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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. **4838**

03/11/2024 Authored by Becker-Finn
The bill was read for the first time and referred to the Committee on Judiciary Finance and Civil Law
04/18/2024 Adoption of Report: Amended and re-referred to the Committee on Children and Families Finance and Policy
Pursuant to Joint Rule 2.03, re-referred to the Committee on Rules and Legislative Administration

1.1 A bill for an act

1.2 relating to children; making changes to the Minnesota Indian Family Preservation

1.3 Act; making conforming statutory changes; requiring a study of child placement

1.4 and permanency; requiring a report; appropriating money; amending Minnesota

1.5 Statutes 2022, sections 259.20, subdivision 2; 260.755, subdivisions 2a, 5, 14, 17a,

1.6 by adding subdivisions; 260.775; 260.785, subdivisions 1, 3; 260.810, subdivision

1.7 3; 260C.007, subdivision 26b; 260C.178, subdivision 1, as amended; 260C.505;

1.8 260D.01; Minnesota Statutes 2023 Supplement, sections 260.755, subdivisions

1.9 1a, 3, 3a, 5b, 20, 22; 260.758, subdivisions 2, 4, 5; 260.761; 260.762; 260.763,

1.10 subdivisions 1, 4, 5; 260.765, subdivisions 2, 3a, 4b; 260.771, subdivisions 1a, 1b,

1.11 1c, 2b, 2d, 6, by adding a subdivision; 260.773, subdivisions 1, 2, 3, 4, 5, 10, 11;

1.12 260.774, subdivisions 1, 2, 3; 260.781, subdivision 1; 260.786, subdivision 2;

1.13 260.795, subdivision 1; proposing coding for new law in Minnesota Statutes,

1.14 chapters 259; 260D; 260E; 524; repealing Minnesota Statutes 2022, section

1.15 260.755, subdivision 13.

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

1.17 **ARTICLE 1**

1.18 **MINNESOTA INDIAN FAMILY PRESERVATION ACT PROVISIONS**

1.19 Section 1. Minnesota Statutes 2023 Supplement, section 260.755, subdivision 1a, is

1.20 amended to read:

1.21 Subd. 1a. **Active efforts.** (a) "Active efforts" means a rigorous and concerted level of

1.22 effort to preserve the Indian child's family that is ongoing throughout the involvement of

1.23 the child-placing agency to continuously involve the Indian child's Tribe and that uses the

1.24 or the petitioner with the Indian child. Active efforts require the engagement of the Indian

1.25 child, the Indian child's parents, the Indian custodian, the extended family, and the Tribe in

1.26 using the prevailing social and cultural values, conditions, and way of life of the Indian

1.27 child's Tribe to: (1) preserve the Indian child's family and; (2) prevent placement of an

2.1 Indian child ~~and~~; (3) if placement occurs, to return the Indian child to the Indian child's
2.2 family at the earliest possible time; and (4) where a permanent change in parental rights or
2.3 custody are necessary, ensure the Indian child retains meaningful connections to the Indian
2.4 child's family, extended family, and Tribe.

2.5 (b) Active efforts under section for all Indian child placements includes this section and
2.6 sections 260.012 and 260.762 and require a higher standard than reasonable efforts as defined
2.7 in section 260.012 to preserve the family, prevent breakup of the family, and reunify the
2.8 family. Active efforts include reasonable efforts as required by Title IV-E of the Social
2.9 Security Act, United States Code, title 42, sections 670 to 679e are required for all Indian
2.10 child placement proceedings and for all voluntary Indian child placements that involve a
2.11 child-placing agency regardless of whether the reasonable efforts would have been relieved
2.12 under section 260.012.

2.13 Sec. 2. Minnesota Statutes 2022, section 260.755, subdivision 2a, is amended to read:

2.14 Subd. 2a. **Best interests of an Indian child.** "Best interests of an Indian child" means
2.15 compliance with the federal Indian Child Welfare Act and the Minnesota Indian Family
2.16 Preservation Act to preserve and maintain an Indian child's family. The best interests of an
2.17 Indian child support the Indian child's sense of belonging to family, extended family, and
2.18 Tribe. The best interests of an Indian child are interwoven with the best interests of the
2.19 Indian child's Tribe.

2.20 Sec. 3. Minnesota Statutes 2023 Supplement, section 260.755, subdivision 3, is amended
2.21 to read:

2.22 Subd. 3. **Child placement proceeding.** (a) "Child placement proceeding" includes a
2.23 judicial proceeding which could result in:

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

2.26 (2) "involuntary foster care placement," meaning an action removing an Indian child
2.27 from the child's parents or Indian custodian for temporary placement in a foster home,
2.28 institution, or the home of a guardian. The parent or Indian custodian cannot have the Indian
2.29 child returned upon demand, but parental rights have not been terminated;

2.30 (3) "preadoptive placement," meaning the temporary placement of an Indian child in a
2.31 foster home or institution after the termination of parental rights, before or instead of adoptive
2.32 placement; or

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

3.3 (b) The term child placement proceeding is a domestic relations proceeding that includes
3.4 all placements where Indian children are placed ~~out of home or~~ away from the care, custody,
3.5 and control of their parent or parents or Indian custodian that do not implicate custody
3.6 between the parents. Child placement proceeding also includes any placement based upon
3.7 juvenile status offenses; but does not include a placement based upon an act which if
3.8 committed by an adult would be deemed a crime, or upon an award of custody in a divorce
3.9 proceeding to one of the parents.

3.10 Sec. 4. Minnesota Statutes 2023 Supplement, section 260.755, subdivision 3a, is amended
3.11 to read:

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

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

3.17 Subd. 5. **Demand.** "Demand" means a written and notarized statement signed by a parent
3.18 or Indian custodian of ~~a~~ an Indian child which requests the return of the Indian child who
3.19 has been voluntarily placed in foster care.

3.20 Sec. 6. Minnesota Statutes 2023 Supplement, section 260.755, subdivision 5b, is amended
3.21 to read:

3.22 Subd. 5b. **Extended family member.** "Extended family member" is as defined by the
3.23 law or custom of the Indian child's Tribe or, in the absence of any law or custom of the
3.24 Tribe, is a person who has reached the age of 18 and who is the Indian child's grandparent,
3.25 aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or
3.26 second cousin, or stepparent. For the purposes of provision of active efforts and foster care
3.27 and permanency placement decisions, the legal parent, guardian, or custodian of the Indian
3.28 child's sibling is not an extended family member or relative of an Indian child unless they
3.29 are independently related to the Indian child or recognized by the Indian child's Tribe as an
3.30 extended family member.

4.1 Sec. 7. Minnesota Statutes 2022, section 260.755, subdivision 14, is amended to read:

4.2 Subd. 14. **Parent.** "Parent" means the biological parent of an Indian child; or any ~~Indian~~
4.3 person who has lawfully adopted an Indian child, including a person who has adopted ~~a~~ an
4.4 Indian child by Tribal law or custom. Parent includes a father as defined by Tribal law or
4.5 custom. Parent does not include an unmarried father whose paternity has not been
4.6 acknowledged or established. Paternity has been acknowledged when an unmarried father
4.7 takes any action to hold himself out as the biological father of an Indian child.

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

4.10 Subd. 15a. **Petitioner.** "Petitioner" means one or more individuals other than a parent
4.11 or Indian custodian who has filed a petition or motion seeking a grant of temporary or
4.12 permanent guardianship, custody, or adoption of an Indian child.

4.13 Sec. 9. Minnesota Statutes 2022, section 260.755, subdivision 17a, is amended to read:

4.14 Subd. 17a. **Qualified expert witness.** "Qualified expert witness" means an individual
4.15 who ~~(1) has specific knowledge of the Indian child's tribe's culture and customs, or~~ meets
4.16 the criteria in section 260.771, subdivision 6, paragraph (d), and ~~(2)~~ provides testimony as
4.17 required by the Indian Child Welfare Act of 1978, United States Code, title 25, section
4.18 1912, and the Minnesota Indian Family Preservation Act, regarding out-of-home placement
4.19 or termination of parental rights child placement or permanency proceedings relating to an
4.20 Indian child.

4.21 Sec. 10. Minnesota Statutes 2023 Supplement, section 260.755, subdivision 20, is amended
4.22 to read:

4.23 Subd. 20. **Tribal court.** "Tribal court" means a court with jurisdiction over child custody
4.24 proceedings and which is either a court of Indian offenses, ~~or~~ a court established and operated
4.25 under the code or custom of an Indian Tribe, or any other administrative body of a Tribe
4.26 which is vested with authority over child custody proceedings.

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

4.29 Subd. 20a. **Tribal representative.** "Tribal representative" means a representative
4.30 designated by and acting on behalf of a Tribe in connection with an Indian child placement
4.31 proceeding as defined in subdivision 3. It is not required that the designated representative

5.1 be an attorney to represent the Tribe in these matters. An individual appearing as a Tribal
5.2 representative on behalf of a Tribe and participating in a court proceeding under this chapter
5.3 is not engaged in the unauthorized practice of law.

5.4 Sec. 12. Minnesota Statutes 2023 Supplement, section 260.755, subdivision 22, is amended
5.5 to read:

5.6 Subd. 22. **Voluntary foster care placement.** "Voluntary foster care placement" means
5.7 a decision in which there has been participation by a child-placing agency resulting in the
5.8 temporary placement of an Indian child away from the home of the Indian child's parents
5.9 or Indian custodian in a foster home, institution, or the home of a guardian, and the parent
5.10 or Indian custodian may have the Indian child returned upon demand.

5.11 Sec. 13. Minnesota Statutes 2023 Supplement, section 260.758, subdivision 2, is amended
5.12 to read:

5.13 Subd. 2. **Temporary emergency jurisdiction of state courts.** (a) The child-placing
5.14 agency, petitioner, or court shall ensure that the emergency removal or placement terminates
5.15 immediately when removal or placement is no longer necessary to prevent imminent physical
5.16 damage or harm to the Indian child. The child-placing agency, petitioner, or court shall
5.17 expeditiously initiate a child placement proceeding subject to the provisions of sections
5.18 260.751 to 260.835, transfer the Indian child to the jurisdiction of the appropriate Indian
5.19 Tribe, or return the Indian child to the Indian child's parent or Indian custodian as may be
5.20 appropriate.

