

## CHAPTER 260

### JUVENILE COURT; CHILD PLACEMENT; COMPACTS

	<b>GENERAL PROVISIONS</b>				
260.011	TITLE, INTENT, AND CONSTRUCTION.	260.773	PLACEMENT OF INDIAN CHILDREN.		
260.012	DUTY TO ENSURE PLACEMENT PREVENTION AND FAMILY REUNIFICATION; REASONABLE EFFORTS.	260.774	IMPROPER REMOVAL OF CHILD, DECLINATION OF JURISDICTION, INVALIDATION, RETURN OF CUSTODY.		
260.014	FAMILY FIRST PREVENTION AND EARLY INTERVENTION ALLOCATION PROGRAM.	260.7745	COUNTY AND TRIBAL AGREEMENTS; MALTREATMENT ASSESSMENTS AND INVESTIGATIONS OF INDIAN CHILDREN.		
	<b>ORGANIZATION OF THE COURT</b>	260.775	PLACEMENT RECORDS.		
260.019	JUVENILE COURT; HENNEPIN AND RAMSEY COUNTIES.	260.781	RECORDS; INFORMATION AVAILABILITY.		
260.021	JUVENILE COURTS.	260.785	INDIAN CHILD WELFARE GRANTS.		
260.031	REFEREE.	260.786	CHILD WELFARE STAFF ALLOCATION FOR TRIBES.		
260.041	COURT ADMINISTRATOR; COURT REPORTER.	260.791	GRANT APPLICATIONS.		
260.042	ORIENTATION AND EDUCATIONAL PROGRAM.	260.795	ELIGIBLE SERVICES.		
	<b>SALARIES</b>	260.805	CONTINUED LEGAL RESPONSIBILITY OF CHILD-PLACING AGENCIES.		
260.105	SALARIES.	260.810	PAYMENTS; REQUIRED REPORTS.		
	<b>INTERSTATE COMPACT FOR JUVENILES</b>	260.815	MONITORING AND EVALUATION.		
260.515	INTERSTATE COMPACT FOR JUVENILES.	260.821	GRANT FORMULA.		
260.55	EXPENSE OF RETURNING JUVENILES TO STATE, PAYMENT.	260.831	UNDISTRIBUTED FUNDS.		
260.56	COUNSEL OR GUARDIAN AD LITEM FOR JUVENILE, FEES.	260.835	AMERICAN INDIAN CHILD WELFARE ADVISORY COUNCIL.		
260.57	ENFORCEMENT.	260.836	SEVERABILITY.		
	<b>MINNESOTA INDIAN FAMILY PRESERVATION ACT</b>		<b>INTERSTATE COMPACT</b>		
260.751	CITATION.	260.851	INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN.		
260.752	APPLICABILITY.	260.855	FINANCIAL RESPONSIBILITY.		
260.753	PURPOSES.	260.861	APPROPRIATE PUBLIC AUTHORITIES DEFINED.		
260.754	POLICY ON TRIBAL-STATE RELATIONS.	260.865	APPROPRIATE AUTHORITY IN RECEIVING STATE DEFINED.		
260.755	DEFINITIONS.	260.871	AGREEMENTS.		
260.758	EMERGENCY REMOVAL OR PLACEMENT OF INDIAN CHILD; TERMINATION; APPROPRIATE ACTION.	260.875	REQUIREMENTS FOR VISITATION; SUPERVISION.		
260.761	INQUIRY OF TRIBAL LINEAGE; NOTICE TO TRIBES, PARENTS, AND INDIAN CUSTODIANS; ACCESS TO FILES.	260.881	CERTAIN LAWS NOT APPLICABLE.		
260.762	DUTY TO PREVENT OUT-OF-HOME PLACEMENT AND PROMOTE FAMILY REUNIFICATION; ACTIVE EFFORTS.	260.885	COURT JURISDICTION RETAINED.		
260.763	JURISDICTION AND TRANSFER TO TRIBAL COURT.	260.91	EXECUTIVE HEAD DEFINED.		
260.765	VOLUNTARY FOSTER CARE PLACEMENT.	260.92	PLACEMENT PROCEDURES.		
260.771	INVOLUNTARY CHILD PLACEMENT PROCEEDINGS.	260.925	APPLICATION OF LAWS; GENDER-AFFIRMING HEALTH CARE.		
			<b>INTERSTATE COMPACT FOR CHILD PLACEMENT</b>		
		260.93	INTERSTATE COMPACT FOR THE PLACEMENT OF CHILDREN.		

### GENERAL PROVISIONS

**260.01** [Repealed, 1959 c 685 s 53]

**260.011 TITLE, INTENT, AND CONSTRUCTION.**

Subdivision 1. **Citation.** Sections 260.011 to 260.92 may be cited as general provisions of the Juvenile Court Act.

Subd. 2. [Repealed, 1999 c 139 art 4 s 3]

**History:** 1959 c 685 s 1; 1980 c 580 s 3; 1985 c 286 s 1; 1986 c 444; 1988 c 514 s 3; 1988 c 673 s 2; 1990 c 542 s 10; 1998 c 406 art 1 s 23,37; 1998 c 407 art 9 s 22; 1999 c 139 art 1 s 1; 2019 c 50 art 1 s 84

**260.012 DUTY TO ENSURE PLACEMENT PREVENTION AND FAMILY REUNIFICATION; REASONABLE EFFORTS.**

(a) Once a child alleged to be in need of protection or services is under the court's jurisdiction, the court shall ensure that reasonable efforts, including culturally appropriate services and practices, by the social services agency are made to prevent placement or to eliminate the need for removal and to reunite the child with the child's family at the earliest possible time, and the court must ensure that the responsible social services agency makes reasonable efforts to finalize an alternative permanent plan for the child as provided in paragraph (e). In determining reasonable efforts to be made with respect to a child and in making those reasonable efforts, the child's best interests, health, and safety must be of paramount concern. Reasonable efforts to prevent placement and for rehabilitation and reunification are always required except upon a determination by the court that a petition has been filed stating a prima facie case that:

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

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

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

(4) the parent's custodial rights to another child have been involuntarily transferred to a relative under Minnesota Statutes 2010, section 260C.201, subdivision 11, paragraph (d), clause (1), section 260C.515, subdivision 4, or a similar law of another jurisdiction;

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

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

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

(b) When the court makes one of the prima facie determinations under paragraph (a), either permanency pleadings under section 260C.505, or a termination of parental rights petition under sections 260C.141 and 260C.301 must be filed. A permanency hearing under sections 260C.503 to 260C.521 must be held within 30 days of this determination.

(c) In the case of an Indian child, in proceedings under sections 260B.178, 260C.178, 260C.201, 260C.202, 260C.204, 260C.301, or 260C.503 to 260C.521, the juvenile court must make findings and conclusions consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901 et seq., as to the provision of active efforts. In cases governed by the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, the responsible social services agency must provide active efforts as required under United States Code, title 25, section 1911(d).

(d) "Reasonable efforts to prevent placement" means:

(1) the agency has made reasonable efforts to prevent the placement of the child in foster care by working with the family to develop and implement a safety plan that is individualized to the needs of the child and the child's family and may include support persons from the child's extended family, kin network, and community; or

(2) the agency has demonstrated to the court that, given the particular circumstances of the child and family at the time of the child's removal, there are no services or efforts available that could allow the child to safely remain in the home.

(e) "Reasonable efforts to finalize a permanent plan for the child" means due diligence by the responsible social services agency to:

(1) reunify the child with the parent or guardian from whom the child was removed;

(2) assess a noncustodial parent's ability to provide day-to-day care for the child and, where appropriate, provide services necessary to enable the noncustodial parent to safely provide the care, as required by section 260C.219;

(3) conduct a relative search to identify and provide notice to adult relatives, and engage relatives in case planning and permanency planning, as required under section 260C.221;

(4) consider placing the child with relatives in the order specified in section 260C.212, subdivision 2, paragraph (a);

(5) place siblings removed from their home in the same home for foster care or adoption, or transfer permanent legal and physical custody to a relative. Visitation between siblings who are not in the same foster care, adoption, or custodial placement or facility shall be consistent with section 260C.212, subdivision 2; and

(6) when the child cannot return to the parent or guardian from whom the child was removed, to plan for and finalize a safe and legally permanent alternative home for the child, and considers permanent alternative homes for the child inside or outside of the state, preferably with a relative in the order specified in section 260C.212, subdivision 2, paragraph (a), through adoption or transfer of permanent legal and physical custody of the child.

