

330.20

**ARTICLE 15**

330.21

**MINNESOTA INDIAN FAMILY PRESERVATION ACT**

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

330.23 Subd. 2. **Other applicable law.** (a) Portions of chapters 245A, 245C, 257, 260, and  
330.24 317A may also affect the adoption of a particular child.

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

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

331.1 Sec. 2. **[259.201] COMPLIANCE WITH FEDERAL INDIAN CHILD WELFARE**  
331.2 **ACT AND MINNESOTA INDIAN FAMILY PRESERVATION ACT.**

331.3 Adoption proceedings under this chapter that involve an Indian child are child custody  
331.4 proceedings governed by the Indian Child Welfare Act, United States Code, title 25, sections  
331.5 1901 to 1963; by the Minnesota Indian Family Preservation Act, sections 260.751 to 260.835;  
331.6 by section 259.20, subdivision 2, paragraph (b); and by this chapter when not inconsistent  
331.7 with the federal Indian Child Welfare Act and the Minnesota Indian Family Preservation  
331.8 Act.

331.9 Sec. 3. Minnesota Statutes 2023 Supplement, section 260.755, subdivision 1a, is amended  
331.10 to read:

331.11 Subd. 1a. **Active efforts.** (a) "Active efforts" means a rigorous and concerted level of  
331.12 effort to preserve the Indian child's family that is ongoing throughout the involvement of  
331.13 the child-placing agency to continuously involve the Indian child's Tribe and that uses the  
331.14 or the petitioner with the Indian child. Active efforts require the engagement of the Indian  
331.15 child, the Indian child's parents, the Indian custodian, the extended family, and the Tribe in  
331.16 using the prevailing social and cultural values, conditions, and way of life of the Indian  
331.17 child's Tribe to: (1) preserve the Indian child's family ~~and~~; (2) prevent placement of an  
331.18 Indian child ~~and~~; (3) if placement occurs, to return the Indian child to the Indian child's  
331.19 family at the earliest possible time; and (4) where a permanent change in parental rights or  
331.20 custody are necessary, ensure the Indian child retains meaningful connections to the Indian  
331.21 child's family, extended family, and Tribe.

331.22 (b) Active efforts ~~under section~~ for all Indian child placements includes this section and  
331.23 sections 260.012 and 260.762 and require a higher standard than reasonable efforts as defined  
331.24 in section 260.012 to preserve the family, prevent breakup of the family, and reunify the  
331.25 family. Active efforts ~~include reasonable efforts as required by Title IV-E of the Social~~

331.26 ~~Security Act, United States Code, title 42, sections 670 to 679e~~ are required for all Indian  
331.27 ~~child placement proceedings and for all voluntary Indian child placements that involve a~~  
331.28 ~~child-placing agency regardless of whether the reasonable efforts would have been relieved~~  
331.29 ~~under section 260.012.~~

331.30 Sec. 4. Minnesota Statutes 2022, section 260.755, subdivision 2a, is amended to read:

331.31 Subd. 2a. **Best interests of an Indian child.** "Best interests of an Indian child" means  
331.32 compliance with the federal Indian Child Welfare Act and the Minnesota Indian Family  
331.33 Preservation Act to preserve and maintain an Indian child's family. The best interests of an  
332.1 Indian child support the Indian child's sense of belonging to family, extended family, and  
332.2 Tribe. The best interests of an Indian child are interwoven with the best interests of the  
332.3 Indian child's Tribe.

332.4 Sec. 5. Minnesota Statutes 2023 Supplement, section 260.755, subdivision 3, is amended  
332.5 to read:

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

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

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

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

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

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

332.26 Sec. 6. Minnesota Statutes 2023 Supplement, section 260.755, subdivision 3a, is amended  
332.27 to read:

332.28 Subd. 3a. **Child-placing agency.** "Child-placing agency" means a public, private, or  
332.29 nonprofit legal entity: (1) providing assistance to ~~a~~ an Indian child and the Indian child's

332.30 ~~parent or~~ parents or Indian custodian; or (2) placing ~~a~~ an Indian child in foster care or for  
332.31 adoption on a voluntary or involuntary basis.

333.1 Sec. 7. Minnesota Statutes 2022, section 260.755, subdivision 5, is amended to read:

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

333.5 Sec. 8. Minnesota Statutes 2023 Supplement, section 260.755, subdivision 5b, is amended  
333.6 to read:

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

333.16 Sec. 9. Minnesota Statutes 2022, section 260.755, subdivision 14, is amended to read:

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

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

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

333.28 Sec. 11. Minnesota Statutes 2022, section 260.755, subdivision 17a, is amended to read:

333.29 Subd. 17a. **Qualified expert witness.** "Qualified expert witness" means an individual  
333.30 who ~~(1) has specific knowledge of the Indian child's tribe's culture and customs, or~~ meets  
333.31 the criteria in section 260.771, subdivision 6, paragraph (d), and ~~(2)~~ provides testimony as  
334.1 required by the Indian Child Welfare Act of 1978, United States Code, title 25, section  
334.2 1912, and the Minnesota Indian Family Preservation Act, regarding ~~out-of-home placement~~  
334.3 ~~or termination of parental rights~~ child placement or permanency proceedings relating to an  
334.4 Indian child.

334.5 Sec. 12. Minnesota Statutes 2023 Supplement, section 260.755, subdivision 20, is amended  
334.6 to read:

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

334.11 Sec. 13. Minnesota Statutes 2022, section 260.755, is amended by adding a subdivision  
334.12 to read:

334.13 Subd. 20a. **Tribal representative.** "Tribal representative" means a representative  
334.14 designated by and acting on behalf of a Tribe in connection with an Indian child placement  
334.15 proceeding as defined in subdivision 3. It is not required that the designated representative  
334.16 be an attorney to represent the Tribe in these matters. An individual appearing as a Tribal  
334.17 representative on behalf of a Tribe and participating in a court proceeding under this chapter  
334.18 is not engaged in the unauthorized practice of law.