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

5.26 Sec. 14. Minnesota Statutes 2023 Supplement, section 260.758, subdivision 4, is amended
5.27 to read:

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

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

6.5 Sec. 15. Minnesota Statutes 2023 Supplement, section 260.758, subdivision 5, is amended
6.6 to read:

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

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

6.20 (c) In no instance shall emergency removal or emergency placement of an Indian child
6.21 extend beyond 30 days unless the court finds by a showing of clear and convincing evidence
6.22 that: (1) continued emergency removal or placement is necessary to prevent imminent
6.23 physical damage or harm to the Indian child; (2) the court has been unable to transfer the
6.24 proceeding to the jurisdiction of the Indian child's Tribal court; and (3) it has not been
6.25 possible to initiate a child placement proceeding with all of the protections under sections
6.26 260.751 to 260.835, including obtaining the testimony of a qualified expert witness.

6.27 Sec. 16. Minnesota Statutes 2023 Supplement, section 260.761, is amended to read:

6.28 **260.761 INQUIRY OF TRIBAL LINEAGE; NOTICE TO TRIBES, PARENTS,**
6.29 **AND INDIAN CUSTODIANS; ACCESS TO FILES.**

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

7.1 to the attention of the child-placing agency or ~~individual~~ petitioner and shall continue
7.2 throughout the involvement of the child-placing agency or ~~individual~~ petitioner.

7.3 (b) In any child placement proceeding, the court shall inquire of the child, the child's
7.4 parents, custodian, and any person participating in the proceedings whether the child has
7.5 any American Indian heritage or lineage to an Indian Tribe. The inquiry shall be made at
7.6 the commencement of the proceeding and all responses must be on the record. The court
7.7 must instruct the parties to inform the court if they subsequently receive information that
7.8 provides reason to believe the child is an Indian child.

7.9 (c) If there is reason to believe the child is an Indian child, but the court does not have
7.10 sufficient evidence to determine whether the child is an Indian child, the court shall:

7.11 (1) confirm with a report, declaration, or testimony in the record that the child-placing
7.12 agency or petitioner used due diligence to identify and work with all of the Tribes for which
7.13 there is reason to believe the child may be a member of or eligible for membership to verify
7.14 whether the child is an Indian child; and

7.15 (2) proceed with the case as if the child is an Indian child until it is determined on the
7.16 record that the child does not meet the definition of Indian child.

7.17 Subd. 2. **Notice to Tribes of services or court proceedings involving an Indian**
7.18 **child.** (a) When a child-placing agency or petitioner has information that a family assessment,
7.19 investigation, or noncaregiver sex trafficking assessment being conducted may involve an
7.20 Indian child, the child-placing agency or petitioner shall notify the Indian child's Tribe of
7.21 the family assessment, investigation, or noncaregiver sex trafficking assessment according
7.22 to section 260E.18. The child-placing agency or petitioner shall provide initial notice by
7.23 telephone and by email or facsimile and shall include the child's full name and date of birth;
7.24 the full names and dates of birth of the child's biological parents; and if known the full
7.25 names and dates of birth of the child's grandparents and of the child's Indian custodian. If
7.26 information regarding the child's grandparents or Indian custodian is not immediately
7.27 available, the child-placing agency or petitioner shall continue to request this information
7.28 and shall notify the Tribe when it is received. Notice shall be provided to all Tribes to which
7.29 the child may have any Tribal lineage. The child-placing agency or petitioner shall request
7.30 that the Tribe or a designated Tribal representative participate in evaluating the family
7.31 circumstances, identifying family and Tribal community resources, and developing case
7.32 plans. The child-placing agency or petitioner shall continue to include the Tribe in service
7.33 planning and updates as to the progress of the case.

8.1 (b) When a child-placing agency or petitioner has information that a child receiving
8.2 services may be an Indian child, the child-placing agency or petitioner shall notify the Tribe
8.3 by telephone and by email or facsimile of the child's full name and date of birth, the full
8.4 names and dates of birth of the child's biological parents, and, if known, the full names and
8.5 dates of birth of the child's grandparents and of the child's Indian custodian. This notification
8.6 must be provided for the Tribe to determine if the child is a member or eligible for Tribal
8.7 membership, and the child-placing agency or petitioner must provide this notification to
8.8 the Tribe within seven days of receiving information that the child may be an Indian child.
8.9 If information regarding the child's grandparents or Indian custodian is not available within
8.10 the seven-day period, the child-placing agency or petitioner shall continue to request this
8.11 information and shall notify the Tribe when it is received. Notice shall be provided to all
8.12 Tribes to which the child may have any Tribal lineage.

8.13 (c) In all child placement proceedings, when a court has reason to believe that a child
8.14 placed in emergency protective care is an Indian child, the court administrator or a designee
8.15 shall, as soon as possible and before a hearing takes place, notify the Tribal social services
8.16 agency by telephone and by email or facsimile of the date, time, and location of the
8.17 emergency protective care or other initial hearing. The court shall ~~make efforts to allow~~
8.18 ~~appearances by telephone or video conference for Tribal representatives, parents, and Indian~~
8.19 ~~custodians~~ allow appearances by telephone, video conference, or other electronic medium
8.20 for Tribal representatives, the Indian child's parents, or the Indian custodian.

8.21 (d) In all child placement proceedings, except for adoptive or preadoptive placement
8.22 proceedings, when a court has reason to believe the child is an Indian child, the child-placing
8.23 agency or ~~individual~~ petitioner shall ~~effect service of any petition governed by sections~~
8.24 ~~260.751 to 260.835~~ provide notice of the proceedings and a copy of any petition to the
8.25 Indian child's parents, Indian custodian, and the Indian child's Tribe and shall effect service
8.26 of any notice and petition governed by sections 260.751 to 260.835 upon the parent, Indian
8.27 custodian, and the Indian child's Tribe by certified mail or registered mail, return receipt
8.28 ~~requested upon the Indian child's parents, Indian custodian, and Indian child's Tribe at least~~
8.29 ~~10 days before the admit/deny hearing is held.~~ If the identity or location of the Indian child's
8.30 parents or Indian custodian ~~and~~ or Tribe cannot be determined, the child-placing agency or
8.31 petitioner shall provide the notice required in this paragraph to the United States Secretary
8.32 of the Interior, Bureau of Indian Affairs by certified or registered mail, return receipt
8.33 requested. Where service is only accomplished through the United States Secretary of the
8.34 Interior, Bureau of Indian Affairs, the initial hearing shall not be held until 20 days after
8.35 notice upon the Tribe or the Secretary of the Interior.

9.1 (e) Notice under this subdivision must be in clear and understandable language and
9.2 include the following:

9.3 (1) the child's name, date of birth, and birth place;

9.4 (2) all names known for the parents and Indian custodian, including maiden, married,
9.5 former names, and aliases, correctly spelled;

9.6 (3) the dates of birth, birth place, and Tribal enrollment numbers of the Indian child, the
9.7 Indian child's parents, and the Indian custodian, if known;

9.8 (4) the full names, dates of birth, birth places, and Tribal enrollment or affiliation
9.9 information of direct lineal ancestors of the child, other extended family members, and
9.10 custodians of the child, if known;

9.11 (5) the name of any and all Indian Tribes in which the child is or may be a member or
9.12 eligible for membership in; and

9.13 (6) statements setting out:

9.14 (i) the name of the petitioner and name and address of the petitioner's attorney;

9.15 (ii) the right of any parent or Indian custodian of the Indian child, to intervene in the
9.16 child placement proceedings, if not already a party;

9.17 (iii) the right of the Indian child's Tribe to intervene in the proceedings at any time;

9.18 (iv) the right of the Indian child, the Indian child's parent, and the Indian custodian to
9.19 court-appointed counsel if they meet the requirements in section 611.17;

9.20 (v) the right to be granted, upon request, up to 20 additional days to prepare for the
9.21 child-placement proceedings;

9.22 (vi) the right of the Indian child's parent, the Indian custodian, and the Indian child's
9.23 Tribe to petition the court for transfer of the proceedings to Tribal court;

9.24 (vii) the mailing addresses and telephone numbers of the court and information related
9.25 to all parental and custodial rights of the parent or Indian custodian; and

9.26 (viii) that all parties must maintain confidentiality of all information contained in the
9.27 notice and must not provide the information to anyone other than their attorney.

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

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

10.12 (h) The court shall allow appearances by telephone, video conference, or other electronic
10.13 means for Tribal representatives at all hearings and trials. The court shall allow appearances
10.14 by telephone, video conference, or other electronic means for the Indian child's parents or
10.15 Indian custodian for all hearings, except that the court may require an in-person appearance
10.16 for trials or other evidentiary or contested hearings.

10.17 Subd. 3. **Notice of potential preadoptive or adoptive placement.** In any adoptive or
10.18 preadoptive placement proceeding, including voluntary proceedings, where any party or
10.19 participant has reason to believe that a child who is the subject of an adoptive or preadoptive
10.20 placement proceeding is or may be an "Indian child," as defined in section 260.755,
10.21 subdivision 8, and United States Code, title 25, section 1903(4), the child-placing agency
10.22 or ~~individual~~ petitioner shall notify the Indian child's Tribe by registered mail or certified
10.23 mail with return receipt requested of the pending proceeding and of the right of intervention
10.24 under subdivision 6. If the identity or location of the Indian child's Tribe cannot be
10.25 determined, the notice must be given to the United States Secretary of Interior in like manner.
10.26 No preadoptive or adoptive placement proceeding may be held until at least 20 days after
10.27 receipt of the notice by the Tribe or the secretary. Upon request, the Tribe must be granted
10.28 up to 20 additional days to prepare for the proceeding. The child-placing agency or ~~individual~~
10.29 petitioner shall include in the notice the identity of the birth parents and Indian child absent
10.30 written objection by the birth parents. The child-placing agency or petitioner shall inform
10.31 the birth parents of the Indian child of any services available to the Indian child through the
10.32 child's Tribal social services agency, including child placement services, and shall
10.33 additionally provide the birth parents of the Indian child with all information sent from the
10.34 Tribal social services agency in response to the notice.