(f) Reasonable efforts are made upon the exercise of due diligence by the responsible social services agency to use culturally appropriate and available services to meet the individualized needs of the child and the child's family. Services may include those provided by the responsible social services agency and other culturally appropriate services available in the community. The responsible social services agency must select services for a child and the child's family by collaborating with the child's family and, if appropriate, the child. At each stage of the proceedings when the court is required to review the appropriateness of the responsible social services agency's reasonable efforts as described in paragraphs (a), (d), and (e), the social services agency has the burden of demonstrating that:

(1) the agency has made reasonable efforts to prevent placement of the child in foster care, including that the agency considered or established a safety plan according to paragraph (d), clause (1);

(2) the agency has made reasonable efforts to eliminate the need for removal of the child from the child's home and to reunify the child with the child's family at the earliest possible time;

(3) the agency has made reasonable efforts to finalize a permanent plan for the child pursuant to paragraph (e);

(4) the agency has made reasonable efforts to finalize an alternative permanent home for the child, and considered permanent alternative homes for the child in or out of the state, preferably with a relative in the order specified in section 260C.212, subdivision 2, paragraph (a); or

(5) reasonable efforts to prevent placement and to reunify the child with the parent or guardian are not required. The agency may meet this burden by stating facts in a sworn petition filed under section 260C.141, by filing an affidavit summarizing the agency's reasonable efforts or facts that the agency believes demonstrate that there is no need for reasonable efforts to reunify the parent and child, or through testimony or a certified report required under juvenile court rules.

(g) Once the court determines that reasonable efforts for reunification are not required because the court has made one of the prima facie determinations under paragraph (a), the court may only require the agency to make reasonable efforts for reunification after a hearing according to section 260C.163, if the court finds that there is not clear and convincing evidence of the facts upon which the court based the court's prima facie determination. If there is clear and convincing evidence that the child is in need of protection or services, the court may find the child in need of protection or services and order any of the dispositions available under section 260C.201, subdivision 1. Reunification of a child with a parent is not required if the parent has been convicted of:

(1) a violation of, or an attempt or conspiracy to commit a violation of, sections 609.185 to 609.20; 609.222, subdivision 2; or 609.223 in regard to another child of the parent;

(2) a violation of section 609.222, subdivision 2; or 609.223, in regard to the child;

(3) a violation of, or an attempt or conspiracy to commit a violation of, United States Code, title 18, section 1111(a) or 1112(a), in regard to another child of the parent;

(4) committing sexual abuse as defined in section 260E.03, against the child or another child of the parent; or

(5) an offense that requires registration as a predatory offender under section 243.166, subdivision 1b, paragraph (a) or (b).

(h) The juvenile court, in proceedings under sections 260B.178, 260C.178, 260C.201, 260C.202, 260C.204, 260C.301, or 260C.503 to 260C.521, shall make findings and conclusions as to the provision of reasonable efforts. When determining whether reasonable efforts have been made by the agency, the court shall consider whether services to the child and family were:

(1) selected in collaboration with the child's family and, if appropriate, the child;

(2) tailored to the individualized needs of the child and child's family;

(3) relevant to the safety, protection, and well-being of the child;

(4) adequate to meet the individualized needs of the child and family;

(5) culturally appropriate;

(6) available and accessible;

(7) consistent and timely; and

(8) realistic under the circumstances.

In the alternative, the court may determine that the provision of services or further services for the purpose of rehabilitation is futile and therefore unreasonable under the circumstances or that reasonable efforts are not required as provided in paragraph (a).

(i) This section does not prevent out-of-home placement for the treatment of a child with a mental disability when it is determined to be medically necessary as a result of the child's diagnostic assessment or the child's individual treatment plan indicates that appropriate and necessary treatment cannot be effectively provided outside of a residential or inpatient treatment program and the level or intensity of supervision and treatment cannot be effectively and safely provided in the child's home or community and it is determined that a residential treatment setting is the least restrictive setting that is appropriate to the needs of the child.

(j) If continuation of reasonable efforts to prevent placement or reunify the child with the parent or guardian from whom the child was removed is determined by the court to be inconsistent with the permanent plan for the child or upon the court making one of the prima facie determinations under paragraph (a), reasonable efforts must be made to place the child in a timely manner in a safe and permanent home and to complete whatever steps are necessary to legally finalize the permanent placement of the child.

(k) Reasonable efforts to place a child for adoption or in another permanent placement may be made concurrently with reasonable efforts to prevent placement or to reunify the child with the parent or guardian from whom the child was removed. When the responsible social services agency decides to concurrently make reasonable efforts for both reunification and permanent placement away from the parent under paragraph (a), the agency shall disclose the agency's decision and both plans for concurrent reasonable efforts to all parties and the court. When the agency discloses the agency's decision to proceed with both plans for reunification and permanent placement away from the parent, the court's review of the agency's reasonable efforts shall include the agency's efforts under both plans.

**History:** 1986 c 448 s 1; 1988 c 514 s 4; 1989 c 235 s 1; 1997 c 239 art 6 s 13; 1998 c 406 art 1 s 24,37; 1998 c 407 art 9 s 23; 1999 c 245 art 8 s 42; 2001 c 178 art 1 s 4,44; 1Sp2003 c 14 art 11 s 11; 2005 c 159 art 2 s 11; 2007 c 147 art 1 s 7; 2009 c 163 art 2 s 13; 2010 c 301 art 3 s 4; 2012 c 216 art 4 s 1; art 6 s 13; 1Sp2020 c 2 art 8 s 109; 2022 c 98 art 8 s 2

**260.013** [Repealed, 1999 c 139 art 4 s 3]

## **260.014 FAMILY FIRST PREVENTION AND EARLY INTERVENTION ALLOCATION PROGRAM.**

Subdivision 1. **Authorization.** The commissioner shall establish a program that allocates money to counties and federally recognized Tribes in Minnesota to provide prevention and early intervention services under the Family First Prevention Services Act.

Subd. 2. **Uses.** (a) Money allocated to counties and Tribes may be used for the following purposes:

- (1) to implement or expand any service or program that is included in the state's prevention plan;
- (2) to implement or expand any proposed service or program;
- (3) to implement or expand any existing service or program; and
- (4) any other use approved by the commissioner.

A county or a Tribe must use at least ten percent of the allocation to provide services and supports directly to families.

Subd. 3. **Payments.** (a) The commissioner shall allocate state money appropriated under this section to each county board or Tribe on a calendar-year basis using a formula established by the commissioner.

(b) A county agency or an initiative Tribe must submit a plan and report the use of money as determined by the commissioner.

(c) The commissioner may distribute money under this section for a two-year period.

Subd. 4. **Prohibition on supplanting existing money.** Money received under this section must be used to address prevention and early intervention staffing, programming, and other activities as determined by the commissioner. Money must not be used to supplant current county or Tribal expenditures for these purposes.

**History:** 2023 c 70 art 14 s 5

**260.015** [Repealed, 1999 c 139 art 4 s 3]

## ORGANIZATION OF THE COURT

### **260.019 JUVENILE COURT; HENNEPIN AND RAMSEY COUNTIES.**

Subdivision 1. **Hennepin and Ramsey Counties; district court; juvenile court.** In Hennepin and Ramsey Counties, the district court is the juvenile court.