334.19 Sec. 14. Minnesota Statutes 2023 Supplement, section 260.755, subdivision 22, is amended  
334.20 to read:

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

334.26 Sec. 15. Minnesota Statutes 2023 Supplement, section 260.758, subdivision 2, is amended  
334.27 to read:

334.28 Subd. 2. **Temporary emergency jurisdiction of state courts.** (a) The child-placing  
334.29 agency, petitioner, or court shall ensure that the emergency removal or placement terminates  
334.30 immediately when removal or placement is no longer necessary to prevent imminent physical  
334.31 damage or harm to the Indian child. The child-placing agency, petitioner, or court shall  
335.1 expeditiously initiate a child placement proceeding subject to the provisions of sections  
335.2 260.751 to 260.835, transfer the Indian child to the jurisdiction of the appropriate Indian  
335.3 Tribe, or return the Indian child to the Indian child's parent or Indian custodian as may be  
335.4 appropriate.

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

335.10 Sec. 16. Minnesota Statutes 2023 Supplement, section 260.758, subdivision 4, is amended  
335.11 to read:

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

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

335.20 Sec. 17. Minnesota Statutes 2023 Supplement, section 260.758, subdivision 5, is amended  
335.21 to read:

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

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

336.3 (c) In no instance shall emergency removal or emergency placement of an Indian child  
336.4 extend beyond 30 days unless the court finds by a showing of clear and convincing evidence  
336.5 that: (1) continued emergency removal or placement is necessary to prevent imminent  
336.6 physical damage or harm to the Indian child; (2) the court has been unable to transfer the  
336.7 proceeding to the jurisdiction of the Indian child's Tribal court; and (3) it has not been  
336.8 possible to initiate a child placement proceeding with all of the protections under sections  
336.9 260.751 to 260.835, including obtaining the testimony of a qualified expert witness.

336.10 Sec. 18. Minnesota Statutes 2023 Supplement, section 260.761, is amended to read:

336.11 **260.761 INQUIRY OF TRIBAL LINEAGE; NOTICE TO TRIBES, PARENTS,**  
336.12 **AND INDIAN CUSTODIANS; ACCESS TO FILES.**

336.13 Subdivision 1. **Inquiry of Tribal lineage.** (a) The child-placing agency or ~~individual~~  
336.14 petitioner shall inquire of the child, the child's parents and custodians, and other appropriate  
336.15 persons whether there is any reason to believe that a child brought to the agency's attention

336.16 may have lineage to an Indian Tribe. This inquiry shall occur at the time the child comes  
336.17 to the attention of the child-placing agency or ~~individual~~ petitioner and shall continue  
336.18 throughout the involvement of the child-placing agency or ~~individual~~ petitioner.

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

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

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

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

337.1 **Subd. 2. Notice to Tribes of services or court proceedings involving an Indian**  
337.2 **child.** (a) When a child-placing agency or petitioner has information that a family assessment,  
337.3 investigation, or noncaregiver sex trafficking assessment being conducted may involve an  
337.4 Indian child, the child-placing agency or petitioner shall notify the Indian child's Tribe of  
337.5 the family assessment, investigation, or noncaregiver sex trafficking assessment according  
337.6 to section 260E.18. The child-placing agency or petitioner shall provide initial notice by  
337.7 telephone and by email or facsimile and shall include the child's full name and date of birth;  
337.8 the full names and dates of birth of the child's biological parents; and if known the full  
337.9 names and dates of birth of the child's grandparents and of the child's Indian custodian. If  
337.10 information regarding the child's grandparents or Indian custodian is not immediately  
337.11 available, the child-placing agency or petitioner shall continue to request this information  
337.12 and shall notify the Tribe when it is received. Notice shall be provided to all Tribes to which  
337.13 the child may have any Tribal lineage. The child-placing agency or petitioner shall request  
337.14 that the Tribe or a designated Tribal representative participate in evaluating the family  
337.15 circumstances, identifying family and Tribal community resources, and developing case  
337.16 plans. The child-placing agency or petitioner shall continue to include the Tribe in service  
337.17 planning and updates as to the progress of the case.

337.18 (b) When a child-placing agency or petitioner has information that a child receiving  
337.19 services may be an Indian child, the child-placing agency or petitioner shall notify the Tribe  
337.20 by telephone and by email or facsimile of the child's full name and date of birth, the full  
337.21 names and dates of birth of the child's biological parents, and, if known, the full names and  
337.22 dates of birth of the child's grandparents and of the child's Indian custodian. This notification  
337.23 must be provided for the Tribe to determine if the child is a member or eligible for Tribal

337.24 membership, and the child-placing agency or petitioner must provide this notification to  
337.25 the Tribe within seven days of receiving information that the child may be an Indian child.  
337.26 If information regarding the child's grandparents or Indian custodian is not available within  
337.27 the seven-day period, the child-placing agency or petitioner shall continue to request this  
337.28 information and shall notify the Tribe when it is received. Notice shall be provided to all  
337.29 Tribes to which the child may have any Tribal lineage.

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

338.3 (d) In all child placement proceedings, except for adoptive or preadoptive placement  
338.4 proceedings, when a court has reason to believe the child is an Indian child, the child-placing  
338.5 agency or individual petitioner shall effect service of any petition governed by sections  
338.6 260.751 to 260.835 provide notice of the proceedings and a copy of any petition to the  
338.7 Indian child's parents, Indian custodian, and the Indian child's Tribe and shall effect service  
338.8 of any notice and petition governed by sections 260.751 to 260.835 upon the parent, Indian  
338.9 custodian, and the Indian child's Tribe by certified mail or registered mail, return receipt  
338.10 requested upon the Indian child's parents, Indian custodian, and Indian child's Tribe at least  
338.11 10 days before the admit-deny hearing is held. If the identity or location of the Indian child's  
338.12 parents or Indian custodian ~~and~~ or Tribe cannot be determined, the child-placing agency or  
338.13 petitioner shall provide the notice required in this paragraph to the United States Secretary  
338.14 of the Interior, Bureau of Indian Affairs by certified or registered mail, return receipt  
338.15 requested. Where service is only accomplished through the United States Secretary of the  
338.16 Interior, Bureau of Indian Affairs, the initial hearing shall not be held until 20 days after  
338.17 notice upon the Tribe or the Secretary of the Interior.