11.1 Subd. 4. **Unknown father.** If the child-placing agency, ~~individual~~ petitioner, the court,
11.2 or any party has reason to believe that a child who is the subject of a child placement
11.3 proceeding is or may be an Indian child but the father of the child is unknown and has not
11.4 registered with the fathers' adoption registry pursuant to section 259.52, the child-placing
11.5 agency or ~~individual~~ petitioner shall provide to the Tribe believed to be the Indian child's
11.6 Tribe information sufficient to enable the Tribe to determine the child's eligibility for
11.7 membership in the Tribe, including, but not limited to, the legal and maiden name of the
11.8 birth mother, her date of birth, the names and dates of birth of her parents and grandparents,
11.9 and, if available, information pertaining to the possible identity, Tribal affiliation, or location
11.10 of the birth father. If the identity or location of the Indian child's Tribe cannot be determined,
11.11 the notice must be given to the United States Secretary of Interior in like manner.

11.12 Subd. 5. **Proof of service of notice upon Tribe or secretary.** In cases where a
11.13 child-placing agency or party to an adoptive placement knows or has reason to believe that
11.14 a child is or may be an Indian child, proof of service upon the Indian child's Tribe or the
11.15 secretary of interior must be filed with the adoption petition.

11.16 Subd. 6. **Indian Tribe's right of intervention.** In any child placement proceeding under
11.17 sections 260.751 to 260.835, the Indian child's Tribe shall have a right to intervene at any
11.18 point in the proceeding.

11.19 Subd. 6a. **Indian Tribe's access to files.** At any stage of the child-placing ~~agency's~~
11.20 agency or petitioner's involvement with an Indian child, the child-placing agency or petitioner
11.21 shall, upon request, give the Tribal social services agency full cooperation including access
11.22 to all files concerning the Indian child. If the files contain confidential or private data, the
11.23 child-placing agency or petitioner may require execution of an agreement with the Tribal
11.24 social services agency to maintain the data according to statutory provisions applicable to
11.25 the data.

11.26 Sec. 17. Minnesota Statutes 2023 Supplement, section 260.762, is amended to read:

11.27 **260.762 DUTY TO PREVENT OUT-OF-HOME CHILD PLACEMENT,**
11.28 **PRESERVE THE CHILD'S FAMILY, AND PROMOTE FAMILY REUNIFICATION;**
11.29 **ACTIVE EFFORTS.**

11.30 Subdivision 1. **Active efforts.** Active efforts includes acknowledging traditional helping
11.31 and healing systems of an Indian child's Tribe and using these systems as the core to help
11.32 and heal the Indian child and family regardless of whether the Indian child's Tribe has
11.33 intervened in the proceedings. ~~Active efforts are not required to prevent voluntary~~
11.34 ~~out-of-home placement and to effect voluntary permanency for the Indian child.~~

12.1 ~~Subd. 2. Requirements for child-placing agencies and individual petitioners. A~~
 12.2 ~~child-placing agency or individual petitioner shall:~~

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

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

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

12.12 Subd. 2a. Required findings that active efforts were provided. (a) A court shall not
 12.13 order a child placement, termination of parental rights, guardianship to the commissioner
 12.14 of human services under section 260C.325, or temporary or permanent change in custody
 12.15 of an Indian child unless the court finds that the child-placing agency or petitioner
 12.16 demonstrated that active efforts were made to preserve the Indian child's family. Active
 12.17 efforts to preserve the Indian child's family include efforts to prevent placement of the Indian
 12.18 child to correct the conditions that led to the placement by ensuring remedial services and
 12.19 rehabilitative programs designed to prevent the breakup of the family were provided in a
 12.20 manner consistent with the prevailing social and cultural conditions of the Indian child's
 12.21 Tribe and in partnership with the Indian child, the Indian child's parents, the Indian custodian,
 12.22 extended family members, and Tribe, and that these efforts have proved unsuccessful.

12.23 (b) The court, in determining whether active efforts were made to preserve the Indian
 12.24 child's family for purposes of child placement or permanency, shall ensure the provision of
 12.25 active efforts designed to correct the conditions that led to the placement of the Indian child
 12.26 and shall make findings regarding whether the following activities were appropriate and
 12.27 necessary, and whether the child-placing agency or petitioner ensured appropriate and
 12.28 meaningful services were available based upon the family's specific needs, whether listed
 12.29 in this paragraph or not:

12.30 (1) whether active efforts were made at the earliest point possible to inquire into the
 12.31 child's heritage, to identify any federally recognized Indian Tribe the child may be affiliated
 12.32 with, to notify all potential Tribes at the earliest point possible, and to request participation
 12.33 of the Indian child's Tribe;

13.1 (2) whether a Tribally designated representative with substantial knowledge of the
13.2 prevailing social and cultural standards and child-rearing practices within the Tribal
13.3 community was provided an opportunity to consult with and be involved in any investigations
13.4 or assessments of the family's circumstances, participate in identifying the family's needs,
13.5 and participate in development of any plan to keep the Indian child safely in the home,
13.6 identify services designed to prevent the breakup of the Indian child's family, and to reunify
13.7 the Indian child's family as soon as safety can be assured if out-of-home placement has
13.8 occurred;

13.9 (3) whether the Tribal representative was provided with all information available
13.10 regarding the proceeding, and whether it was requested that the Tribal representative assist
13.11 in identifying services designed to prevent the breakup of the Indian child's family and to
13.12 reunify the Indian child's family as soon as safety can be assured if out-of-home placement
13.13 has occurred;

13.14 (4) whether, before making a decision that may affect an Indian child's safety and
13.15 well-being or when contemplating placement of an Indian child, guidance from the Indian
13.16 child's Tribe was sought regarding family structure, how the family can seek help, what
13.17 family and Tribal resources are available, and what barriers the family faces that could
13.18 threaten the family's preservation;

13.19 (5) whether a Tribal representative was consulted to determine and arrange for visitation
13.20 in the most natural setting that ensures the Indian child's safety, when the Indian child's
13.21 safety requires supervised visitation;

13.22 (6) whether early and ongoing efforts occurred to identify, locate, and include extended
13.23 family members as supports for the Indian child and the Indian child's family;

13.24 (7) whether continued active efforts were made to identify and place the Indian child in
13.25 a home that is compliant with the placement preferences in sections 260.751 to 260.835,
13.26 including whether extended family members were consulted to provide support to the Indian
13.27 child and Indian child's parents; to inform the child-placing agency, petitioner, and court
13.28 as to cultural connections and family structure; to assist in identifying appropriate cultural
13.29 services and supports for the Indian child and Indian child's parents; and to identify and
13.30 serve as placement and permanency resources for the Indian child. If there was difficulty
13.31 contacting or engaging extended family members, whether assistance was sought from the
13.32 Tribe, the Department of Human Services, or other agencies with expertise in working with
13.33 Indian families;

14.1 (8) whether services and resources were provided to extended family members who are
14.2 considered the primary placement option for an Indian child, as agreed upon by the
14.3 child-placing agency or petitioner and the Tribe, to overcome licensing and other barriers
14.4 to providing care to an Indian child. The need for services or resources shall not be a basis
14.5 to exclude an extended family member from consideration as a primary placement. Services
14.6 and resources include but are not limited to child care assistance, financial assistance,
14.7 housing resources, emergency resources, and foster care licensing assistance and resources;

14.8 (9) whether concrete services and access to both Tribal and non-Tribal services were
14.9 provided to the Indian child's parents and Indian custodian and, where necessary, members
14.10 of the Indian child's extended family members who provide support to the Indian child and
14.11 the Indian child's parents; and whether these services were provided in an ongoing manner
14.12 throughout the child-placing agency or petitioner's involvement with the Indian family to
14.13 directly assist the Indian family in accessing and utilizing services to maintain the Indian
14.14 family, or to reunify the Indian family as soon as safety can be assured if out-of-home
14.15 placement has occurred. Services include but are not limited to financial assistance, food,
14.16 housing, health care, transportation, in-home services, community support services, and
14.17 specialized services; and

14.18 (10) whether visitation occurred whenever possible in the home of the Indian child's
14.19 parent, Indian custodian, or extended family member or in another noninstitutional setting
14.20 in order to keep the Indian child in close contact with the Indian child's parents, siblings,
14.21 and other relatives regardless of the Indian child's age and to allow the Indian child and
14.22 those with whom the Indian child visits to have natural, unsupervised interaction when
14.23 consistent with protecting the child's safety.

14.24 Subd. 2b. **Adoptions.** For adoptions under chapter 259, the court may find that active
14.25 efforts were made to prevent placement of an Indian child or to reunify the Indian child
14.26 with the Indian child's parents upon a finding that: (1) subdivision 2a, paragraph (b), clauses
14.27 (1) to (4), were met; (2) the Indian child's parent knowingly and voluntarily consented to
14.28 placement of the Indian child for adoption on the record as described in section 260.765,
14.29 subdivision 3a; (3) fraud was not present, and the Indian child's parent was not under duress;
14.30 (4) the Indian child's parent was offered and declined services that would enable the Indian
14.31 child's parent to maintain custody of the Indian child; and (5) the Indian child's parent was
14.32 counseled on alternatives to adoption, and adoption contact agreements.