Subd. 2. [Repealed, 2002 c 229 s 1]

Subd. 3. [Repealed, 2002 c 229 s 1]

Subd. 4. [Repealed, 2002 c 229 s 1]

**History:** 1978 c 750 s 7; 1981 c 292 s 2; 1986 c 444; 1999 c 139 art 4 s 2

**260.0191** [Repealed, 1985 c 278 s 2; 1989 c 262 s 5]

**260.02** [Repealed, 1959 c 685 s 53]

### **260.021 JUVENILE COURTS.**

Subdivision 1. [Repealed, 1978 c 750 s 9]

Subd. 2. [Repealed, 1978 c 750 s 9]

Subd. 3. [Repealed, 1978 c 750 s 9]

Subd. 4. **Juvenile court.** In counties now or hereafter having a population of not more than 200,000, the probate court is the juvenile court. At the primary or general election, the office of probate judge shall also be designated on the ballot as "Judge of the Juvenile Court."

**History:** 1959 c 685 s 3; 1965 c 316 s 1,2; 1971 c 25 s 49,50

**260.022** [Repealed, 2001 c 78 s 4]

**260.023** [Repealed, 2001 c 78 s 4]

**260.024** [Repealed, 2001 c 78 s 4]

**260.025** [Repealed, 2001 c 78 s 4]

**260.03** [Repealed, 1959 c 685 s 53]

### **260.031 REFEREE.**

Subdivision 1. **Appointment.** The chief judge of the judicial district may appoint one or more suitable persons to act as referees. All referees are subject to the administrative authority and assignment power of the chief judge of the district as provided in section 484.69, subdivision 3, and are not limited to assignment to juvenile court. Referees shall hold office at the pleasure of the judges of the district court and shall be learned in the law, except that persons holding the office of referee on January 1, 1983, may continue to serve under the terms and conditions of their appointment. The compensation of a referee shall be fixed by the judge, approved by the county board and payable from the general revenue funds of the county not otherwise appropriated. Part time referees holding office in the Second Judicial District pursuant to this subdivision shall cease to hold office on July 31, 1984.

Subd. 2. **Referee hears case.** The judge may direct that any case or class of cases shall be heard in the first instance by the referee in the manner provided for the hearing of cases by the court.

Subd. 3. **Findings transmitted.** Upon the conclusion of the hearing in each case, the referee shall transmit to the judge all papers relating to the case, together with findings and recommendations in writing. Notice of the findings of the referee together with a statement relative to the right of rehearing shall be given to the minor, parents, guardian, or custodian of the minor whose case has been heard by the referee, and to any other person that the court may direct. This notice may be given at the hearing, or by certified mail or other service directed by the court.

Subd. 4. **Hearing request.** The minor and the minor's parents, guardians, or custodians are entitled to a hearing by the judge of the juvenile court if, within three days after receiving notice of the findings of the referee, they file a request with the court for a hearing. The court may allow such a hearing at any time.

Subd. 5. **Referee findings; decree of court.** In case no hearing before the judge is requested, or when the right to a hearing is waived, the findings and recommendations of the referee become the decree of the court when confirmed by an order of the judge. The final order of the court shall, in any event, be proof of such confirmation, and also of the fact that the matter was duly referred to the referee.

**History:** 1959 c 685 s 5; 1981 c 272 s 1; 1Sp1981 c 4 art 4 s 25; 1983 c 370 s 1; 1986 c 444

**260.04** [Repealed, 1959 c 685 s 53]

### **260.041 COURT ADMINISTRATOR; COURT REPORTER.**

Subdivision 1. **Duties.** The court administrator of the juvenile court shall keep necessary books and records, issue summons and process, attend to the correspondence of the court, and in general perform such duties in the administration of the business of the court as the judge may direct.

Subd. 2. **Service as court administrator of juvenile court.** In counties having a population of not more than 200,000, the court administrator of the probate court shall serve as court administrator of the juvenile court.

Subd. 3. **Court reporters.** The judge of juvenile court, in counties not having a court reporter for the juvenile court, may appoint one or more qualified persons to serve as court reporters for the juvenile court

in any matter or proceeding, whenever the court considers it necessary. The compensation of the court reporter shall be fixed by the judge and approved by the county board and shall be payable from general revenue funds not otherwise appropriated.

**History:** *1959 c 685 s 6; 1961 c 576 s 2; 1965 c 316 s 3; 1Sp1986 c 3 art 1 s 82*

#### **260.042 ORIENTATION AND EDUCATIONAL PROGRAM.**

The court shall make an orientation and educational program available for juveniles and their families in accordance with the program established, if any, by the supreme court.

**History:** *1995 c 226 art 3 s 16*

**260.05** [Renumbered 260.305]

**260.06** [Repealed, 1959 c 685 s 53]

**260.065** [Repealed, 1959 c 685 s 53]

**260.07** [Repealed, 1959 c 685 s 53]

**260.08** [Repealed, 1959 c 685 s 53]

**260.09** [Renumbered 260.311]

**260.092** [Repealed, 1999 c 139 art 4 s 3]

**260.094** [Repealed, 1999 c 139 art 4 s 3]

**260.096** [Repealed, 1999 c 139 art 4 s 3]

**260.10** [Repealed, 1959 c 685 s 53]

**260.101** [Repealed, 1999 c 139 art 4 s 3]

**260.103** [Repealed, 1988 c 673 s 40]

### **SALARIES**

#### **260.105 SALARIES.**

All salaries and expenses to be paid by the county under the provisions of sections 244.19 and 260.021 to 260.042 shall be paid upon certification of the judge of juvenile court or upon such other authorization provided by law.

**History:** *1959 c 685 s 12; 1991 c 199 art 2 s 1; 2009 c 86 art 1 s 45*

**260.106** [Repealed, 1977 c 200 s 1]

**260.11** [Repealed, 1959 c 685 s 53]

**260.111** [Repealed, 1999 c 139 art 4 s 3]

**260.115** [Repealed, 1999 c 139 art 4 s 3]

**260.12** [Repealed, 1959 c 685 s 53]



**260.121** [Repealed, 1999 c 139 art 4 s 3]

**260.125** Subdivision 1. MS 1949 [Renumbered 242.01]

Subd. 2. MS 1949 [Renumbered 242.02]

Subd. 3. MS 1949 [Renumbered 242.03]

Subd. 4. MS 1949 [Renumbered 242.04]

Subd. 5. MS 1949 [Renumbered 242.05]

Subd. 6. MS 1949 [Renumbered 242.06]

Subd. 7. MS 1949 [Renumbered 242.07]

Subd. 8. MS 1949 [Renumbered 242.08]

Subd. 9. MS 1949 [Renumbered 242.09]

Subd. 10. MS 1949 [Renumbered 242.10]

Subd. 11. MS 1949 [Renumbered 242.11]

Subd. 12. MS 1949 [Renumbered 242.12]

Subd. 13. MS 1949 [Renumbered 242.13]

Subd. 14. MS 1949 [Renumbered 242.14]

Subd. 15. MS 1949 [Renumbered 242.15]

Subd. 16. MS 1949 [Renumbered 242.16]

Subd. 17. MS 1949 [Renumbered 242.17]

Subd. 18. MS 1949 [Renumbered 242.18]

Subd. 19. MS 1949 [Renumbered 242.19]

Subd. 20. MS 1949 [Renumbered 242.20]

Subd. 21. MS 1949 [Renumbered 242.21]

Subd. 22. MS 1949 [Renumbered 242.22]

Subd. 23. MS 1949 [Renumbered 242.23]

Subd. 24. MS 1949 [Renumbered 242.24]

Subd. 25. MS 1949 [Renumbered 242.25]

Subd. 26. MS 1949 [Renumbered 242.26]

Subd. 27. MS 1949 [Renumbered 242.27]

Subd. 28. MS 1949 [Renumbered 242.28]

Subd. 29. MS 1949 [Renumbered 242.29]

Subd. 30. MS 1949 [Renumbered 242.30]

Subd. 31. MS 1949 [Renumbered 242.31]

Subd. 32. MS 1949 [Renumbered 242.32]

Subd. 33. MS 1949 [Renumbered 242.33]

Subd. 34. MS 1949 [Renumbered 242.34]

Subd. 35. MS 1949 [Renumbered 242.35]

Subd. 36. MS 1949 [Renumbered 242.36]

Subd. 37. MS 1949 [Renumbered 242.37]