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

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

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

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

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

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

338.30 (6) statements setting out:

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

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

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

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

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

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

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

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

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

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



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

339.32 Subd. 3. **Notice of potential preadoptive or adoptive placement.** In any adoptive or  
339.33 preadoptive placement proceeding, including voluntary proceedings, where any party or  
340.1 participant has reason to believe that a child who is the subject of an adoptive or preadoptive  
340.2 placement proceeding is or may be an "Indian child," as defined in section 260.755,  
340.3 subdivision 8, and United States Code, title 25, section 1903(4), the child-placing agency  
340.4 or ~~individual~~ petitioner shall notify the Indian child's Tribe by registered mail or certified  
340.5 mail with return receipt requested of the pending proceeding and of the right of intervention  
340.6 under subdivision 6. If the identity or location of the Indian child's Tribe cannot be  
340.7 determined, the notice must be given to the United States Secretary of Interior in like manner.  
340.8 No preadoptive or adoptive placement proceeding may be held until at least 20 days after  
340.9 receipt of the notice by the Tribe or the secretary. Upon request, the Tribe must be granted  
340.10 up to 20 additional days to prepare for the proceeding. The child-placing agency or ~~individual~~  
340.11 petitioner shall include in the notice the identity of the birth parents and Indian child absent  
340.12 written objection by the birth parents. The child-placing agency or petitioner shall inform  
340.13 the birth parents of the Indian child of any services available to the Indian child through the  
340.14 child's Tribal social services agency, including child placement services, and shall  
340.15 additionally provide the birth parents of the Indian child with all information sent from the  
340.16 Tribal social services agency in response to the notice.

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

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

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

341.1 Subd. 6a. **Indian Tribe's access to files.** At any stage of the child-placing ~~agency's~~  
341.2 ~~agency or petitioner's~~ involvement with an Indian child, the child-placing agency or ~~petitioner~~  
341.3 shall, upon request, give the Tribal social services agency full cooperation including access  
341.4 to all files concerning the Indian child. If the files contain confidential or private data, the  
341.5 child-placing agency or ~~petitioner~~ may require execution of an agreement with the Tribal  
341.6 social services agency to maintain the data according to statutory provisions applicable to  
341.7 the data.

341.8 Sec. 19. Minnesota Statutes 2023 Supplement, section 260.762, is amended to read:

341.9 **260.762 DUTY TO PREVENT OUT-OF-HOME CHILD PLACEMENT,**  
341.10 **PRESERVE THE CHILD'S FAMILY, AND PROMOTE FAMILY REUNIFICATION;**  
341.11 **ACTIVE EFFORTS.**

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

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

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

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

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

341.28 Subd. 2a. **Required findings that active efforts were provided.** (a) A court shall not  
341.29 order a child placement, termination of parental rights, guardianship to the commissioner  
341.30 of human services under section 260C.325, or temporary or permanent change in custody  
341.31 of an Indian child unless the court finds that the child-placing agency or petitioner  
341.32 demonstrated that active efforts were made to preserve the Indian child's family. Active  
341.33 efforts to preserve the Indian child's family include efforts to prevent placement of the Indian  
342.1 child to correct the conditions that led to the placement by ensuring remedial services and  
342.2 rehabilitative programs designed to prevent the breakup of the family were provided in a  
342.3 manner consistent with the prevailing social and cultural conditions of the Indian child's  
342.4 Tribe and in partnership with the Indian child, the Indian child's parents, the Indian custodian,  
342.5 extended family members, and Tribe, and that these efforts have proved unsuccessful.

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

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

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

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

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

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

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

343.6        (7) whether continued active efforts were made to identify and place the Indian child in  
343.7 a home that is compliant with the placement preferences in sections 260.751 to 260.835,  
343.8 including whether extended family members were consulted to provide support to the Indian  
343.9 child and Indian child's parents; to inform the child-placing agency, petitioner, and court  
343.10 as to cultural connections and family structure; to assist in identifying appropriate cultural

343.11 services and supports for the Indian child and Indian child's parents; and to identify and  
343.12 serve as placement and permanency resources for the Indian child. If there was difficulty  
343.13 contacting or engaging extended family members, whether assistance was sought from the  
343.14 Tribe, the Department of Human Services, or other agencies with expertise in working with  
343.15 Indian families;

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

343.23 (9) whether concrete services and access to both Tribal and non-Tribal services were  
343.24 provided to the Indian child's parents and Indian custodian and, where necessary, members  
343.25 of the Indian child's extended family members who provide support to the Indian child and  
343.26 the Indian child's parents; and whether these services were provided in an ongoing manner  
343.27 throughout the child-placing agency or petitioner's involvement with the Indian family to  
343.28 directly assist the Indian family in accessing and utilizing services to maintain the Indian  
343.29 family, or to reunify the Indian family as soon as safety can be assured if out-of-home  
343.30 placement has occurred. Services include but are not limited to financial assistance, food,  
343.31 housing, health care, transportation, in-home services, community support services, and  
343.32 specialized services; and

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

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

344.14 ~~Subd. 3. **Required findings that active efforts were provided.** (a) Any party seeking~~  
344.15 ~~to affect a termination of parental rights, other permanency action, or a placement where~~  
344.16 ~~custody of an Indian child may be temporarily or permanently transferred to a person or~~  
344.17 ~~entity who is not the Indian child's parent or Indian custodian, and where the Indian child's~~

344.18 ~~parent or Indian custodian cannot have the Indian child returned to their care upon demand;~~  
344.19 ~~must satisfy the court that active efforts have been made to provide remedial services and~~  
344.20 ~~rehabilitative programs designed to prevent the breakup of the Indian family and that these~~  
344.21 ~~efforts have proved unsuccessful.~~