14.33 Subd. 3. ~~Required findings that active efforts were provided.~~ (a) Any party seeking
14.34 to affect a termination of parental rights, other permanency action, or a placement where
14.35 custody of an Indian child may be temporarily or permanently transferred to a person or

15.1 ~~entity who is not the Indian child's parent or Indian custodian, and where the Indian child's~~
15.2 ~~parent or Indian custodian cannot have the Indian child returned to their care upon demand,~~
15.3 ~~must satisfy the court that active efforts have been made to provide remedial services and~~
15.4 ~~rehabilitative programs designed to prevent the breakup of the Indian family and that these~~
15.5 ~~efforts have proved unsuccessful.~~

15.6 ~~(b) A court shall not order an out-of-home or permanency placement for an Indian child~~
15.7 ~~unless the court finds that the child-placing agency made active efforts to, as required by~~
15.8 ~~section 260.012 and this section, provide remedial services and rehabilitative programs~~
15.9 ~~designed to prevent the breakup of the Indian child's family, and that these efforts have~~
15.10 ~~proved unsuccessful. To the extent possible, active efforts must be provided in a manner~~
15.11 ~~consistent with the prevailing social and cultural conditions of the Indian child's Tribe and~~
15.12 ~~in partnership with the Indian child, Indian parents, extended family, and Tribe.~~

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

15.21 ~~(1) whether the child-placing agency made efforts at the earliest point possible to (i)~~
15.22 ~~identify whether a child may be an Indian child as defined in section 260.755, subdivision~~
15.23 ~~8; and (ii) identify and request participation of the Indian child's Tribe at the earliest point~~
15.24 ~~possible and throughout the investigation or assessment, case planning, provision of services,~~
15.25 ~~and case completion;~~

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

15.32 ~~(3) whether the child-placing agency provided concrete services and access to both~~
15.33 ~~Tribal and non-Tribal services to members of the Indian child's family, including but not~~
15.34 ~~limited to financial assistance, food, housing, health care, transportation, in-home services,~~

16.1 ~~community support services, and specialized services; and whether these services are being~~
16.2 ~~provided in an ongoing manner throughout the agency's involvement with the family, to~~
16.3 ~~directly assist the family in accessing and utilizing services to maintain the Indian family,~~
16.4 ~~or reunify the Indian family as soon as safety can be assured if out-of-home placement has~~
16.5 ~~occurred;~~

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

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

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

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

16.31 Sec. 18. Minnesota Statutes 2023 Supplement, section 260.763, subdivision 1, is amended
16.32 to read:

16.33 Subdivision 1. **Indian Tribe jurisdiction.** (a) An Indian Tribe has exclusive jurisdiction
16.34 over all child placement proceedings involving an Indian child who resides or is domiciled

17.1 within the reservation of the Tribe, except where jurisdiction is otherwise vested in the state
17.2 by existing federal law. The child-placing agencies and the courts shall defer to a Tribal
17.3 determination of the Tribe's exclusive jurisdiction when an Indian child resides or is
17.4 domiciled within the reservation of the Tribe.

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

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

17.11 Sec. 19. Minnesota Statutes 2023 Supplement, section 260.763, subdivision 4, is amended
17.12 to read:

17.13 Subd. 4. **Transfer of proceedings.** In any child placement proceeding, upon a motion
17.14 or request by the Indian child's parent, Indian custodian, or Tribe, the court, in the absence
17.15 of good cause to the contrary, shall transfer the proceeding to the jurisdiction of the Tribe
17.16 absent objection by either of the Indian child's parent or the Indian custodian. The ~~petition~~
17.17 motion or request to transfer may be ~~filed~~ made by the Indian child's parent, the Indian
17.18 custodian, or the Indian child's Tribe at any stage in the proceedings by: (1) filing a written
17.19 motion with the court and serving the motion upon the other parties; or (2) making a request
17.20 on the record during the hearing, which shall be reflected in the court's findings. A request
17.21 or motion to transfer made by a Tribal representative of the Indian child's Tribe under this
17.22 subdivision shall not be considered the unauthorized practice of law. The transfer is subject
17.23 to declination by the Tribal court of the Tribe.

17.24 Sec. 20. Minnesota Statutes 2023 Supplement, section 260.763, subdivision 5, is amended
17.25 to read:

17.26 Subd. 5. **Good cause to deny transfer.** (a) Establishing good cause to deny transfer of
17.27 jurisdiction to a Tribal court is a fact-specific inquiry to be determined on a case-by-case
17.28 basis. Socioeconomic conditions and the perceived adequacy of Tribal or Bureau of Indian
17.29 Affairs social services or judicial systems must not be considered in a determination that
17.30 good cause exists. The party opposed to transfer of jurisdiction to a Tribal court has the
17.31 burden to prove by clear and convincing evidence that good cause to deny transfer exists.
17.32 Opposition to a motion to transfer jurisdiction to Tribal court must be in writing and must
17.33 be served upon all parties.

18.1 (b) Upon a motion or request by an Indian child's parent, Indian custodian, or Tribe, the
18.2 court may find good cause to deny transfer to Tribal court if shall transfer jurisdiction to a
18.3 Tribal court unless the court determines that there is good cause to deny transfer based on
18.4 the following:

18.5 (1) the Indian child's Tribe does not have a Tribal court or any other administrative body
18.6 of a Tribe vested with authority over child placement proceedings, as defined in section
18.7 260.755, subdivision 3, to which the case can be transferred, and no other Tribal court has
18.8 been designated by the Indian child's Tribe; or

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

18.13 Sec. 21. Minnesota Statutes 2023 Supplement, section 260.765, subdivision 2, is amended
18.14 to read:

18.15 Subd. 2. **Notice.** When an Indian child is voluntarily placed ~~in foster care~~ out of the care
18.16 of the Indian child's parent or Indian custodian, the child-placing agency involved in the
18.17 decision to place the Indian child shall give notice as described in section 260.761 of the
18.18 placement to the Indian child's parent, parents, Indian custodian, and the Tribal social
18.19 services agency within seven days of placement, excluding weekends and holidays.

18.20 If a child-placing agency makes a temporary voluntary ~~foster care~~ placement pending
18.21 a decision on adoption by ~~a~~ an Indian child's parent or Indian custodian, notice of the
18.22 placement shall be given to the Indian child's parents, Tribal social services agency, and
18.23 the Indian custodian upon the filing of a petition for termination of parental rights or three
18.24 months following the temporary placement, whichever occurs first.

18.25 Sec. 22. Minnesota Statutes 2023 Supplement, section 260.765, subdivision 3a, is amended
18.26 to read:

18.27 Subd. 3a. **Court requirements for consent.** Where any parent or Indian custodian
18.28 voluntarily consents to a ~~foster care~~ child placement or to termination of parental rights or
18.29 adoption, the consent shall not be valid unless executed in writing and recorded before a
18.30 judge and accompanied by the presiding judge's finding that the terms and consequences
18.31 of the consent were fully explained in detail and were fully understood by the parent or
18.32 Indian custodian. The court shall also find that either the parent or Indian custodian fully
18.33 understood the explanation in English or that it was interpreted into a language the parent

19.1 or Indian custodian understood. Any consent given prior to, or within ten days after, the
19.2 birth of an Indian child shall not be valid.

19.3 Sec. 23. Minnesota Statutes 2023 Supplement, section 260.765, subdivision 4b, is amended
19.4 to read:

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

19.13 Sec. 24. Minnesota Statutes 2023 Supplement, section 260.771, subdivision 1a, is amended
19.14 to read:

19.15 Subd. 1a. **Active efforts.** In any child placement proceeding, the child-placing agency
19.16 or ~~individual~~ petitioner shall ensure that appropriate active efforts as described in section
19.17 260.762 are provided to the Indian child's parent or parents, Indian custodian, and family
19.18 to support reunification and preservation of the Indian child's placement with and relationship
19.19 to the Indian child's extended family.

19.20 Sec. 25. Minnesota Statutes 2023 Supplement, section 260.771, subdivision 1b, is amended
19.21 to read:

19.22 Subd. 1b. **Placement preference.** In any child placement proceeding, the child-placing
19.23 agency or ~~individual~~ petitioner shall follow the placement preferences described in section
19.24 260.773 or, where preferred placement is not available even with the provision of active
19.25 efforts, shall follow section 260.773, subdivisions 12 to 15.

19.26 Sec. 26. Minnesota Statutes 2023 Supplement, section 260.771, subdivision 1c, is amended
19.27 to read:

19.28 Subd. 1c. **Identification of extended family members.** Any child-placing agency or
19.29 ~~individual~~ petitioner considering placement of an Indian child shall ~~make~~ ensure active
19.30 efforts are made to identify and locate siblings and extended family members and to explore
19.31 placement with ~~an~~ extended family ~~member and facilitate continued involvement in the~~

20.1 ~~Indian child's life~~ members and ensure the Indian child's relationship with the Indian child's
20.2 extended family and Tribe.

20.3 Sec. 27. Minnesota Statutes 2023 Supplement, section 260.771, subdivision 2b, is amended
20.4 to read:

20.5 Subd. 2b. **Appointment of counsel.** (a) In any state court child placement proceeding,
20.6 including but not limited to any proceeding where the petitioner or another party seeks to
20.7 temporarily or permanently remove an Indian child from the Indian child's parent or parents
20.8 or Indian custodian, the Indian child's parent or parents or Indian custodian shall have the
20.9 right to be represented by an attorney. If the parent or parents or Indian custodian cannot
20.10 afford an attorney and meet the requirements of section 611.17, an attorney will be appointed
20.11 to represent them.

20.12 (b) In any state court child placement proceeding, any Indian child ten years of age or
20.13 older shall have the right to court-appointed counsel. The court may appoint counsel for
20.14 any Indian child under ten years of age in any state court child placement proceeding if the
20.15 court determines that appointment is appropriate and in the best interest of the Indian child.

20.16 (c) If the court appoints counsel to represent a person pursuant to this subdivision, the
20.17 court shall appoint counsel to represent the person prior to the first hearing on the petition,
20.18 but may appoint counsel at any stage of the proceeding if the court deems it necessary. The
20.19 court shall not appoint a public defender to represent the person unless such appointment
20.20 is authorized by section 611.14.

20.21 Sec. 28. Minnesota Statutes 2023 Supplement, section 260.771, subdivision 2d, is amended
20.22 to read:

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

21.1 Sec. 29. Minnesota Statutes 2023 Supplement, section 260.771, is amended by adding a
21.2 subdivision to read:

21.3 Subd. 2f. **Participation of Indian child's Tribe in court proceedings.** (a) In any child
21.4 placement proceeding that involves an Indian child, any Tribe that the Indian child may be
21.5 eligible for membership in, as determined by the Tribe, is a party to the proceedings without
21.6 the need to file a motion.