**260.125** MS 1998 [Repealed, 1999 c 139 art 4 s 3]

**260.126** [Repealed, 1999 c 139 art 4 s 3]

**260.13** [Repealed, 1959 c 685 s 53]

**260.131** [Repealed, 1999 c 139 art 4 s 3]

**260.132** [Repealed, 1999 c 139 art 4 s 3]

**260.133** [Repealed, 1999 c 139 art 4 s 3]

**260.135** [Repealed, 1999 c 139 art 4 s 3]

**260.14** [Repealed, 1959 c 685 s 53]

**260.141** [Repealed, 1999 c 139 art 4 s 3]

**260.145** [Repealed, 1999 c 139 art 4 s 3]

**260.15** [Repealed, 1959 c 685 s 53]

**260.151** [Repealed, 1999 c 139 art 4 s 3]

**260.152** [Repealed, 1Sp2003 c 14 art 11 s 12]

**260.155** [Repealed, 1999 c 139 art 4 s 3]

**260.156** [Repealed, 1999 c 139 art 4 s 3; 2000 c 260 s 86]

**260.157** [Repealed, 1999 c 139 art 4 s 3]

**260.16** [Repealed, 1959 c 685 s 53]

**260.161** [Repealed, 1999 c 139 art 4 s 3]

**260.162** [Repealed, 1999 c 139 art 4 s 3]

**260.165** [Repealed, 1999 c 139 art 4 s 3]

**260.17** [Repealed, 1959 c 685 s 53]

**260.171** [Repealed, 1999 c 139 art 4 s 3]

- 260.172** [Repealed, 1999 c 139 art 4 s 3]  
**260.173** [Repealed, 1999 c 139 art 4 s 3]  
**260.1735** [Repealed, 1999 c 139 art 4 s 3]  
**260.174** [Repealed, 1999 c 139 art 4 s 3]  
**260.175** [Repealed, 1976 c 318 s 18]  
**260.18** [Repealed, 1959 c 685 s 53]  
**260.181** [Repealed, 1999 c 139 art 4 s 3]  
**260.185** [Repealed, 1999 c 139 art 4 s 3]  
**260.19** [Repealed, 1959 c 685 s 53]  
**260.191** [Repealed, 1999 c 139 art 4 s 3]  
**260.192** [Repealed, 1999 c 139 art 4 s 3]  
**260.193** [Repealed, 1999 c 139 art 4 s 3]  
**260.194** [Repealed, 1988 c 673 s 40]  
**260.195** [Repealed, 1999 c 139 art 4 s 3]  
**260.20** [Repealed, 1959 c 685 s 53]  
**260.21** [Repealed, 1959 c 685 s 53]  
**260.211** [Repealed, 1999 c 139 art 4 s 3]  
**260.215** [Repealed, 1999 c 139 art 4 s 3]  
**260.22** [Repealed, 1959 c 685 s 53]  
**260.221** [Repealed, 1999 c 139 art 4 s 3]  
**260.225** [Repealed, 1999 c 139 art 4 s 3; 2000 c 260 s 86]  
**260.23** [Repealed, 1959 c 685 s 53]  
**260.231** [Repealed, 1999 c 139 art 4 s 3; 2000 c 260 s 86]  
**260.235** [Repealed, 1999 c 139 art 4 s 3; 2000 c 260 s 86]  
**260.24** [Repealed, 1959 c 685 s 53]  
**260.241** [Repealed, 1999 c 139 art 4 s 3]  
**260.242** [Repealed, 1999 c 139 art 4 s 3]  
**260.245** [Repealed, 1999 c 139 art 4 s 3]  
**260.25** [Repealed, 1959 c 685 s 53]  
**260.251** [Repealed, 1999 c 139 art 4 s 3]

- 260.255** [Repealed, 1999 c 139 art 4 s 3]
- 260.26** [Repealed, 1959 c 685 s 53]
- 260.261** [Repealed, 1998 c 367 art 10 s 17; 1999 c 139 art 4 s 3]
- 260.27** [Renumbered 260.315]
- 260.271** [Repealed, 1999 c 139 art 4 s 3]
- 260.28** [Repealed, 1959 c 685 s 53]
- 260.281** [Repealed, 1999 c 139 art 4 s 3]
- 260.29** [Repealed, 1959 c 685 s 53]
- 260.291** [Repealed, 1999 c 139 art 4 s 3]
- 260.30** [Repealed, 1959 c 685 s 53]
- 260.301** [Repealed, 1999 c 139 art 4 s 3]
- 260.305** [Repealed, 1974 c 322 s 26]
- 260.31** [Repealed, 1959 c 685 s 53]
- 260.311** Subdivision 1. [Renumbered 244.19, subdivision 1]
- Subd. 2. [Renumbered 244.19, subd 2]
- Subd. 3. [Renumbered 244.19, subd 3]
- Subd. 3a. [Renumbered 244.19, subd 4]
- Subd. 4. [Renumbered 244.19, subd 5]
- Subd. 5. [Renumbered 244.19, subd 6]
- Subd. 6. [Renumbered 244.19, subd 7]
- Subd. 7. [Renumbered 244.19, subd 8]
- 260.315** [Repealed, 1999 c 139 art 4 s 3]
- 260.32** [Repealed, 1959 c 685 s 53]
- 260.33** [Repealed, 1959 c 685 s 53]
- 260.34** [Repealed, 1959 c 685 s 53]
- 260.35** [Repealed, 1999 c 139 art 4 s 3]
- 260.36** [Repealed, 1999 c 139 art 4 s 3]
- 260.37** [Repealed, 1959 c 685 s 53]
- 260.38** [Repealed, 1999 c 139 art 4 s 3; 2000 c 260 s 86]
- 260.39** [Repealed, 1999 c 139 art 4 s 3]

**260.40** [Repealed, 1999 c 139 art 4 s 3]

**260.41** [Repealed, 1980 c 472 s 1]

**260.42** [Repealed, 1980 c 472 s 1]

**260.43** [Repealed, 1980 c 472 s 1]

**260.44** [Repealed, 1980 c 472 s 1]

**260.45** [Repealed, 1980 c 472 s 1]

**260.46** [Repealed, 1980 c 472 s 1]

### INTERSTATE COMPACT FOR JUVENILES

**260.51** [Repealed, 2015 c 35 s 1]

#### **260.515 INTERSTATE COMPACT FOR JUVENILES.**

The Interstate Compact for Juveniles is enacted into law and entered into with all other states legally joining in it in substantially the following form:

#### ARTICLE I

#### PURPOSE

The compacting states to this Interstate Compact recognize that each state is responsible for the proper supervision or return of juveniles, delinquents, and status offenders who are on probation or parole and who have absconded, escaped, or run away from supervision and control and in so doing have endangered their own safety and the safety of others. The compacting states also recognize that each state is responsible for the safe return of juveniles who have run away from home and in doing so have left their state of residence. The compacting states also recognize that Congress, by enacting the Crime Control Act, United States Code, title 4, section 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

It is the purpose of this compact, through means of joint and cooperative action among the compacting states to:

(A) ensure that the adjudicated juveniles and status offenders subject to this compact are provided adequate supervision and services in the receiving state as ordered by the adjudicating judge or parole authority in the sending state;

(B) ensure that the public safety interests of the citizens, including the victims of juvenile offenders, in both the sending and receiving states are adequately protected;

(C) return juveniles who have run away, absconded, or escaped from supervision or control or have been accused of an offense to the state requesting their return;

(D) make contracts for the cooperative institutionalization in public facilities in member states for delinquent youth needing special services;

(E) provide for the effective tracking and supervision of juveniles;

(F) equitably allocate the costs, benefits, and obligations of the compact states;

(G) establish procedures to manage the movement between states of juvenile offenders released to the community under the jurisdiction of courts, juvenile departments, or any other criminal or juvenile justice agency which has jurisdiction over juvenile offenders;

(H) insure immediate notice to jurisdictions where defined juvenile offenders are authorized to travel or to relocate across state lines;

(I) establish procedures to resolve pending charges (detainers) against juvenile offenders prior to transfer or release to the community under the terms of this compact;

(J) establish a system of uniform data collection on information pertaining to juveniles subject to this compact that allows access by authorized juvenile justice and criminal justice officials, and regular reporting of compact activities to heads of state; executive, judicial, and legislative branches; and juvenile criminal justice administrators;

(K) monitor compliance with rules governing interstate movement of juveniles and initiate interventions to address and correct noncompliance;

(L) coordinate training and education regarding the regulation of interstate movement of juveniles for officials involved in such activity; and

(M) coordinate the implementation and operation of the compact with the Interstate Compact for the Placement of Children, the Interstate Compact for Adult Offender Supervision, and other compacts affecting juveniles particularly in those cases where concurrent or overlapping supervision issues arise.