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

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

345.3 ~~(1) whether the child-placing agency made efforts at the earliest point possible to (i)~~  
345.4 ~~identify whether a child may be an Indian child as defined in section 260.755, subdivision~~  
345.5 ~~8; and (ii) identify and request participation of the Indian child's Tribe at the earliest point~~  
345.6 ~~possible and throughout the investigation or assessment, case planning, provision of services,~~  
345.7 ~~and case completion;~~

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

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

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

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

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

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

346.13 Sec. 20. Minnesota Statutes 2023 Supplement, section 260.763, subdivision 1, is amended  
346.14 to read:

346.15 Subdivision 1. **Indian Tribe jurisdiction.** (a) An Indian Tribe has exclusive jurisdiction  
346.16 over all child placement proceedings involving an Indian child who resides or is domiciled  
346.17 within the reservation of the Tribe, except where jurisdiction is otherwise vested in the state  
346.18 by existing federal law. The child-placing agencies and the courts shall defer to a Tribal  
346.19 determination of the Tribe's exclusive jurisdiction when an Indian child resides or is  
346.20 domiciled within the reservation of the Tribe.

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

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

346.27 Sec. 21. Minnesota Statutes 2023 Supplement, section 260.763, subdivision 4, is amended  
346.28 to read:

346.29 Subd. 4. **Transfer of proceedings.** In any child placement proceeding, upon a motion  
346.30 or request by the Indian child's parent, Indian custodian, or Tribe, the court, in the absence  
346.31 of good cause to the contrary, shall transfer the proceeding to the jurisdiction of the Tribe  
346.32 absent objection by either of the Indian child's parent or the Indian custodian. The ~~petition~~  
346.33 motion or request to transfer may be filed made by the Indian child's parent, the Indian  
347.1 custodian, or the Indian child's Tribe at any stage in the proceedings by: (1) filing a written  
347.2 motion with the court and serving the motion upon the other parties; or (2) making a request  
347.3 on the record during the hearing, which shall be reflected in the court's findings. A request  
347.4 or motion to transfer made by a Tribal representative of the Indian child's Tribe under this  
347.5 subdivision shall not be considered the unauthorized practice of law. The transfer is subject  
347.6 to declination by the Tribal court of the Tribe.

347.7 Sec. 22. Minnesota Statutes 2023 Supplement, section 260.763, subdivision 5, is amended  
347.8 to read:

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

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

347.21 (1) the Indian child's Tribe does not have a Tribal court or any other administrative body  
347.22 of a Tribe vested with authority over child placement proceedings, as defined in section  
347.23 260.755, subdivision 3, to which the case can be transferred, and no other Tribal court has  
347.24 been designated by the Indian child's Tribe; or

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

347.29 Sec. 23. Minnesota Statutes 2023 Supplement, section 260.765, subdivision 2, is amended  
347.30 to read:

347.31 Subd. 2. **Notice.** When an Indian child is voluntarily placed ~~in foster care~~ out of the care  
347.32 of the Indian child's parent or Indian custodian, the child-placing agency involved in the

347.33 decision to place the Indian child shall give notice as described in section 260.761 of the  
348.1 placement to the Indian child's parent, parents, Indian custodian, and the Tribal social  
348.2 services agency within seven days of placement, excluding weekends and holidays.

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

348.8 Sec. 24. Minnesota Statutes 2023 Supplement, section 260.765, subdivision 3a, is amended  
348.9 to read:

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

348.19 Sec. 25. Minnesota Statutes 2023 Supplement, section 260.765, subdivision 4b, is amended  
348.20 to read:

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

348.29 Sec. 26. Minnesota Statutes 2023 Supplement, section 260.771, subdivision 1a, is amended  
348.30 to read:

348.31 Subd. 1a. **Active efforts.** In any child placement proceeding, the child-placing agency  
348.32 or ~~individual~~ petitioner shall ensure that appropriate active efforts as described in section  
349.1 260.762 are provided to the Indian child's parent or parents, Indian custodian, and family  
349.2 to support reunification and preservation of the Indian child's placement with and relationship  
349.3 to the Indian child's extended family.



349.4 Sec. 27. Minnesota Statutes 2023 Supplement, section 260.771, subdivision 1b, is amended  
349.5 to read:

349.6 Subd. 1b. **Placement preference.** In any child placement proceeding, the child-placing  
349.7 agency or ~~individual~~ petitioner shall follow the placement preferences described in section  
349.8 260.773 or, where preferred placement is not available even with the provision of active  
349.9 efforts, shall follow section 260.773, subdivisions 12 to 15.

349.10 Sec. 28. Minnesota Statutes 2023 Supplement, section 260.771, subdivision 1c, is amended  
349.11 to read:

349.12 Subd. 1c. **Identification of extended family members.** Any child-placing agency or  
349.13 ~~individual~~ petitioner considering placement of an Indian child shall ~~make~~ ensure active  
349.14 efforts are made to identify and locate siblings and extended family members and to explore  
349.15 placement with ~~an~~ extended family ~~member and facilitate continued involvement in the~~  
349.16 Indian child's life members and ensure the Indian child's relationship with the Indian child's  
349.17 extended family and Tribe.

349.18 Sec. 29. Minnesota Statutes 2023 Supplement, section 260.771, subdivision 2b, is amended  
349.19 to read:

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

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

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

350.4 Sec. 30. Minnesota Statutes 2023 Supplement, section 260.771, subdivision 2d, is amended  
350.5 to read:

350.6 Subd. 2d. **Tribal access to files and other documents.** At any subsequent stage of the  
350.7 child-placing agency or petitioner's involvement with an Indian child, the child-placing  
350.8 agency or ~~individual~~ petitioner shall, upon request, give the Tribal social services agency  
350.9 full cooperation including access to all files concerning the Indian child. If the files contain

350.10 confidential or private data, the child-placing agency or ~~individual~~ petitioner may require  
350.11 execution of an agreement with the Tribal social services agency specifying that the Tribal  
350.12 social services agency shall maintain the data according to statutory provisions applicable  
350.13 to the data.

