **[260.7745] COUNTY AND TRIBAL AGREEMENTS; MALTREATMENT ASSESSMENTS AND INVESTIGATIONS OF INDIAN CHILDREN.**

A Tribe and a county may enter a written agreement transferring responsibility for the screening and initial response to a child maltreatment report regarding an Indian child residing in the county where the child's reservation is located, from the county to the Tribe. An agreement under this section shall include a provision clarifying whether the county or the Tribe is responsible for ongoing case management stemming from a child maltreatment report.

Sec. 30. Minnesota Statutes 2022, section 260.781, is amended to read:

260.781 RECORDS; INFORMATION AVAILABILITY.

Subdivision 1. **Court decree information.** (a) 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 services 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 services agency. The court shall include the affidavit with the other information provided to the Minnesota Department of Human Services and the Secretary of the Interior. The Minnesota Department of Human Services shall and the Secretary of the Interior is requested to ensure that the confidentiality of the information is maintained and the information shall not be subject to the Freedom of Information Act, United States Code, title 5, section 552, as amended.

(b) For:

(1) disclosure of information for enrollment of an Indian child in the Tribe;

(2) determination of member rights or benefits; or

(3) certification of entitlement to membership upon the request of the adopted Indian child over the age of eighteen, the adoptive or foster parents of an Indian child, or an Indian Tribe,

the Secretary of the Interior is requested to disclose any other necessary information for the membership of an Indian child in the Tribe in which the Indian child may be eligible for membership or for determining

any rights or benefits associated with that membership. Where the documents relating to the Indian child contain an affidavit from the biological parent or parents requesting anonymity, the Secretary of the Interior is requested to certify to the Indian child's Tribe, where the information warrants, that the Indian child's parentage and other circumstances of birth entitle the Indian child to membership under the criteria established by the Tribe.

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 services 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)~~ subdivision 1.

Subd. 3. **Tribal affiliation information.** Upon application by an Indian individual who has reached the age of 18 and who was the subject of an adoptive placement, the court that entered the final decree shall inform the individual of the Tribal affiliation, if any, of the individual's biological parents and provide any other necessary information to protect any rights flowing from the individual's Tribal relationship.

Sec. 31. Minnesota Statutes 2022, section 260.785, subdivision 2, is amended to read:

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

Sec. 32. Minnesota Statutes 2022, section 260.791, is amended to read:

260.791 GRANT APPLICATIONS.

A Tribe, Indian organization, or Tribal social services agency program located off-reservation may apply for primary support grants under section 260.785, subdivision 1. A ~~local social services~~ child-placing agency, Tribe, Indian organization, or other social service organization may apply for special focus grants under section 260.785, subdivision 2. Civil legal service organizations eligible for grants under section 260.785, subdivision 3, may apply for grants under that section. Application may be made alone or in combination with other Tribes or Indian organizations.

Sec. 33. Minnesota Statutes 2022, section 260.795, subdivision 1, is amended to read:

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 services agencies regarding the Indian Child Welfare Act and the Minnesota Indian Family Preservation Act;

(9) advocacy in working with the county and private social services 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 services~~ child-placing 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.

Sec. 34. Minnesota Statutes 2022, section 260.805, is amended to read:

260.805 CONTINUED LEGAL RESPONSIBILITY OF ~~LOCAL SOCIAL SERVICES~~ CHILD-PLACING AGENCIES.

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

Sec. 35. Minnesota Statutes 2022, section 260.821, subdivision 2, is amended to read:

Subd. 2. **Special focus grants.** The amount available for grants established under section 260.785, subdivision 2, for ~~local social services~~ child-placing 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.

Sec. 36. Minnesota Statutes 2022, section 260.835, subdivision 2, is amended to read:

Subd. 2. **Expiration.** ~~The American Indian Child Welfare Advisory Council expires June 30, 2023.~~ This section does not expire.

Sec. 37. **[260.836] SEVERABILITY.**

If any provision in sections 260.751 to 260.835 is held invalid or contrary to the Constitution of the United States or the Minnesota Constitution or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of the provisions in sections 260.751 to 260.835 and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby.

Sec. 38. **REVISOR INSTRUCTION.**

(a) The revisor shall renumber each section of Minnesota Statutes in Column A with the number in Column B.

Column A	Column B
260.7611	260.7745
260.765, subdivision 5	260.765, subdivision 1a
260.771, subdivision 1	260.763, subdivision 1
260.771, subdivision 4, paragraph (a)	260.763, subdivision 2
260.771, subdivision 4, paragraph (b)	260.763, subdivision 2a
260.771, subdivision 5	260.763, subdivision 3
260.771, subdivision 3	260.763, subdivision 4
260.771, subdivision 3a	260.763, subdivision 5
260.771, subdivision 7	260.773

(b) Section 260.763 shall be titled "JURISDICTION AND TRANSFER TO TRIBAL COURT."

(c) Section 260.773 shall be titled "PLACEMENT OF INDIAN CHILDREN." The revisor shall renumber the paragraphs in 260.771, subdivision 7, into subdivisions under section 260.773.

(d) The revisor shall make necessary cross-reference changes consistent with the renumbering in this section.

Sec. 39. **REPEALER.**

Minnesota Statutes 2022, section 260.755, subdivision 17, is repealed.

Presented to the governor March 16, 2023