It is the policy of the compacting states that the activities conducted by the Interstate Commission created herein are the information of public policies and therefore are public business. Furthermore, the compacting states shall cooperate and observe their individual and collective duties and responsibilities for the prompt return and acceptance of juveniles subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the purpose and policies of the compact.

## ARTICLE II

### DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

A. "Bylaws" means those bylaws established by the commission for its governance, or for directing or controlling its actions or conduct.

B. "Compact administrator" means the individual in each compacting state appointed pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission, and policies adopted by the state council under this compact.

C. "Compacting state" means any state which has enacted the enabling legislation for this compact.

D. "Commissioner" means the voting representative of each compacting state appointed pursuant to Article III of this compact.

E. "Court" means any court having jurisdiction over delinquent, neglected, or dependent children.

F. "Deputy compact administrator" means the individual, if any, in each compacting state appointed to act on behalf of a compact administrator pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission, and policies adopted by the state council under this compact.

G. "Interstate Commission" means the Interstate Commission for Juveniles created by Article III of this compact.

H. "Juvenile" means any person defined as a juvenile in any member state or by the rules of the Interstate Commission, including:

(1) accused delinquent - a person charged with an offense that, if committed by an adult, would be a criminal offense;

(2) adjudicated delinquent - a person found to have committed an offense that, if committed by an adult, would be a criminal offense;

(3) accused status offender - a person charged with an offense that would not be a criminal offense if committed by an adult;

(4) adjudicated status offender - a person found to have committed an offense that would not be a criminal offense if committed by an adult; and

(5) nonoffender - a person in need of supervision who has not been accused or adjudicated a status offender or delinquent.

I. "Noncompacting state" means any state which has not enacted the enabling legislation for this compact.

J. "Probation" or "parole" means any kind of supervision or conditional release of juveniles authorized under the laws of the compacting states.

K. "Rule" means a written statement by the Interstate Commission promulgated pursuant to Article VI of this compact that is of general applicability, implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the commission, and has the force and effect of statutory law in a compacting state, and includes the amendment, repeal, or suspension of an existing rule.

L. "State" means a state of the United States, the District of Columbia (or its designee), the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Northern Marianas.

### ARTICLE III

#### INTERSTATE COMMISSION FOR JUVENILES

A. The compacting states hereby create the "Interstate Commission for Juveniles." The commission shall be a body corporate and joint agency of the compacting states. The commission shall have all the responsibilities, powers, and duties set forth herein, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

B. The Interstate Commission shall consist of commissioners appointed by the appropriate appointing authority in each state pursuant to the rules and requirements of each compacting state and in consultation

with the State Advisory Council for Interstate Supervision of Juvenile Offenders and Runaways created hereunder. The commissioner shall be the compact administrator. The commissioner of corrections or the commissioner's designee shall serve as the compact administrator, who shall serve on the Interstate Commission in such capacity under or pursuant to the applicable law of the compacting state.

C. In addition to the commissioners who are the voting representatives of each state, the Interstate Commission shall include individuals who are not commissioners but who are members of interested organizations. Such noncommissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general, Interstate Compact for Adult Offender Supervision, Interstate Compact on the Placement of Children, juvenile justice and juvenile corrections officials, and crime victims. All noncommissioner members of the Interstate Commission shall be ex-officio (nonvoting) members. The Interstate Commission may provide in its bylaws for such additional ex-officio (nonvoting) members, including members of other national organizations, in such numbers as shall be determined by the commission.

D. Each compacting state represented at any meeting of the commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

E. The commission shall meet at least once each calendar year. The chair may call additional meetings and, upon the request of a simple majority of the compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

F. The Interstate Commission shall establish an executive committee, which shall include commission officers, members, and others as determined by the bylaws. The executive committee shall have the power to act on behalf of the Interstate Commission during periods when the Interstate Commission is not in session, with the exception of rulemaking and/or amendment to the compact. The executive committee shall oversee the day-to-day activities of the administration of the compact managed by an executive director and Interstate Commission staff; administer enforcement and compliance with the provisions of the compact, its bylaws, and rules; and perform such other duties as directed by the Interstate Commission or set forth in the bylaws.

G. Each member of the Interstate Commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the Interstate Commission. A member shall vote in person and shall not delegate a vote to another compacting state. However, a commissioner, in consultation with the state council, shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the compacting state at a specified meeting. The bylaws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication.

H. The Interstate Commission's bylaws shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

I. Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and any of its committees may close a meeting to the public where it determines by two-thirds vote that an open meeting would be likely to:

1. relate solely to the Interstate Commission's internal personnel practices and procedures;



2. disclose matters specifically exempted from disclosure by statute;
3. disclose trade secrets or commercial or financial information which is privileged or confidential;
4. involve accusing any person of a crime or formally censuring any person;
5. disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
6. disclose investigative records compiled for law enforcement purposes;
7. disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of or for the use of, the Interstate Commission with respect to a regulated person or entity for the purpose of regulation or supervision of such person or entity;
8. disclose information, the premature disclosure of which would significantly endanger the stability of a regulated person or entity;
9. specifically relate to the Interstate Commission's issuance of a subpoena or its participation in a civil action or other legal proceeding.

J. For every meeting closed pursuant to this provision, the Interstate Commission's legal counsel shall publicly certify that, in the legal counsel's opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefore, including a description of each of the views expressed on any item and the record of any roll call vote (reflected in the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

K. The Interstate Commission shall collect standardized data concerning the interstate movement of juveniles as directed through its rules which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements. Such methods of data collection, exchange, and reporting shall insofar as is reasonably possible conform to up-to-date technology and coordinate its information functions with the appropriate repository of records.

#### ARTICLE IV

##### POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The commission shall have the following powers and duties:

1. To provide for dispute resolution among compacting states.
2. To promulgate rules to affect the purposes and obligations as enumerated in this compact, which shall have the force and effect of statutory law and shall be binding in the compact states to the extent and in the manner provided in this compact.
3. To oversee, supervise, and coordinate the interstate movement of juveniles subject to the terms of this compact and any bylaws adopted and rules promulgated by the Interstate Commission.
4. To enforce compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process.

5. To establish and maintain offices which shall be located within one or more of the compacting states.
6. To purchase and maintain insurance and bonds.
7. To borrow, accept, hire, or contract for services of personnel.
8. To establish and appoint committees and hire staff which it deems necessary for the carrying out of its functions including, but not limited to, an executive committee as required by Article III, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.
9. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties, and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to, inter alia, conflicts of interest, rates of compensation, and qualifications of personnel.
10. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.
11. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed.
12. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.
13. To establish a budget, make expenditures, and levy dues as provided in Article VIII of this compact.
14. To sue and be sued.
15. To adopt a seal and bylaws governing the management and operation of the Interstate Commission.
16. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.
17. To report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.
18. To coordinate education, training, and public awareness regarding the interstate movement of juveniles for officials involved in such activity.
19. To establish uniform standards of the reporting, collecting, and exchanging of data.
20. The Interstate Commission shall maintain its corporate books and records in accordance with the bylaws.