350.14 Sec. 31. Minnesota Statutes 2023 Supplement, section 260.771, is amended by adding a  
350.15 subdivision to read:

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

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

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

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

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

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

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

351.1 Sec. 32. Minnesota Statutes 2023 Supplement, section 260.771, subdivision 6, is amended  
351.2 to read:

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

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

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

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

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

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

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

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

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

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

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

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

352.19 Sec. 33. Minnesota Statutes 2023 Supplement, section 260.773, subdivision 1, is amended  
352.20 to read:

352.21 Subdivision 1. **Least restrictive setting.** In all proceedings where custody of the Indian  
352.22 child may be removed from the Indian child's parent or Indian custodian, the Indian child  
352.23 shall be placed in the least restrictive setting which most approximates a family and in which

352.24 the Indian child's special needs, if any, may be met. The Indian child shall also be placed  
352.25 within reasonable proximity to the Indian child's home, taking into account any special  
352.26 needs of the Indian child.

352.27 Sec. 34. Minnesota Statutes 2023 Supplement, section 260.773, subdivision 2, is amended  
352.28 to read:

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

353.1 Sec. 35. Minnesota Statutes 2023 Supplement, section 260.773, subdivision 3, is amended  
353.2 to read:

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

353.5 (1) a noncustodial parent or Indian custodian;

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

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

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

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

353.12 Sec. 36. Minnesota Statutes 2023 Supplement, section 260.773, subdivision 4, is amended  
353.13 to read:

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

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

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

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

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

353.23 Sec. 37. Minnesota Statutes 2023 Supplement, section 260.773, subdivision 5, is amended  
353.24 to read:

353.25 Subd. 5. **Suitability of placement.** The ~~county~~ child-placing agency and petitioner shall  
353.26 defer to the judgment of the Indian child's Tribe as to the suitability of a placement.

354.1 Sec. 38. Minnesota Statutes 2023 Supplement, section 260.773, subdivision 10, is amended  
354.2 to read:

354.3 Subd. 10. **Exceptions to placement preferences.** The court shall follow the placement  
354.4 preferences in subdivisions 1 to 9, except as follows:

354.5 (1) where a parent evidences a desire for anonymity, the child-placing agency or petitioner  
354.6 and the court shall give weight to the parent's desire for anonymity in applying the  
354.7 preferences. A parent's desire for anonymity does not excuse the application of sections  
354.8 260.751 to 260.835; or

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

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

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

354.15 (iii) the testimony of a qualified expert designated by the Indian child's Tribe and, if  
354.16 necessary, testimony from an expert witness who meets qualifications of section 260.771,  
354.17 subdivision 6, paragraph (d), clause (2), that supports placement outside the order of  
354.18 placement preferences due to extraordinary physical or emotional needs of the Indian child  
354.19 that require highly specialized services; or

354.20 (iv) the testimony by the child-placing agency or petitioner that a diligent search has  
354.21 been conducted that did not locate any available, suitable families for the Indian child that  
354.22 meet the placement preference criteria.

354.23 Sec. 39. Minnesota Statutes 2023 Supplement, section 260.773, subdivision 11, is amended  
354.24 to read:

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

355.1 Sec. 40. Minnesota Statutes 2023 Supplement, section 260.774, subdivision 1, is amended  
355.2 to read:

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

355.10 Sec. 41. Minnesota Statutes 2023 Supplement, section 260.774, subdivision 2, is amended  
355.11 to read:

355.12 Subd. 2. **Invalidation.** (a) Any order for ~~out-of-home~~ child placement, transfer of custody,  
355.13 termination of parental rights, or other permanent change in custody of an Indian child shall  
355.14 be invalidated upon a showing, by a preponderance of the evidence, that a violation of any  
355.15 one of the provisions in section 260.761, 260.762, 260.763, 260.765, 260.771, 260.773, or  
355.16 260.7745 has occurred.

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

355.19 (c) Upon a finding that a violation of one of the provisions in section 260.761, 260.762,  
355.20 260.763, 260.765, 260.771, 260.773, or 260.7745 has occurred, the court shall:

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

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

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

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

356.1 Sec. 42. Minnesota Statutes 2023 Supplement, section 260.774, subdivision 3, is amended  
356.2 to read:

356.3 Subd. 3. **Return of custody following adoption.** (a) Whenever a final decree of adoption  
356.4 of an Indian child has been vacated, set aside, or there is a termination of the parental rights  
356.5 of the adoptive parents to the Indian child, a biological parent or prior Indian custodian may  
356.6 petition for return of custody and the court shall grant the petition unless there is a showing,

356.7 in proceedings subject to the provision of sections 260.751 to 260.835, that the return of  
356.8 custody is not in the best interests of the Indian child.

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

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

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

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

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

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

356.21 Sec. 43. Minnesota Statutes 2022, section 260.775, is amended to read:

356.22 **260.775 PLACEMENT RECORDS.**

356.23 (a) The commissioner of human services shall publish annually an inventory of all Indian  
356.24 children in residential facilities. The inventory shall include, by county and statewide,  
356.25 information on legal status, living arrangement, age, sex, Tribe in which the Indian child is  
356.26 a member or eligible for membership, accumulated length of time in foster care, and other  
356.27 demographic information deemed appropriate concerning all Indian children in residential  
356.28 facilities. The report must also state the extent to which authorized child-placing agencies  
356.29 comply with the order of preference described in United States Code, title 25, section 1901,  
356.30 et seq. The commissioner shall include the information required under this paragraph in the  
356.31 annual report on child maltreatment and on children in ~~out-of-home~~ placement under section  
356.32 257.0725.