21.7 (b) An Indian child's Tribe, Tribal representative, or attorney representing the Tribe:

21.8 (1) may appear remotely at hearings by telephone, video conference, or other electronic
21.9 medium without prior request;

21.10 (2) is not required to use the court's electronic filing and service system and may use
21.11 United States mail, facsimile, or other alternative method for filing and service;

21.12 (3) may file documents with the court using an alternative method that the clerk of court
21.13 shall accept and file electronically;

21.14 (4) is exempt from any filing fees required under section 357.021; and

21.15 (5) is exempt from the pro hac vice requirements of Rule 5 of the Minnesota General
21.16 Rules of Practice.

21.17 Sec. 30. Minnesota Statutes 2023 Supplement, section 260.771, subdivision 6, is amended
21.18 to read:

21.19 **Subd. 6. Qualified expert witness and evidentiary requirements.** (a) In ~~an~~ any
21.20 involuntary foster-care placement proceeding, the court must determine by clear and
21.21 convincing evidence, including testimony of a qualified expert witness, that continued
21.22 custody of the Indian child by the parent or Indian custodian is likely to result in serious
21.23 emotional damage or serious physical damage to the Indian child.

21.24 In a termination of parental rights proceeding, the court must determine by evidence
21.25 beyond a reasonable doubt, including testimony of a qualified expert witness, that continued
21.26 custody of the Indian child by the parent or Indian custodian is likely to result in serious
21.27 emotional damage or serious physical damage to the Indian child.

21.28 In an involuntary permanent transfer of legal and physical custody ~~proceeding~~, permanent
21.29 custody to the agency ~~proceeding~~, temporary custody to the agency, or other permanency
21.30 proceeding, the court must determine by clear and convincing evidence, including testimony
21.31 of a qualified expert witness, that the continued custody of the Indian child by the Indian
21.32 child's parent or parents or Indian custodian is likely to result in serious emotional damage

22.1 or serious physical damage to the Indian child. Qualified expert witness testimony is not
22.2 required where custody is transferred to the Indian child's parent.

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

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

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

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

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

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

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

22.31 (e) The court may allow alternative methods of participation and testimony in state court
22.32 proceedings by a qualified expert witness, such as participation or testimony by telephone,
22.33 ~~videoconferencing~~ video conference, or other ~~methods~~ electronic medium.

23.1 Sec. 31. Minnesota Statutes 2023 Supplement, section 260.773, subdivision 1, is amended
23.2 to read:

23.3 Subdivision 1. **Least restrictive setting.** In all proceedings where custody of the Indian
23.4 child may be removed from the Indian child's parent or Indian custodian, the Indian child
23.5 shall be placed in the least restrictive setting which most approximates a family and in which
23.6 the Indian child's special needs, if any, may be met. The Indian child shall also be placed
23.7 within reasonable proximity to the Indian child's home, taking into account any special
23.8 needs of the Indian child.

23.9 Sec. 32. Minnesota Statutes 2023 Supplement, section 260.773, subdivision 2, is amended
23.10 to read:

23.11 Subd. 2. **Tribe's order of placement recognized.** In the case of a placement under
23.12 subdivision 3 or 4, if the Indian child's Tribe has established a different order of placement
23.13 preference by resolution, the child-placing agency or petitioner and the court shall recognize
23.14 the Indian child's Tribe's order of placement in the form provided by the Tribe.

23.15 Sec. 33. Minnesota Statutes 2023 Supplement, section 260.773, subdivision 3, is amended
23.16 to read:

23.17 Subd. 3. **Placement ~~options~~ preferences for temporary proceedings.** Preference shall
23.18 be given, in the absence of good cause to the contrary, to a placement with:

23.19 (1) a noncustodial parent or Indian custodian;

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

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

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

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

23.26 Sec. 34. Minnesota Statutes 2023 Supplement, section 260.773, subdivision 4, is amended
23.27 to read:

23.28 Subd. 4. **Placement ~~preference~~ preferences for permanent proceedings.** In any
23.29 adoptive placement, transfer of custody placement, or other permanency placement of an
23.30 Indian child, a preference shall be given, in the absence of good cause to the contrary, to a
23.31 placement with:

- 24.1 (1) the Indian child's noncustodial parent or Indian custodian;
- 24.2 (2) a member of the Indian child's extended family;
- 24.3 (3) other members of the Indian child's Tribe; or
- 24.4 (4) other persons or entities recognized as appropriate to be a permanency resource for
- 24.5 the Indian child, by the Indian child's parent or parents, Indian custodian, or Indian Tribe.

24.6 Sec. 35. Minnesota Statutes 2023 Supplement, section 260.773, subdivision 5, is amended

24.7 to read:

24.8 Subd. 5. **Suitability of placement.** The ~~county~~ child-placing agency and petitioner shall

24.9 defer to the judgment of the Indian child's Tribe as to the suitability of a placement.

24.10 Sec. 36. Minnesota Statutes 2023 Supplement, section 260.773, subdivision 10, is amended

24.11 to read:

24.12 Subd. 10. **Exceptions to placement preferences.** The court shall follow the placement

24.13 preferences in subdivisions 1 to 9, except as follows:

24.14 (1) where a parent evidences a desire for anonymity, the child-placing agency or petitioner

24.15 and the court shall give weight to the parent's desire for anonymity in applying the

24.16 preferences. A parent's desire for anonymity does not excuse the application of sections

24.17 260.751 to 260.835; or

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

24.19 (i) the reasonable request of the Indian child's parents, if one or both parents attest that

24.20 they have reviewed the placement options that comply with the order of placement

24.21 preferences;

24.22 (ii) the reasonable request of the Indian child if the Indian child is able to understand

24.23 and comprehend the decision that is being made;

24.24 (iii) the testimony of a qualified expert designated by the Indian child's Tribe and, if

24.25 necessary, testimony from an expert witness who meets qualifications of section 260.771,

24.26 subdivision 6, paragraph (d), clause (2), that supports placement outside the order of

24.27 placement preferences due to extraordinary physical or emotional needs of the Indian child

24.28 that require highly specialized services; or

24.29 (iv) the testimony by the child-placing agency or petitioner that a diligent search has

24.30 been conducted that did not locate any available, suitable families for the Indian child that

24.31 meet the placement preference criteria.

25.1 Sec. 37. Minnesota Statutes 2023 Supplement, section 260.773, subdivision 11, is amended
25.2 to read:

25.3 Subd. 11. **Factors considered in determining placement.** Testimony of the Indian
25.4 child's bonding or attachment to a foster family alone, without the existence of at least one
25.5 of the factors in subdivision 10, clause (2), shall not be considered good cause to keep an
25.6 Indian child in a lower preference or nonpreference placement. Ease of visitation and
25.7 facilitation of relationship with the Indian child's parents, Indian custodian, extended family,
25.8 or Tribe may be considered when determining placement.

25.9 Sec. 38. Minnesota Statutes 2023 Supplement, section 260.774, subdivision 1, is amended
25.10 to read:

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

25.18 Sec. 39. Minnesota Statutes 2023 Supplement, section 260.774, subdivision 2, is amended
25.19 to read:

25.20 Subd. 2. **Invalidation.** (a) Any order for ~~out-of-home~~ child placement, transfer of custody,
25.21 termination of parental rights, or other permanent change in custody of an Indian child shall
25.22 be invalidated upon a showing, by a preponderance of the evidence, that a violation of any
25.23 one of the provisions in section 260.761, 260.762, 260.763, 260.765, 260.771, 260.773, or
25.24 260.7745 has occurred.

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

25.27 (c) Upon a finding that a violation of one of the provisions in section 260.761, 260.762,
25.28 260.763, 260.765, 260.771, 260.773, or 260.7745 has occurred, the court shall:

25.29 (1) dismiss the petition without prejudice; ~~and~~

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

26.1 (3) determine whether the Indian child's parent or Indian custodian has been assessed
26.2 placement costs and order reimbursement of those costs.

26.3 (d) Upon a finding that a willful, intentional, knowing, or reckless violation of one of
26.4 the provisions in section 260.761, 260.762, 260.763, 260.765, 260.771, 260.773, or 260.7745
26.5 has occurred, the court may consider whether sanctions, reasonable costs, and attorney fees
26.6 should be imposed against the offending party.

26.7 Sec. 40. Minnesota Statutes 2023 Supplement, section 260.774, subdivision 3, is amended
26.8 to read:

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

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

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

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

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

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

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

26.27 Sec. 41. Minnesota Statutes 2022, section 260.775, is amended to read:

26.28 **260.775 PLACEMENT RECORDS.**

26.29 (a) The commissioner of human services shall publish annually an inventory of all Indian
26.30 children in residential facilities. The inventory shall include, by county and statewide,
26.31 information on legal status, living arrangement, age, sex, Tribe in which the Indian child is

27.1 a member or eligible for membership, accumulated length of time in foster care, and other
27.2 demographic information deemed appropriate concerning all Indian children in residential
27.3 facilities. The report must also state the extent to which authorized child-placing agencies
27.4 comply with the order of preference described in United States Code, title 25, section 1901,
27.5 et seq. The commissioner shall include the information required under this paragraph in the
27.6 annual report on child maltreatment and on children in ~~out-of-home~~ placement under section
27.7 257.0725.

27.8 (b) This section expires January 1, 2032.

27.9 Sec. 42. Minnesota Statutes 2023 Supplement, section 260.781, subdivision 1, is amended
27.10 to read:

27.11 Subdivision 1. **Court decree information.** (a) A state court entering a final decree or
27.12 order in an Indian child adoptive placement shall provide the Department of Human Services
27.13 and the child's Tribal social services agency with a copy of the decree or order together with
27.14 such other information to show:

27.15 (1) the name and Tribal affiliation of the Indian child;

27.16 (2) the names and addresses of the biological parents and Indian custodian, if any;

27.17 (3) the names and addresses of the adoptive parents; and

27.18 (4) the identity of any agency having files or information relating to the adoptive
27.19 placement.

27.20 If the court records contain an affidavit of the biological or adoptive ~~parent or parents~~
27.21 or Indian custodian requesting anonymity, the court shall delete the name and address of
27.22 the biological or adoptive parents or Indian custodian from the information sent to the Indian
27.23 child's Tribal social services agency. The court shall include the affidavit with the other
27.24 information provided to the Minnesota Department of Human Services and the Secretary
27.25 of the Interior. The Minnesota Department of Human Services shall and the Secretary of
27.26 the Interior is requested to ensure that the confidentiality of the information is maintained
27.27 and the information shall not be subject to the Freedom of Information Act, United States
27.28 Code, title 5, section 552, as amended.