## ARTICLE V

### ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

#### Section A. Bylaws.

1. The Interstate Commission shall, by a majority of the members present and voting, within 12 months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

- a. establishing the fiscal year of the Interstate Commission;
- b. establishing an executive committee and such other committees as may be necessary;
- c. provide: (i) for the establishment of committees, and (ii) governing any general or specific delegation of any authority or function of the Interstate Commission;
- d. providing reasonable procedures for calling and conducting meetings of the Interstate Commission and ensuring reasonable notice of each such meeting;
- e. establishing the titles and responsibilities of the officers of the Interstate Commission;
- f. providing a mechanism for concluding the operations of the Interstate Commission and the return of any surplus funds that may exist upon the termination of the compact after the payment and/or reserving of all of its debts and obligations;
- g. providing "start-up" rules for initial administration of the compact;
- h. establishing standards and procedures for compliance and technical assistance in carrying out the compact.

#### Section B. Officers and staff.

1. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chair and a vice-chair, each of whom shall have such authority and duties as may be specified in the bylaws. The chair or, in the chair's absence or disability, the vice-chair shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budget funds, the officers shall be reimbursed for any ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.

2. The Interstate Commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions, and for such compensation as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a member and shall hire and supervise such other staff as may be authorized by the Interstate Commission.

#### Section C. Qualified immunity, defense, and indemnification.

1. The commission's executive director and employees shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to any actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided, that any such person shall not be protected from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

2. The liability of any commissioner, or the employee or agent of a commissioner, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. Nothing in this subsection shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

3. The Interstate Commission shall defend the executive director or the employees or representatives of the Interstate Commission and, subject to the approval of the attorney general of the state represented by any commissioner of a compacting state, shall defend such commissioner or the commissioner's representatives or employees in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the defendant has a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

4. The Interstate Commission shall indemnify and hold the commissioner of a compacting state, or the commissioner's representatives or employees, or the Interstate Commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

## ARTICLE VI

### RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

1. The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

2. Rulemaking shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, page 1 (2000), or such other administrative procedures act, as the Interstate Commission deems appropriate consistent with due process requirements under the United States Constitution as now or hereafter interpreted by the United States Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the commission.

3. When promulgating a rule, the Interstate Commission shall, at a minimum:

- a. publish the proposed rule's entire text stating the reasons for that proposed rule;
- b. allow and invite any and all persons to submit written data, facts, opinions, and arguments, which information shall be added to the record, and be made publicly available;
- c. provide an opportunity for an informal hearing if petitioned by ten or more persons; and
- d. promulgate a final rule and its effective date, if appropriate, based on input from state or local officials, or interested parties.

4. The Interstate Commission shall allow, not later than 60 days after a rule is promulgated, any interested person to file a petition in the United States District Court for the District of Columbia or in the federal District Court where the Interstate Commission's principal office is located for judicial review of such rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside. For purposes of this subsection, evidence is substantial if it would be considered substantial evidence under the Model (State) Administrative Procedures Act.

5. If a majority of the legislatures of the compacting states rejects a rule, those states may, by enactment of a statute or resolution in the same manner used to adopt the compact, cause that such rule shall have no further force and effect in any compacting state.

6. The existing rules governing the operation of the Interstate Compact on Juveniles superceded by this act shall be null and void 12 months after the first meeting of the Interstate Commission created hereunder.

7. Upon determination by the Interstate Commission that a state of emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, but no later than 90 days after the effective date of the emergency rule.

## ARTICLE VII

### OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION BY THE INTERSTATE COMMISSION

#### Section A. Oversight.

1. The Interstate Commission shall oversee the administration and operations of the interstate movement of juveniles subject to this compact in the compacting states and shall monitor such activities being administered in noncompacting states which may significantly affect compacting states.

2. The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall be received by all the judges, public officers, commissions, and departments of the state government as evidence of the authorized statute and administrative rules. All courts shall take judicial notice of the compact and the rules. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the Interstate Commission, it shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes.

3. The compact administrator shall assess and collect fines, fees, and costs from any state or local entity deemed responsible by the compact administrator for a default as determined by the Interstate Commission under Article XI.

#### Section B. Dispute resolution.

1. The compacting states shall report to the Interstate Commission on all issues and activities necessary for the administration of the compact as well as issues and activities pertaining to compliance with the provisions of the compact and its bylaws and rules.

2. The Interstate Commission shall attempt, upon the request of a compacting state, to resolve any disputes or other issues which are subject to the compact and which may arise among compacting states and between compacting and noncompacting states. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

3. The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact using any or all means set forth in Article XI of this compact.

## ARTICLE VIII

### FINANCE

1. The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

2. The Interstate Commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, taking into consideration the population of each compacting state and the volume of interstate movement of juveniles in each compacting state, and shall promulgate a rule binding upon all compacting states which governs said assessment.

3. The Interstate Commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

4. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

5. Minnesota's annual assessment shall not exceed \$30,000. The Interstate Compact for Juveniles fund is established as a special fund in the Department of Corrections. The fund consists of money appropriated for the purpose of meeting financial obligations imposed on the state as a result of Minnesota's participation in this compact. An assessment levied or any other financial obligation imposed under this compact is effective against the state only to the extent that money to pay the assessment or meet the financial obligation has been appropriated and deposited in the fund established in this paragraph.

## ARTICLE IX

### THE STATE ADVISORY COUNCIL

Each member state shall create a State Advisory Council for the Interstate Compact for Juveniles. The Advisory Council on the Interstate Compact for Juveniles shall be combined with the Advisory Council on Interstate Adult Offender Supervision established by section 243.1606 and consist of the following individuals or their designees:

(1) the governor;

(2) the chief justice of the Supreme Court;

(3) two senators, one from the majority and the other from the minority party, selected by the Subcommittee on Committees of the senate Committee on Rules and Administration;

(4) two representatives, one from the majority and the other from the minority party, selected by the house speaker;

(5) a representative from the Department of Human Services regarding the Interstate Compact for the Placement of Children;

(6) the compact administrator, selected as provided in Article III;

(7) the executive director of the Office of Justice Programs or designee;

- (8) the deputy compact administrator;
- (9) a representative from the State Public Defender's Office;
- (10) a representative from the Minnesota County Attorney's Association;
- (11) a representative from the Minnesota Sheriff's Association;
- (12) a representative from the Minnesota Association of County Probation Officers;
- (13) a representative from the Minnesota Association of Community Corrections Act Counties;
- (14) a representative from the community at large;
- (15) a representative from a community organization working with victims of crimes; and
- (16) other members as appointed by the commissioner of corrections.

The council may elect a chair from among its members.

The council shall oversee and administer the state's participation in the compact as described in Article III. The council shall appoint the compact administrator as the state's commissioner.

The state advisory council will advise and exercise advocacy concerning that state's participation in Interstate Commission activities and other duties as may be determined by that state, including, but not limited to, development of policy concerning operations and procedures of the compact within that state.

Expiration; expenses. The provisions of section 15.059 apply to the council except that it does not expire.

## ARTICLE X

### COMPACTING STATES, EFFECTIVE DATE, AND AMENDMENT

1. Any state, the District of Columbia (or its designee), the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands as defined in Article II of this compact is eligible to become a compacting state.

2. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 of the states. The initial effective date shall be the later of July 1, 2004, or upon enactment into law by the 35th jurisdiction. Thereafter, it shall become effective and binding as to any other compacting state upon enactment of the compact into law by that state. The governors of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states and territories of the United States.

3. The Interstate Commission may propose amendments to the compact for enactment by the compacting states. No amendment shall become effective and binding upon the Interstate Commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

## ARTICLE XI

### WITHDRAWAL, DEFAULT, TERMINATION, AND JUDICIAL ENFORCEMENT

#### Section A. Withdrawal.

1. Once effective, the compact shall continue in force and remain binding upon each and every compacting state; provided that a compacting state may withdraw from the compact specifically repealing the statute, which enacted the compact into law.

2. The effective date of withdrawal is the effective date of the repeal.

3. The withdrawing state shall immediately notify the chair of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other compacting states of the withdrawing state's intent to withdraw within 60 days of its receipt thereof.