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

357.2 Sec. 44. Minnesota Statutes 2023 Supplement, section 260.781, subdivision 1, is amended  
357.3 to read:

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

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

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

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

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

357.13 If the court records contain an affidavit of the biological or adoptive ~~parent or~~ parents  
357.14 or Indian custodian requesting anonymity, the court shall delete the name and address of  
357.15 the biological or adoptive parents or Indian custodian from the information sent to the Indian  
357.16 child's Tribal social services agency. The court shall include the affidavit with the other  
357.17 information provided to the Minnesota Department of Human Services and the Secretary  
357.18 of the Interior. The Minnesota Department of Human Services shall and the Secretary of  
357.19 the Interior is requested to ensure that the confidentiality of the information is maintained  
357.20 and the information shall not be subject to the Freedom of Information Act, United States  
357.21 Code, title 5, section 552, as amended.

357.22 (b) For:

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

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

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

357.28 the Secretary of the Interior is requested to disclose any other necessary information for the  
357.29 membership of an Indian child in the Tribe in which the Indian child may be eligible for  
357.30 membership or for determining any rights or benefits associated with that membership.  
357.31 Where the documents relating to the Indian child contain an affidavit from the biological  
357.32 parent or ~~parents~~ Indian custodian requesting anonymity, the Secretary of the Interior is  
358.1 requested to certify to the Indian child's Tribe, where the information warrants, that the  
358.2 Indian child's parentage and other circumstances of birth entitle the Indian child to  
358.3 membership under the criteria established by the Tribe.

358.4 Sec. 45. Minnesota Statutes 2022, section 260.785, subdivision 1, is amended to read:

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

358.9 Sec. 46. Minnesota Statutes 2022, section 260.785, subdivision 3, is amended to read:

358.10 Subd. 3. **Compliance grants.** The commissioner shall establish direct grants to an Indian  
358.11 child welfare defense corporation, as defined in Minnesota Statutes 1996, section 611.216,  
358.12 subdivision 1a, to promote statewide compliance with the Minnesota Indian Family  
358.13 Preservation Act and the Indian Child Welfare Act, United States Code, title 25, section



358.14 1901, et seq. The commissioner shall give priority consideration to applicants with  
358.15 demonstrated capability of providing legal advocacy services statewide.

358.16 Sec. 47. Minnesota Statutes 2023 Supplement, section 260.786, subdivision 2, is amended  
358.17 to read:

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

358.22 Sec. 48. Minnesota Statutes 2023 Supplement, section 260.795, subdivision 1, is amended  
358.23 to read:

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

358.26 (1) placement prevention and reunification services;

358.27 (2) family-based services;

358.28 (3) individual and family counseling;

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

358.30 (5) crisis intervention and crisis counseling;

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

359.3 (7) court advocacy;

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

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

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

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

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

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

359.20 (2) teenage pregnancy;

359.21 (3) independent living skills;

359.22 (4) family and community involvement strategies to combat child abuse and chronic

359.23 neglect of children;

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

359.25 (6) innovative approaches to assist Indian youth to establish better self-image, decrease

359.26 isolation, and decrease the suicide rate;

359.27 (7) expanding or improving services by packaging and disseminating information on

359.28 successful approaches or by implementing models in Indian communities relating to the

359.29 development or enhancement of social structures that increase family self-reliance and links

359.30 with existing community resources;

360.1 (8) family retrieval services to help adopted individuals reestablish legal affiliation with

360.2 the Indian Tribe; and

360.3 (9) other activities and services approved by the commissioner that further the goals of

360.4 the federal Indian Child Welfare Act and the Minnesota Indian Family Preservation Act.

360.5 The commissioner may specify the priority of an activity and service based on its success

360.6 in furthering these goals.

360.7 (c) The commissioner shall give preference to programs that use Indian staff, contract

360.8 with Indian organizations or Tribes, or whose application is a joint effort between the Indian

360.9 and non-Indian community to achieve the goals of the federal Indian Child Welfare Act

360.10 and the Minnesota Indian Family Preservation Act. Programs must have input and support

360.11 from the Indian community.

360.12 Sec. 49. Minnesota Statutes 2022, section 260.810, subdivision 3, is amended to read:

360.13 Subd. 3. **Final report.** A final evaluation report must be submitted by each approved

360.14 program to the commissioner. It must include client outcomes, cost and effectiveness in

360.15 meeting the goals of the Minnesota Indian Family Preservation Act and permanency planning

360.16 goals. The commissioner must compile the final reports into one document and provide a

360.17 copy to each Tribe.

360.18 Sec. 50. Minnesota Statutes 2022, section 260C.007, subdivision 26b, is amended to read:

360.19 Subd. 26b. **Relative of an Indian child.** "Relative of an Indian child" means a person

360.20 who is a member of the Indian child's family as defined in the Indian Child Welfare Act of

360.21 1978, United States Code, title 25, section 1903, paragraphs (2), (6), and (9), and who is an

360.22 extended family member as defined in section 260.755, subdivision 5b, of the Minnesota  
360.23 Indian Family Preservation Act.

360.24 Sec. 51. Minnesota Statutes 2022, section 260C.178, subdivision 1, as amended by Laws  
360.25 2024, chapter 80, article 8, section 24, is amended to read:

360.26 Subdivision 1. **Hearing and release requirements.** (a) If a child was taken into custody  
360.27 under section 260C.175, subdivision 1, clause (1) or (2), item (ii), the court shall hold a  
360.28 hearing within 72 hours of the time that the child was taken into custody, excluding  
360.29 Saturdays, Sundays, and holidays, to determine whether the child should continue to be in  
360.30 custody.

360.31 (b) Unless there is reason to believe that the child would endanger self or others or not  
360.32 return for a court hearing, or that the child's health or welfare would be immediately  
361.1 endangered, the child shall be released to the custody of a parent, guardian, custodian, or  
361.2 other suitable person, subject to reasonable conditions of release including, but not limited  
361.3 to, a requirement that the child undergo a chemical use assessment as provided in section  
361.4 260C.157, subdivision 1.