27.29 (b) For:

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

27.31 (2) determination of member rights or benefits; or

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

28.4 the Secretary of the Interior is requested to disclose any other necessary information for the
28.5 membership of an Indian child in the Tribe in which the Indian child may be eligible for
28.6 membership or for determining any rights or benefits associated with that membership.

28.7 Where the documents relating to the Indian child contain an affidavit from the biological
28.8 parent or ~~parents~~ Indian custodian requesting anonymity, the Secretary of the Interior is
28.9 requested to certify to the Indian child's Tribe, where the information warrants, that the
28.10 Indian child's parentage and other circumstances of birth entitle the Indian child to
28.11 membership under the criteria established by the Tribe.

28.12 Sec. 43. Minnesota Statutes 2022, section 260.785, subdivision 1, is amended to read:

28.13 Subdivision 1. **Primary support grants.** The commissioner shall establish direct grants
28.14 to Indian Tribes, Indian organizations, and Tribal social services agency programs located
28.15 off-reservation that serve Indian children and their families to provide primary support for
28.16 Indian child welfare programs to implement the Minnesota Indian Family Preservation Act.

28.17 Sec. 44. Minnesota Statutes 2022, section 260.785, subdivision 3, is amended to read:

28.18 Subd. 3. **Compliance grants.** The commissioner shall establish direct grants to an Indian
28.19 child welfare defense corporation, as defined in Minnesota Statutes 1996, section 611.216,
28.20 subdivision 1a, to promote statewide compliance with the Minnesota Indian Family
28.21 Preservation Act and the Indian Child Welfare Act, United States Code, title 25, section
28.22 1901, et seq. The commissioner shall give priority consideration to applicants with
28.23 demonstrated capability of providing legal advocacy services statewide.

28.24 Sec. 45. Minnesota Statutes 2023 Supplement, section 260.786, subdivision 2, is amended
28.25 to read:

28.26 Subd. 2. **Purposes.** Money must be used to address staffing for responding to notifications
28.27 under the federal Indian Child Welfare Act and the Minnesota Indian Family Preservation
28.28 Act, to the extent necessary, or to provide other child protection and child welfare services.
28.29 Money must not be used to supplant current Tribal expenditures for these purposes.

29.1 Sec. 46. Minnesota Statutes 2023 Supplement, section 260.795, subdivision 1, is amended
29.2 to read:

29.3 Subdivision 1. **Types of services.** (a) Eligible Indian child welfare services provided
29.4 under primary support grants include:

29.5 (1) placement prevention and reunification services;

29.6 (2) family-based services;

29.7 (3) individual and family counseling;

29.8 (4) access to professional individual, group, and family counseling;

29.9 (5) crisis intervention and crisis counseling;

29.10 (6) development of foster and adoptive placement resources, including recruitment,
29.11 licensing, and support;

29.12 (7) court advocacy;

29.13 (8) training and consultation to county and private social services agencies regarding
29.14 the federal Indian Child Welfare Act and the Minnesota Indian Family Preservation Act;

29.15 (9) advocacy in working with the county and private social services agencies, and
29.16 activities to help provide access to agency services, including but not limited to 24-hour
29.17 caretaker and homemaker services, day care, emergency shelter care up to 30 days in 12
29.18 months, access to emergency financial assistance, and arrangements to provide temporary
29.19 respite care to a family for up to 72 hours consecutively or 30 days in 12 months;

29.20 (10) transportation services to the child and parents to prevent placement or reunite the
29.21 family; and

29.22 (11) other activities and services approved by the commissioner that further the goals
29.23 of the federal Indian Child Welfare Act and the Minnesota Indian Family Preservation Act,
29.24 including but not limited to recruitment of Indian staff for child-placing agencies and licensed
29.25 child-placing agencies. The commissioner may specify the priority of an activity and service
29.26 based on its success in furthering these goals.

29.27 (b) Eligible services provided under special focus grants include:

29.28 (1) permanency planning activities that meet the special needs of Indian families;

29.29 (2) teenage pregnancy;

29.30 (3) independent living skills;

30.1 (4) family and community involvement strategies to combat child abuse and chronic
30.2 neglect of children;

30.3 (5) coordinated child welfare and mental health services to Indian families;

30.4 (6) innovative approaches to assist Indian youth to establish better self-image, decrease
30.5 isolation, and decrease the suicide rate;

30.6 (7) expanding or improving services by packaging and disseminating information on
30.7 successful approaches or by implementing models in Indian communities relating to the
30.8 development or enhancement of social structures that increase family self-reliance and links
30.9 with existing community resources;

30.10 (8) family retrieval services to help adopted individuals reestablish legal affiliation with
30.11 the Indian Tribe; and

30.12 (9) other activities and services approved by the commissioner that further the goals of
30.13 the federal Indian Child Welfare Act and the Minnesota Indian Family Preservation Act.

30.14 The commissioner may specify the priority of an activity and service based on its success
30.15 in furthering these goals.

30.16 (c) The commissioner shall give preference to programs that use Indian staff, contract
30.17 with Indian organizations or Tribes, or whose application is a joint effort between the Indian
30.18 and non-Indian community to achieve the goals of the federal Indian Child Welfare Act
30.19 and the Minnesota Indian Family Preservation Act. Programs must have input and support
30.20 from the Indian community.

30.21 Sec. 47. Minnesota Statutes 2022, section 260.810, subdivision 3, is amended to read:

30.22 Subd. 3. **Final report.** A final evaluation report must be submitted by each approved
30.23 program to the commissioner. It must include client outcomes, cost and effectiveness in
30.24 meeting the goals of the Minnesota Indian Family Preservation Act and permanency planning
30.25 goals. The commissioner must compile the final reports into one document and provide a
30.26 copy to each Tribe.

30.27 Sec. 48. **REPEALER.**

30.28 Minnesota Statutes 2022, section 260.755, subdivision 13, is repealed.

ARTICLE 2

CONFORMING CHANGES

31.1
31.2
31.3 Section 1. Minnesota Statutes 2022, section 259.20, subdivision 2, is amended to read:

31.4 Subd. 2. **Other applicable law.** (a) Portions of chapters 245A, 245C, 257, 260, and
31.5 317A may also affect the adoption of a particular child.

31.6 (b) Provisions of the Indian Child Welfare Act, United States Code, title 25, chapter 21,
31.7 sections 1901-1923, ~~may also~~ and the Minnesota Indian Family Preservation Act under
31.8 sections 260.751 to 260.835 apply in the adoption of an Indian child, ~~and may preempt~~
31.9 ~~specific provisions of this chapter~~ as described in section 259.201.

31.10 (c) Consistent with section 245C.33 and Public Law 109-248, a completed background
31.11 study is required before the approval of any foster or adoptive placement in a related or an
31.12 unrelated home.

31.13 Sec. 2. [259.201] COMPLIANCE WITH FEDERAL INDIAN CHILD WELFARE
31.14 ACT AND MINNESOTA INDIAN FAMILY PRESERVATION ACT.

31.15 Adoption proceedings under this chapter that involve an Indian child are child custody
31.16 proceedings governed by the Indian Child Welfare Act, United States Code, title 25, sections
31.17 1901 to 1963; by the Minnesota Indian Family Preservation Act, sections 260.751 to 260.835;
31.18 by section 259.20, subdivision 2, paragraph (b); and by this chapter when not inconsistent
31.19 with the federal Indian Child Welfare Act and the Minnesota Indian Family Preservation
31.20 Act.

31.21 Sec. 3. Minnesota Statutes 2022, section 260C.007, subdivision 26b, is amended to read:

31.22 Subd. 26b. **Relative of an Indian child.** "Relative of an Indian child" means a person
31.23 who is a member of the Indian child's family as defined in the Indian Child Welfare Act of
31.24 1978, United States Code, title 25, section 1903, paragraphs (2), (6), and (9), and who is an
31.25 extended family member as defined in section 260.755, subdivision 5b, of the Minnesota
31.26 Indian Family Preservation Act.

31.27 Sec. 4. Minnesota Statutes 2022, section 260C.178, subdivision 1, as amended by Laws
31.28 2024, chapter 80, article 8, section 24, is amended to read:

31.29 Subdivision 1. **Hearing and release requirements.** (a) If a child was taken into custody
31.30 under section 260C.175, subdivision 1, clause (1) or (2), item (ii), the court shall hold a
31.31 hearing within 72 hours of the time that the child was taken into custody, excluding

32.1 Saturdays, Sundays, and holidays, to determine whether the child should continue to be in
32.2 custody.

32.3 (b) Unless there is reason to believe that the child would endanger self or others or not
32.4 return for a court hearing, or that the child's health or welfare would be immediately
32.5 endangered, the child shall be released to the custody of a parent, guardian, custodian, or
32.6 other suitable person, subject to reasonable conditions of release including, but not limited
32.7 to, a requirement that the child undergo a chemical use assessment as provided in section
32.8 260C.157, subdivision 1.

32.9 (c) If the court determines that there is reason to believe that the child would endanger
32.10 self or others or not return for a court hearing, or that the child's health or welfare would be
32.11 immediately endangered if returned to the care of the parent or guardian who has custody
32.12 and from whom the child was removed, the court shall order the child:

32.13 (1) into the care of the child's noncustodial parent and order the noncustodial parent to
32.14 comply with any conditions that the court determines appropriate to ensure the safety and
32.15 care of the child, including requiring the noncustodial parent to cooperate with paternity
32.16 establishment proceedings if the noncustodial parent has not been adjudicated the child's
32.17 father; or

32.18 (2) into foster care as defined in section 260C.007, subdivision 18, under the legal
32.19 responsibility of the responsible social services agency or responsible probation or corrections
32.20 agency for the purposes of protective care as that term is used in the juvenile court rules.
32.21 The court shall not give the responsible social services legal custody and order a trial home
32.22 visit at any time prior to adjudication and disposition under section 260C.201, subdivision
32.23 1, paragraph (a), clause (3), but may order the child returned to the care of the parent or
32.24 guardian who has custody and from whom the child was removed and order the parent or
32.25 guardian to comply with any conditions the court determines to be appropriate to meet the
32.26 safety, health, and welfare of the child.