4. The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

5. Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

#### Section B. Technical assistance, fines, suspension, termination, and default.

1. If the Interstate Commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact, or the bylaws or duly promulgated rules, the Interstate Commission may impose any or all of the following penalties:

a. remedial training and technical assistance as directed by the Interstate Commission;

b. alternative dispute resolution;

c. fines, fees, and costs in such amounts as are deemed to be reasonable as fixed by the Interstate Commission;

d. suspension or termination of membership in the compact, which shall be imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted and the Interstate Commission has therefore determined that the offending state is in default. Immediate notice of suspension shall be given by the Interstate Commission to the governor, the chief justice, or the chief judicial officer of the state; the majority and minority leaders of the defaulting state's legislature; and the state council. The grounds for default include, but are not limited to, failure of a compacting state to perform such obligations or responsibilities imposed upon it by this compact, the bylaws, or duly promulgated rules and any other grounds designated in commission bylaws and rules. The Interstate Commission shall immediately notify the defaulting state in writing of the penalty imposed by the Interstate Commission and of the default pending a cure of the default. The commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the commission, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of termination.

2. Within 60 days of the effective date of termination of a defaulting state, the commission shall notify the governor, the chief justice or chief judicial officer, the majority and minority leaders of the defaulting state's legislature, and the state council of such termination.



3. The defaulting state is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

4. The Interstate Commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

5. Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the Interstate Commission pursuant to the rules.

#### Section C. Judicial enforcement.

The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its offices, to enforce compliance with the provisions of the compact, its duly promulgated rules and bylaws, against any compacting state in default. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.

#### Section D. Dissolution of compact.

1. The compact dissolves effective upon the date of the withdrawal or default of the compacting state, which reduces membership in the compact to one compacting state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and any surplus funds shall be distributed in accordance with the bylaws.

### ARTICLE XII

#### SEVERABILITY AND CONSTRUCTION

1. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of this compact shall be enforceable.

2. The provisions of this compact shall be liberally constructed to effectuate its purposes.

### ARTICLE XIII

#### BINDING EFFECT OF COMPACT AND OTHER LAWS

##### Section A. Other laws.

1. Nothing herein prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.

2. All compacting states' laws other than state constitutions and other interstate compacts conflicting with this compact are superseded to the extent of the conflict.

##### Section B. Binding effect of the compact.

1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the compacting state.

2. All agreements between the Interstate Commission and the compacting states are binding in accordance with their terms.

3. Upon the request of a party to a conflict over meaning or interpretation of Interstate Commission actions, and upon a majority vote of the compacting states, the Interstate Commission may issue advisory opinions regarding such meaning of interpretation.

4. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by such provision upon the Interstate Commission shall be ineffective and such obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this compact becomes effective.

**History:** 2010 c 378 s 1; 2023 c 52 art 11 s 24

**260.52** [Repealed, 2014 c 218 s 10]

**260.53** [Repealed, 2015 c 35 s 1]

**260.54** [Repealed, 2014 c 218 s 10]

**260.55 EXPENSE OF RETURNING JUVENILES TO STATE, PAYMENT.**

The expense of returning juveniles to this state pursuant to the Interstate Compact for Juveniles shall be paid as follows:

(1) In the case of a runaway, the court making the requisition shall inquire summarily regarding the financial ability of the petitioner to bear the expense and if it finds the petitioner is able to do so, shall order that the petitioner pay all such expenses; otherwise the court shall arrange for the transportation at the expense of the county and order that the county reimburse the person, if any, who returns the juvenile, for actual and necessary expenses; and the court may order that the petitioner reimburse the county for so much of said expense as the court finds the petitioner is able to pay. If the petitioner fails, without good cause, or refuses to pay such sum, the petitioner may be proceeded against for contempt.

(2) In the case of an escapee or absconder, if the juvenile is in the legal custody of the commissioner of corrections the commissioner shall bear the expense of the juvenile's return; otherwise the appropriate court shall, on petition of the person or agency entitled to the juvenile's custody or charged with the juvenile's supervision, arrange for the transportation at the expense of the county and order that the county reimburse the person, if any, who returns the juvenile, for actual and necessary expenses. In this subsection "appropriate court" means the juvenile court which adjudged the juvenile to be delinquent or, if the juvenile is under supervision for another state under Article VII of the compact, then the juvenile court of the county of the juvenile's residence during such supervision.

(3) In the case of a voluntary return of a runaway without requisition, the person entitled to the juvenile's legal custody shall pay the expense of transportation and the actual and necessary expenses of the person, if any, who returns such juvenile; but if financially unable to pay all the expenses the person may petition the juvenile court of the county of the petitioner's residence for an order arranging for the transportation as provided in paragraph (1). The court shall inquire summarily into the financial ability of the petitioner and, if it finds the petitioner is unable to bear any or all of the expense, the court shall arrange for such transportation at the expense of the county and shall order the county to reimburse the person, if any, who returns the juvenile, for actual and necessary expenses. The court may order that the petitioner reimburse

the county for so much of said expense as the court finds the petitioner is able to pay. A petitioner who fails, without good cause, or refuses to pay such sum may be proceeded against for contempt.

**History:** *1957 c 892 s 5; 1974 c 125 s 2; 1986 c 444; 2014 c 218 s 8; 2017 c 40 art 1 s 88*

#### **260.56 COUNSEL OR GUARDIAN AD LITEM FOR JUVENILE, FEES.**

Any judge of this state who appoints counsel or a guardian ad litem pursuant to the provisions of the Interstate Compact for Juveniles may allow a reasonable fee on order of the court. The costs of the counsel must be paid by the county and the cost of the guardian ad litem, if any, must be paid by the state courts.

**History:** *1957 c 892 s 6; 1986 c 444; 1999 c 216 art 7 s 24; 2014 c 218 s 9; 2017 c 40 art 1 s 89*

#### **260.57 ENFORCEMENT.**

The courts, departments, agencies, and officers of this state and its political subdivisions shall enforce the Interstate Compact for Juveniles and shall do all things appropriate to the effectuation of its purposes which may be within their respective jurisdictions.

**History:** *1957 c 892 s 7; 2017 c 40 art 1 s 90*

### **MINNESOTA INDIAN FAMILY PRESERVATION ACT**

#### **260.751 CITATION.**

Sections 260.751 to 260.835 may be cited as the "Minnesota Indian Family Preservation Act."

**History:** *1999 c 139 art 1 s 2*

#### **260.752 APPLICABILITY.**

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

**History:** *2023 c 16 s 1*

#### **260.753 PURPOSES.**

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

**History:** *2015 c 78 art 1 s 13; 2023 c 16 s 2*

#### **260.754 POLICY ON TRIBAL-STATE RELATIONS.**

(a) The state of Minnesota acknowledges federally recognized Indian Tribes as sovereign political entities that predate the existence of the United States and that have retained inherent sovereign authority to pass their own laws, maintain their own systems of governance, and determine their own jurisdiction.

The sovereign authority of Tribes may only be limited by the federal government and not by any action of the state, including the state legislature and state courts.

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

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

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

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

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

**History:** 2023 c 16 s 3

## 260.755 DEFINITIONS.

Subdivision 1. **Scope.** As used in sections 260.751 to 260.835, the following terms have the meanings given them.

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

Subd. 2. **Administrative review.** "Administrative review" means review under section 260C.203.

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

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

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

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

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

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

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

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

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

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of human services.

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

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

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

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

Subd. 6. **Family-based services.** "Family-based services" means intensive family-centered services to families primarily in their own home and for a limited time.

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

Subd. 7. **Indian.** "Indian" means a person who is a member of an Indian tribe or an Alaskan native and a member of a regional corporation as defined in section 7 of the Alaska Native Claims Settlement Act, United States Code, title 43, section 1606.

Subd. 8. **Indian child.** "Indian child" means an unmarried person who is under age 18 and is:

- (1) a member of an Indian tribe; or
- (2) eligible for membership in an Indian tribe.

A determination by a tribe that a child is a member of the Indian tribe or is eligible for membership in the Indian tribe is conclusive. For purposes of this chapter and chapters 256N, 260C, and 260D, Indian child also includes an unmarried person who satisfies either clause (1) or (2), is under age 21, and is in foster care pursuant to section 260C.451.