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

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

361.14 (2) into foster care as defined in section 260C.007, subdivision 18, under the legal  
361.15 responsibility of the responsible social services agency or responsible probation or corrections  
361.16 agency for the purposes of protective care as that term is used in the juvenile court rules.  
361.17 The court shall not give the responsible social services legal custody and order a trial home  
361.18 visit at any time prior to adjudication and disposition under section 260C.201, subdivision  
361.19 1, paragraph (a), clause (3), but may order the child returned to the care of the parent or  
361.20 guardian who has custody and from whom the child was removed and order the parent or  
361.21 guardian to comply with any conditions the court determines to be appropriate to meet the  
361.22 safety, health, and welfare of the child.

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

361.26 (e) The court, before determining whether a child should be placed in or continue in  
361.27 foster care under the protective care of the responsible agency, shall also make a  
361.28 determination, consistent with section 260.012 as to whether reasonable efforts were made

361.29 to prevent placement or whether reasonable efforts to prevent placement are not required.  
361.30 In the case of an Indian child, the court shall determine whether active efforts, according  
361.31 to section 260.762 and the Indian Child Welfare Act of 1978, United States Code, title 25,  
361.32 section 1912(d), were made to prevent placement. The court shall enter a finding that the  
361.33 responsible social services agency has made reasonable efforts to prevent placement when  
361.34 the agency establishes either:

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

362.4 (2) that there are no services or other efforts that could be made at the time of the hearing  
362.5 that could safely permit the child to remain home or to return home. The court shall not  
362.6 make a reasonable efforts determination under this clause unless the court is satisfied that  
362.7 the agency has sufficiently demonstrated to the court that there were no services or other  
362.8 efforts that the agency was able to provide at the time of the hearing enabling the child to  
362.9 safely remain home or to safely return home. When reasonable efforts to prevent placement  
362.10 are required and there are services or other efforts that could be ordered that would permit  
362.11 the child to safely return home, the court shall order the child returned to the care of the  
362.12 parent or guardian and the services or efforts put in place to ensure the child's safety. When  
362.13 the court makes a prima facie determination that one of the circumstances under paragraph  
362.14 (g) exists, the court shall determine that reasonable efforts to prevent placement and to  
362.15 return the child to the care of the parent or guardian are not required.

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

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

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

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

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

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

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

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

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

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

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

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

363.16 (k) If the court determines the child should be ordered into foster care and the child's  
363.17 parent refuses to give information to the responsible social services agency regarding the  
363.18 child's father or relatives of the child, the court may order the parent to disclose the names,  
363.19 addresses, telephone numbers, and other identifying information to the responsible social  
363.20 services agency for the purpose of complying with sections 260C.150, 260C.151, 260C.212,  
363.21 260C.215, 260C.219, and 260C.221.

363.22 (l) If a child ordered into foster care has siblings, whether full, half, or step, who are  
363.23 also ordered into foster care, the court shall inquire of the responsible social services agency  
363.24 of the efforts to place the children together as required by section 260C.212, subdivision 2,  
363.25 paragraph (d), if placement together is in each child's best interests, unless a child is in  
363.26 placement for treatment or a child is placed with a previously noncustodial parent who is  
363.27 not a parent to all siblings. If the children are not placed together at the time of the hearing,  
363.28 the court shall inquire at each subsequent hearing of the agency's reasonable efforts to place  
363.29 the siblings together, as required under section 260.012. If any sibling is not placed with  
363.30 another sibling or siblings, the agency must develop a plan to facilitate visitation or ongoing  
363.31 contact among the siblings as required under section 260C.212, subdivision 1, unless it is  
363.32 contrary to the safety or well-being of any of the siblings to do so.

363.33 (m) When the court has ordered the child into the care of a noncustodial parent or in  
363.34 foster care, the court may order a chemical dependency evaluation, mental health evaluation,  
364.1 medical examination, and parenting assessment for the parent as necessary to support the  
364.2 development of a plan for reunification required under subdivision 7 and section 260C.212,

364.3 subdivision 1, or the child protective services plan under section 260E.26, and Minnesota  
364.4 Rules, part 9560.0228.

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

364.8 Sec. 52. Minnesota Statutes 2022, section 260D.01, is amended to read:

364.9 **260D.01 CHILD IN VOLUNTARY FOSTER CARE FOR TREATMENT.**

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

364.12 (b) The juvenile court has original and exclusive jurisdiction over a child in voluntary  
364.13 foster care for treatment upon the filing of a report or petition required under this chapter.  
364.14 All obligations of the responsible social services agency to a child and family in foster care  
364.15 contained in chapter 260C not inconsistent with this chapter are also obligations of the  
364.16 agency with regard to a child in foster care for treatment under this chapter.

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

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

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

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

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

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

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

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

365.11 (d) This chapter does not apply when there is a current determination under chapter  
365.12 260E that the child requires child protective services or when the child is in foster care for  
365.13 any reason other than treatment for the child's emotional disturbance or developmental  
365.14 disability or related condition. When there is a determination under chapter 260E that the  
365.15 child requires child protective services based on an assessment that there are safety and risk  
365.16 issues for the child that have not been mitigated through the parent's engagement in services  
365.17 or otherwise, or when the child is in foster care for any reason other than the child's emotional  
365.18 disturbance or developmental disability or related condition, the provisions of chapter 260C  
365.19 apply.