32.27 (d) In determining whether the child's health or welfare would be immediately
32.28 endangered, the court shall consider whether the child would reside with a perpetrator of
32.29 domestic child abuse.

32.30 (e) The court, before determining whether a child should be placed in or continue in
32.31 foster care under the protective care of the responsible agency, shall also make a
32.32 determination, consistent with section 260.012 as to whether reasonable efforts were made
32.33 to prevent placement or whether reasonable efforts to prevent placement are not required.
32.34 In the case of an Indian child, the court shall determine whether active efforts, according

33.1 to section 260.762 and the Indian Child Welfare Act of 1978, United States Code, title 25,
33.2 section 1912(d), were made to prevent placement. The court shall enter a finding that the
33.3 responsible social services agency has made reasonable efforts to prevent placement when
33.4 the agency establishes either:

33.5 (1) that the agency has actually provided services or made efforts in an attempt to prevent
33.6 the child's removal but that such services or efforts have not proven sufficient to permit the
33.7 child to safely remain in the home; or

33.8 (2) that there are no services or other efforts that could be made at the time of the hearing
33.9 that could safely permit the child to remain home or to return home. The court shall not
33.10 make a reasonable efforts determination under this clause unless the court is satisfied that
33.11 the agency has sufficiently demonstrated to the court that there were no services or other
33.12 efforts that the agency was able to provide at the time of the hearing enabling the child to
33.13 safely remain home or to safely return home. When reasonable efforts to prevent placement
33.14 are required and there are services or other efforts that could be ordered that would permit
33.15 the child to safely return home, the court shall order the child returned to the care of the
33.16 parent or guardian and the services or efforts put in place to ensure the child's safety. When
33.17 the court makes a prima facie determination that one of the circumstances under paragraph
33.18 (g) exists, the court shall determine that reasonable efforts to prevent placement and to
33.19 return the child to the care of the parent or guardian are not required.

33.20 (f) If the court finds the social services agency's preventive or reunification efforts have
33.21 not been reasonable but further preventive or reunification efforts could not permit the child
33.22 to safely remain at home, the court may nevertheless authorize or continue the removal of
33.23 the child.

33.24 (g) The court may not order or continue the foster care placement of the child unless the
33.25 court makes explicit, individualized findings that continued custody of the child by the
33.26 parent or guardian would be contrary to the welfare of the child and that placement is in the
33.27 best interest of the child.

33.28 (h) At the emergency removal hearing, or at any time during the course of the proceeding,
33.29 and upon notice and request of the county attorney, the court shall determine whether a
33.30 petition has been filed stating a prima facie case that:

33.31 (1) the parent has subjected a child to egregious harm as defined in section 260C.007,
33.32 subdivision 14;

33.33 (2) the parental rights of the parent to another child have been involuntarily terminated;

34.1 (3) the child is an abandoned infant under section 260C.301, subdivision 2, paragraph
34.2 (a), clause (2);

34.3 (4) the parents' custodial rights to another child have been involuntarily transferred to a
34.4 relative under a juvenile protection proceeding or a similar process of another jurisdiction;

34.5 (5) the parent has committed sexual abuse as defined in section 260E.03, against the
34.6 child or another child of the parent;

34.7 (6) the parent has committed an offense that requires registration as a predatory offender
34.8 under section 243.166, subdivision 1b, paragraph (a) or (b); or

34.9 (7) the provision of services or further services for the purpose of reunification is futile
34.10 and therefore unreasonable.

34.11 (i) When a petition to terminate parental rights is required under section 260C.301,
34.12 subdivision 4, or 260C.503, subdivision 2, but the county attorney has determined not to
34.13 proceed with a termination of parental rights petition, and has instead filed a petition to
34.14 transfer permanent legal and physical custody to a relative under section 260C.507, the
34.15 court shall schedule a permanency hearing within 30 days of the filing of the petition.

34.16 (j) If the county attorney has filed a petition under section 260C.307, the court shall
34.17 schedule a trial under section 260C.163 within 90 days of the filing of the petition except
34.18 when the county attorney determines that the criminal case shall proceed to trial first under
34.19 section 260C.503, subdivision 2, paragraph (c).

34.20 (k) If the court determines the child should be ordered into foster care and the child's
34.21 parent refuses to give information to the responsible social services agency regarding the
34.22 child's father or relatives of the child, the court may order the parent to disclose the names,
34.23 addresses, telephone numbers, and other identifying information to the responsible social
34.24 services agency for the purpose of complying with sections 260C.150, 260C.151, 260C.212,
34.25 260C.215, 260C.219, and 260C.221.

34.26 (l) If a child ordered into foster care has siblings, whether full, half, or step, who are
34.27 also ordered into foster care, the court shall inquire of the responsible social services agency
34.28 of the efforts to place the children together as required by section 260C.212, subdivision 2,
34.29 paragraph (d), if placement together is in each child's best interests, unless a child is in
34.30 placement for treatment or a child is placed with a previously noncustodial parent who is
34.31 not a parent to all siblings. If the children are not placed together at the time of the hearing,
34.32 the court shall inquire at each subsequent hearing of the agency's reasonable efforts to place
34.33 the siblings together, as required under section 260.012. If any sibling is not placed with

35.1 another sibling or siblings, the agency must develop a plan to facilitate visitation or ongoing
35.2 contact among the siblings as required under section 260C.212, subdivision 1, unless it is
35.3 contrary to the safety or well-being of any of the siblings to do so.

35.4 (m) When the court has ordered the child into the care of a noncustodial parent or in
35.5 foster care, the court may order a chemical dependency evaluation, mental health evaluation,
35.6 medical examination, and parenting assessment for the parent as necessary to support the
35.7 development of a plan for reunification required under subdivision 7 and section 260C.212,
35.8 subdivision 1, or the child protective services plan under section 260E.26, and Minnesota
35.9 Rules, part 9560.0228.

35.10 (n) When the court has ordered an Indian child into an emergency child placement, the
35.11 Indian child shall be placed according to the placement preferences in the Minnesota Indian
35.12 Family Preservation Act, section 260.773.

35.13 Sec. 5. Minnesota Statutes 2022, section 260C.505, is amended to read:

35.14 **260C.505 PETITION.**

35.15 (a) A permanency or termination of parental rights petition must be filed at or prior to
35.16 the time the child has been in foster care or in the care of a noncustodial or nonresident
35.17 parent for 11 months or in the expedited manner required in section 260C.503, subdivision
35.18 2, paragraph (a). The court administrator shall serve the petition as required in the Minnesota
35.19 Rules of Juvenile Protection Procedure and section 260C.152 for the admit-deny hearing
35.20 on the petition required in section 260C.507.

35.21 (b) A petition under this section is not required if the responsible social services agency
35.22 intends to recommend that the child return to the care of the parent from whom the child
35.23 was removed, or if a six-month extension of permanency timelines described in section
35.24 260C.204 is anticipated, at or prior to the time the court is required to hold the admit-deny
35.25 hearing required under section 260C.507.

35.26 Sec. 6. Minnesota Statutes 2022, section 260D.01, is amended to read:

35.27 **260D.01 CHILD IN VOLUNTARY FOSTER CARE FOR TREATMENT.**

35.28 (a) Sections 260D.01 to 260D.10, may be cited as the "child in voluntary foster care for
35.29 treatment" provisions of the Juvenile Court Act.

35.30 (b) The juvenile court has original and exclusive jurisdiction over a child in voluntary
35.31 foster care for treatment upon the filing of a report or petition required under this chapter.
35.32 All obligations of the responsible social services agency to a child and family in foster care

36.1 contained in chapter 260C not inconsistent with this chapter are also obligations of the
36.2 agency with regard to a child in foster care for treatment under this chapter.

36.3 (c) This chapter shall be construed consistently with the mission of the children's mental
36.4 health service system as set out in section 245.487, subdivision 3, and the duties of an agency
36.5 under sections 256B.092 and 260C.157 and Minnesota Rules, parts 9525.0004 to 9525.0016,
36.6 to meet the needs of a child with a developmental disability or related condition. This
36.7 chapter:

36.8 (1) establishes voluntary foster care through a voluntary foster care agreement as the
36.9 means for an agency and a parent to provide needed treatment when the child must be in
36.10 foster care to receive necessary treatment for an emotional disturbance or developmental
36.11 disability or related condition;

36.12 (2) establishes court review requirements for a child in voluntary foster care for treatment
36.13 due to emotional disturbance or developmental disability or a related condition;

36.14 (3) establishes the ongoing responsibility of the parent as legal custodian to visit the
36.15 child, to plan together with the agency for the child's treatment needs, to be available and
36.16 accessible to the agency to make treatment decisions, and to obtain necessary medical,
36.17 dental, and other care for the child;

36.18 (4) applies to voluntary foster care when the child's parent and the agency agree that the
36.19 child's treatment needs require foster care either:

36.20 (i) due to a level of care determination by the agency's screening team informed by the
36.21 child's diagnostic and functional assessment under section 245.4885; or

36.22 (ii) due to a determination regarding the level of services needed by the child by the
36.23 responsible social services agency's screening team under section 256B.092, and Minnesota
36.24 Rules, parts 9525.0004 to 9525.0016; and

36.25 (5) includes the requirements for a child's placement in sections 260C.70 to 260C.714,
36.26 when the juvenile treatment screening team recommends placing a child in a qualified
36.27 residential treatment program, except as modified by this chapter.

36.28 (d) This chapter does not apply when there is a current determination under chapter
36.29 260E that the child requires child protective services or when the child is in foster care for
36.30 any reason other than treatment for the child's emotional disturbance or developmental
36.31 disability or related condition. When there is a determination under chapter 260E that the
36.32 child requires child protective services based on an assessment that there are safety and risk
36.33 issues for the child that have not been mitigated through the parent's engagement in services

37.1 or otherwise, or when the child is in foster care for any reason other than the child's emotional
37.2 disturbance or developmental disability or related condition, the provisions of chapter 260C
37.3 apply.