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

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

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

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

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

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

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

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

366.13 (4) engaging with the responsible social services agency to ensure that the family and  
366.14 permanency team under section 260C.706 consists of appropriate family members. For  
366.15 purposes of voluntary placement of a child in foster care for treatment under chapter 260D,  
366.16 prior to forming the child's family and permanency team, the responsible social services  
366.17 agency must consult with the child's parent or legal guardian, the child if the child is 14  
366.18 years of age or older, and, if applicable, the child's Tribe to obtain recommendations regarding  
366.19 which individuals to include on the team and to ensure that the team is family-centered and  
366.20 will act in the child's best interests. If the child, child's parents, or legal guardians raise  
366.21 concerns about specific relatives or professionals, the team should not include those  
366.22 individuals unless the individual is a treating professional or an important connection to the  
366.23 youth as outlined in the case or crisis plan; and

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

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

367.3 Sec. 53. **[260D.011] COMPLIANCE WITH FEDERAL INDIAN CHILD WELFARE**  
367.4 **ACT AND MINNESOTA INDIAN FAMILY PRESERVATION ACT.**

367.5 Proceedings under this chapter concerning an Indian child are child custody proceedings  
367.6 governed by the Indian Child Welfare Act, United States Code, title 25, sections 1901 to  
367.7 1963; by the Minnesota Indian Family Preservation Act, sections 260.751 to 260.835; and  
367.8 by this chapter when not inconsistent with the federal Indian Child Welfare Act or the  
367.9 Minnesota Indian Family Preservation Act.

367.10 Sec. 54. **[260E.015] COMPLIANCE WITH FEDERAL INDIAN CHILD WELFARE**  
367.11 **ACT AND MINNESOTA INDIAN FAMILY PRESERVATION ACT.**

367.12 Proceedings under this chapter concerning an Indian child are child custody proceedings  
367.13 governed by the Indian Child Welfare Act, United States Code, title 25, sections 1901 to  
367.14 1963; by the Minnesota Indian Family Preservation Act, sections 260.751 to 260.835; and  
367.15 by this chapter when not inconsistent with the federal Indian Child Welfare Act or the  
367.16 Minnesota Indian Family Preservation Act.



367.17 Sec. 55. **[524.5-2011] COMPLIANCE WITH FEDERAL INDIAN CHILD WELFARE**  
367.18 **ACT AND MINNESOTA INDIAN FAMILY PRESERVATION ACT.**

367.19 Proceedings under this chapter concerning an Indian child are child custody proceedings  
367.20 governed by the Indian Child Welfare Act, United States Code, title 25, sections 1901 to  
367.21 1963; by the Minnesota Indian Family Preservation Act, sections 260.751 to 260.835; and  
367.22 by this chapter when not inconsistent with the federal Indian Child Welfare Act or the  
367.23 Minnesota Indian Family Preservation Act.

367.24 Sec. 56. **DIRECTION TO COMMISSIONER OF HUMAN SERVICES; STUDY OF**  
367.25 **CHILD PLACEMENT AND PERMANENCY; PRACTICE RECOMMENDATIONS.**

367.26 Subdivision 1. **Study parameters.** (a) The commissioner of children, youth, and families  
367.27 shall contract with an independent consultant to evaluate the effects of child placement in  
367.28 foster care and out-of-home settings on the safety, permanency, and well-being of the child.  
367.29 The study must be designed to evaluate the system overall for a child's placement and  
367.30 permanency. The study shall identify and evaluate factors designed to ensure emotional and  
367.31 physical safety of the child in the context of child placement and permanency dispositions  
368.1 and shall include an analysis of structuring out-of-home placement decisions, reunification  
368.2 timelines, and service provisions to best allow the parents to engage in positive parenting  
368.3 of the child. The consultant must develop guidelines for when to place a child out-of-home,  
368.4 who to place the child with, when and how to keep the child connected to family and  
368.5 community, and what timelines allow a child's parents to best engage in necessary services  
368.6 and treatment before reunification, including but not limited to substance use disorder or  
368.7 mental health treatment.

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

368.11 Subd. 2. **Collaboration with interested parties.** (a) The consultant shall design the  
368.12 study with an advisory group consisting of:

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

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

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

368.16 (4) a representative from the Association of Minnesota Counties appointed by the  
368.17 association;

368.18 (5) two members representing county social services agencies, one from the seven-county  
368.19 metropolitan area and one from Greater Minnesota;

368.20 (6) one member appointed by the Minnesota Council on Disability;

- 368.21 (7) one member appointed by the Indian Child Welfare Advisory Council;  
368.22 (8) one member appointed by the Ombudsperson for American Indian Families;  
368.23 (9) one member appointed by the Children's Alliance;  
368.24 (10) up to four members appointed by the ombudsperson for families;  
368.25 (11) up to four members from the Children's Justice Task Force; and  
368.26 (12) members of the public appointed by the governor representing:  
368.27 (i) one member 18 years of age who has lived experience with the child welfare system;  
368.28 (ii) one member 18 years of age or older who has lived experience with the child welfare  
368.29 system as a parent or caregiver;  
368.30 (iii) one member who is working with or advocating for children with disabilities;  
369.1 (iv) one member with experience working with or advocating for LGBTQ youth;  
369.2 (v) one member working with or advocating for Indigenous children;  
369.3 (vi) one member working with or advocating for black children or youth;  
369.4 (vii) one member working with or advocating for other children of color;  
369.5 (viii) one member who is an attorney representing children in child placement  
369.6 proceedings;  
369.7 (ix) one member who is a Tribal attorney in child placement proceedings;  
369.8 (x) one member who is an attorney representing parents in child placement proceedings;  
369.9 (xi) one member with experience in children's mental health;  
369.10 (xii) one member with experience in adult mental health; and  
369.11 (xiii) one member who is a substance abuse professional.  
369.12 (b) Membership terms, compensation, and removal of members appointed under  
369.13 paragraph (a) are governed by Minnesota Statutes, section 15.059.  
369.14 Subd. 3. **Report.** By September 1, 2027, the consultant shall submit a final report to the  
369.15 commissioner of human services and to the chairs and ranking minority members of the  
369.16 legislative committees with jurisdiction over health and human services. The final report  
369.17 must include a recommendation on the optimal time frame for child placement in foster  
369.18 care or out-of-home placement. The commissioner of human services shall include a report  
369.19 on needed statutory changes as a result of the consultant's report.

369.20    Sec. 57. **REPEALER.**  
369.21        Minnesota Statutes 2022, section 260.755, subdivision 13, is repealed.