37.4 (e) The paramount consideration in all proceedings concerning a child in voluntary foster
37.5 care for treatment is the safety, health, and the best interests of the child. The purpose of
37.6 this chapter is:

37.7 (1) to ensure that a child with a disability is provided the services necessary to treat or
37.8 ameliorate the symptoms of the child's disability;

37.9 (2) to preserve and strengthen the child's family ties whenever possible and in the child's
37.10 best interests, approving the child's placement away from the child's parents only when the
37.11 child's need for care or treatment requires out-of-home placement and the child cannot be
37.12 maintained in the home of the parent; and

37.13 (3) to ensure that the child's parent retains legal custody of the child and associated
37.14 decision-making authority unless the child's parent willfully fails or is unable to make
37.15 decisions that meet the child's safety, health, and best interests. The court may not find that
37.16 the parent willfully fails or is unable to make decisions that meet the child's needs solely
37.17 because the parent disagrees with the agency's choice of foster care facility, unless the
37.18 agency files a petition under chapter 260C, and establishes by clear and convincing evidence
37.19 that the child is in need of protection or services.

37.20 (f) The legal parent-child relationship shall be supported under this chapter by maintaining
37.21 the parent's legal authority and responsibility for ongoing planning for the child and by the
37.22 agency's assisting the parent, when necessary, to exercise the parent's ongoing right and
37.23 obligation to visit or to have reasonable contact with the child. Ongoing planning means:

37.24 (1) actively participating in the planning and provision of educational services, medical,
37.25 and dental care for the child;

37.26 (2) actively planning and participating with the agency and the foster care facility for
37.27 the child's treatment needs;

37.28 (3) planning to meet the child's need for safety, stability, and permanency, and the child's
37.29 need to stay connected to the child's family and community;

37.30 (4) engaging with the responsible social services agency to ensure that the family and
37.31 permanency team under section 260C.706 consists of appropriate family members. For
37.32 purposes of voluntary placement of a child in foster care for treatment under chapter 260D,
37.33 prior to forming the child's family and permanency team, the responsible social services

38.1 agency must consult with the child's parent or legal guardian, the child if the child is 14
38.2 years of age or older, and, if applicable, the child's Tribe to obtain recommendations regarding
38.3 which individuals to include on the team and to ensure that the team is family-centered and
38.4 will act in the child's best interests. If the child, child's parents, or legal guardians raise
38.5 concerns about specific relatives or professionals, the team should not include those
38.6 individuals unless the individual is a treating professional or an important connection to the
38.7 youth as outlined in the case or crisis plan; and

38.8 (5) for a voluntary placement under this chapter in a qualified residential treatment
38.9 program, as defined in section 260C.007, subdivision 26d, for purposes of engaging in a
38.10 relative search as provided in section 260C.221, the county agency must consult with the
38.11 child's parent or legal guardian, the child if the child is 14 years of age or older, and, if
38.12 applicable, the child's Tribe to obtain recommendations regarding which adult relatives the
38.13 county agency should notify. If the child, child's parents, or legal guardians raise concerns
38.14 about specific relatives, the county agency should not notify those relatives.

38.15 (g) The provisions of section 260.012 to ensure placement prevention, family
38.16 reunification, and all active and reasonable effort requirements of that section apply. ~~This~~
38.17 ~~chapter shall be construed consistently with the requirements of the Indian Child Welfare~~
38.18 ~~Act of 1978, United States Code, title 25, section 1901, et al., and the provisions of the~~
38.19 ~~Minnesota Indian Family Preservation Act, sections 260.751 to 260.835.~~

38.20 **Sec. 7. [260D.011] COMPLIANCE WITH FEDERAL INDIAN CHILD WELFARE**
38.21 **ACT AND MINNESOTA INDIAN FAMILY PRESERVATION ACT.**

38.22 Proceedings under this chapter concerning an Indian child are child custody proceedings
38.23 governed by the Indian Child Welfare Act, United States Code, title 25, sections 1901 to
38.24 1963; by the Minnesota Indian Family Preservation Act, sections 260.751 to 260.835; and
38.25 by this chapter when not inconsistent with the federal Indian Child Welfare Act or the
38.26 Minnesota Indian Family Preservation Act.

38.27 **Sec. 8. [260E.015] COMPLIANCE WITH FEDERAL INDIAN CHILD WELFARE**
38.28 **ACT AND MINNESOTA INDIAN FAMILY PRESERVATION ACT.**

38.29 Proceedings under this chapter concerning an Indian child are child custody proceedings
38.30 governed by the Indian Child Welfare Act, United States Code, title 25, sections 1901 to
38.31 1963; by the Minnesota Indian Family Preservation Act, sections 260.751 to 260.835; and
38.32 by this chapter when not inconsistent with the federal Indian Child Welfare Act or the
38.33 Minnesota Indian Family Preservation Act.

39.1 Sec. 9. **[524.5-2011] COMPLIANCE WITH FEDERAL INDIAN CHILD WELFARE**
39.2 **ACT AND MINNESOTA INDIAN FAMILY PRESERVATION ACT.**

39.3 Proceedings under this chapter concerning an Indian child are child custody proceedings
39.4 governed by the Indian Child Welfare Act, United States Code, title 25, sections 1901 to
39.5 1963; by the Minnesota Indian Family Preservation Act, sections 260.751 to 260.835; and
39.6 by this chapter when not inconsistent with the federal Indian Child Welfare Act or the
39.7 Minnesota Indian Family Preservation Act.

39.8 Sec. 10. **DIRECTION TO COMMISSIONER OF HUMAN SERVICES; STUDY OF**
39.9 **CHILD PLACEMENT AND PERMANENCY; PRACTICE RECOMMENDATIONS.**

39.10 Subdivision 1. Study parameters. By September 1, 2024, the commissioner of human
39.11 services shall contract with an independent consultant to evaluate the effects of child
39.12 placement in foster care and out-of-home settings on the safety, permanency, and well-being
39.13 of the child. The study must be designed to evaluate the system overall for a child's placement
39.14 and permanency. The study shall identify and evaluate factors designed to ensure emotional
39.15 and physical safety of the child in the context of child placement and permanency dispositions
39.16 and shall include an analysis of structuring out-of-home placement decisions, reunification
39.17 timelines, and service provisions to best allow the parents to engage in positive parenting
39.18 of the child. The goal is to determine guidelines for when to place a child out-of-home, who
39.19 to place the child with, when and how to keep the child connected to family and community,
39.20 and what timelines support building a stable base for the child's parents to engage in necessary
39.21 treatment, including but not limited to substance use or mental health treatment, before
39.22 undertaking parenting responsibilities.

39.23 (b) The study shall take into account the educational and behavioral development, mental
39.24 health functioning, and placement stability of the child. The study shall also take into
39.25 consideration the social, financial, and whole health of the family unit.

39.26 Subd. 2. Collaboration with interested parties. The consultant shall design the study
39.27 with an advisory group consisting of:

39.28 (1) the commissioner of human services, or a designee;

39.29 (2) the commissioner of children, youth, and families, or a designee;

39.30 (3) the ombudsperson for foster youth, or a designee;

39.31 (4) a representative from the Association of Minnesota Counties appointed by the
39.32 association;

- 40.1 (5) two members representing county social services agencies, one from the seven-county
40.2 metropolitan area and one from Greater Minnesota;
- 40.3 (6) one member appointed by the Minnesota Council on Disability;
- 40.4 (7) one member appointed by the Indian Child Welfare Advisory Council;
- 40.5 (8) one member appointed by the Ombudsperson for American Indian Families;
- 40.6 (9) one member appointed by the Children's Alliance;
- 40.7 (10) up to four members appointed by the ombudsperson for families;
- 40.8 (11) up to four members from the Children's Justice Task Force; and
- 40.9 (12) members of the public appointed by the governor representing:
- 40.10 (i) one member 18 years of age who has lived experience with the child welfare system;
- 40.11 (ii) one member 18 years of age or older who has lived experience with the child welfare
40.12 system as a parent or caregiver;
- 40.13 (iii) one member who is working with or advocating for children with disabilities;
- 40.14 (iv) one member with experience working with or advocating for LGBTQ youth;
- 40.15 (v) one member working with or advocating for Indigenous children;
- 40.16 (vi) one member working with or advocating for black children or youth;
- 40.17 (vii) one member working with or advocating for other children of color;
- 40.18 (viii) one member who is an attorney representing children in child placement
40.19 proceedings;
- 40.20 (ix) one member who is a Tribal attorney in child placement proceedings;
- 40.21 (x) one member who is an attorney representing parents in child placement proceedings;
- 40.22 (xi) one member with experience in children's mental health;
- 40.23 (xii) one member with experience in adult mental health; and
- 40.24 (xiii) one member who is a substance abuse professional.
- 40.25 Subd. 3. **Report.** By September 1, 2027, the consultant shall submit a final report to the
40.26 commissioner of human services and to the chairs and ranking minority members of the
40.27 legislative committees with jurisdiction over health and human services. The final report
40.28 must include a recommendation on the optimal time frame for child placement in foster

41.1 care or out-of-home placement. The commissioner of human services shall include a report
41.2 on needed statutory changes as a result of the consultant's report.

41.3 Subd. 4. **Appropriation.** \$..... in fiscal year 2025 and \$..... in fiscal year 2026 are
41.4 appropriated from the general fund to the commissioner of human services to carry out the
41.5 study required under this section.

41.6 **Sec. 11. DIRECTION TO COMMISSIONER OF HUMAN SERVICES; TIMELINES.**

41.7 The commissioner of human services shall prepare legislation to be introduced in the
41.8 2025 legislative session that will change the timelines in Minnesota Statutes dealing with
41.9 out-of-home permanency placement of children from 12 months to 15 months for a
41.10 admit/deny hearing.

APPENDIX
Repealed Minnesota Statutes: H4838-1

260.755 DEFINITIONS.

Subd. 13. **Local social services agency.** "Local social services agency" means the local agency under the authority of the county welfare or human services board or county board of commissioners which is responsible for human services.