Subd. 9. **Indian child's tribe.** "Indian child's tribe" means the Indian tribe in which an Indian child is a member or eligible for membership. In the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian child's tribe is the tribe with which the Indian child has the most significant contacts. If that tribe does not express an interest in the outcome of the actions taken under sections 260.751 to 260.835 with respect to the child, any other tribe in which the child is eligible for membership that expresses an interest in the outcome may act as the Indian child's tribe.

Subd. 10. **Indian custodian.** "Indian custodian" means an Indian person who has legal custody of an Indian child under tribal law or custom or under state law, or to whom temporary physical care, custody, and control has been transferred by the parent of the child.

Subd. 11. **Indian organization.** "Indian organization" means an organization providing child welfare services that is legally incorporated as a nonprofit organization, is registered with the secretary of state, and is governed by a board of directors having at least a majority of Indian directors.

Subd. 12. **Indian tribe.** "Indian tribe" means an Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the secretary because of their status as Indians, including any Native group under the Alaska Native Claims Settlement Act, United States Code, title 43, section 1602.

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

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

Subd. 15. **Permanency planning.** "Permanency planning" means the systematic process of carrying out, within a short time, a set of goal-oriented activities designed to help children live in families that offer continuity of relationships with nurturing parents or caretakers, and the opportunity to establish lifetime relationships.

Subd. 16. **Placement prevention and family reunification services.** "Placement prevention and family reunification services" means services designed to help children remain with their families or to reunite children with their parents.

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

Subd. 17. MS 2022 [Repealed, 2023 c 16 s 39]

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

Subd. 18. **Reservation.** "Reservation" means Indian country as defined in United States Code, title 18, section 1151, and any lands which are either held by the United States in trust for the benefit of an Indian tribe or individual, or held by an Indian tribe or individual subject to a restriction by the United States against alienation.

Subd. 19. **Secretary.** "Secretary" means the secretary of the United States Department of the Interior.

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

Subd. 21. **Tribal social services agency.** "Tribal social services agency" means the unit under authority of the governing body of the Indian tribe which is responsible for human services.

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

**History:** 1999 c 139 art 1 s 3; 2007 c 147 art 1 s 8,9; 2012 c 216 art 6 s 13; 2015 c 78 art 1 s 14-18; 2023 c 16 s 4-14

## **260.758 EMERGENCY REMOVAL OR PLACEMENT OF INDIAN CHILD; TERMINATION; APPROPRIATE ACTION.**

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

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

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

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

- (1) the name, age, and last known address of the Indian child;
- (2) the name and address of the Indian child's parents and Indian custodians, if any;
- (3) the steps taken to provide notice to the Indian child's parents, Indian custodians, and Tribe about the emergency proceeding;
- (4) if the Indian child's parents and Indian custodians are unknown, a detailed explanation of what efforts have been made to locate and contact them;
- (5) the residence and domicile of the Indian child;
- (6) if either the residence or domicile of the Indian child is believed to be on a reservation or in an Alaska Native village, the name of the Tribe affiliated with that reservation or village;
- (7) the Tribal affiliation of the Indian child and of the Indian child's parents or Indian custodians;
- (8) a specific and detailed account of the circumstances that led the agency responsible for the emergency removal of the Indian child to take that action;
- (9) if the child is believed to reside or be domiciled on a reservation where the Tribe exercises exclusive jurisdiction over Indian child custody matters, a statement of the efforts that have been made and are being made to contact the Tribe and transfer the Indian child to the Tribe's jurisdiction; and
- (10) a statement of the efforts that have been taken to assist the Indian child's parents or Indian custodians so that the Indian child may safely be returned to their custody.

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

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

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

(b) An emergency removal or placement ends when the Indian child is transferred to the jurisdiction of the Indian child's Tribe, or when the court orders, after service upon the Indian child's parents, Indian custodian, and Indian child's Tribe, that the Indian child shall be placed in foster care upon a determination



supported by clear and convincing evidence, including testimony by a qualified expert witness, that custody of the Indian child by the Indian child's parent or Indian custodian is likely to result in serious emotional or physical damage to the Indian child.

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

**History:** 2023 c 16 s 15

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

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

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

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

(c) In all child placement proceedings, when a court has reason to believe that a child placed in emergency protective care is an Indian child, the court administrator or a designee shall, as soon as possible and before

a hearing takes place, notify the Tribal social services agency by telephone and by email or facsimile of the date, time, and location of the emergency protective care or other initial hearing. The court shall make efforts to allow appearances by telephone or video conference for Tribal representatives, parents, and Indian custodians.

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

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

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

*[See Note.]*

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

**Subd. 4. Unknown father.** If the child-placing agency, individual petitioner, the court, or any party has reason to believe that a child who is the subject of a child placement proceeding is or may be an Indian child but the father of the child is unknown and has not registered with the fathers' adoption registry pursuant to section 259.52, the child-placing agency or individual petitioner shall provide to the Tribe believed to be the Indian child's Tribe information sufficient to enable the Tribe to determine the child's eligibility for membership in the Tribe, including, but not limited to, the legal and maiden name of the birth mother, her

date of birth, the names and dates of birth of her parents and grandparents, and, if available, information pertaining to the possible identity, Tribal affiliation, or location of the birth father.

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

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

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

Subd. 7. MS 2022 [Repealed by amendment, 2023 c 16 s 16]

**History:** 1999 c 139 art 1 s 4; 2007 c 147 art 1 s 10; 2015 c 78 art 1 s 19,20; 1Sp2020 c 2 art 8 s 110; 2023 c 16 s 16; 2023 c 70 art 14 s 6

**NOTE:** The amendment to subdivision 2 by Laws 2023, chapter 70, article 14, section 6, is effective July 1, 2024. Laws 2023, chapter 70, article 14, section 6, the effective date.

**260.7611** [Renumbered 260.7745]

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

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

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

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

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

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

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

remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful.

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

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

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

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

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

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

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

(6) whether the child-placing agency provided services and resources to relatives who are considered the primary placement option for an Indian child, as agreed by the child-placing agency and the Tribe, to overcome barriers to providing care to an Indian child. Services and resources shall include but are not

limited to child care assistance, financial assistance, housing resources, emergency resources, and foster care licensing assistance and resources; and

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

**History:** 2015 c 78 art 1 s 21; 2023 c 16 s 18

## **260.763 JURISDICTION AND TRANSFER TO TRIBAL COURT.**

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

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

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

Subd. 2. **Effect of Tribal placement orders.** The court shall give full faith and credit to Tribal court placement orders. In any case where the Tribal court orders placement and services, including but not limited to case planning services, full faith and credit of the Tribal court's order shall be provided so long as the county of financial responsibility was provided notice and an opportunity to be heard regarding the expenses. Determination of county of financial responsibility for the placement shall be determined by the child-placing agency in accordance with section 256G.02, subdivision 4. Disputes concerning the county of financial responsibility shall be settled in the manner prescribed in section 256G.09.

Subd. 2a. **Interpretation of Tribal judicial proceedings.** The court shall give full faith and credit to the public acts, records, and judicial proceedings of any Indian Tribe in all proceedings under sections 260.755 to 260.835. The courts shall give deference to the Tribe's interpretation of the Tribe's own unique system of laws. If further interpretation of a Tribe's laws or order is required, the court shall transfer the proceedings to the jurisdiction of the Tribal court for interpretation of the Tribal court's order.

Subd. 3. **Indian Tribe agreements.** The commissioner or the child-placing agency is hereby authorized to enter into agreements with Indian Tribes respecting care and custody of Indian children and jurisdiction over child placement proceedings, including agreements which may provide for orderly transfer of jurisdiction on a case-by-case basis and agreements which provide for concurrent jurisdiction between the state and an Indian Tribe.

Subd. 4. **Transfer of proceedings.** In any child placement proceeding, the court, in the absence of good cause to the contrary, shall transfer the proceeding to the jurisdiction of the Tribe absent objection by either parent. The petition to transfer may be filed by the Indian child's parent, the Indian custodian, or the Indian child's Tribe. The transfer is subject to declination by the Tribal court of the Tribe.

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

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

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

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

**History:** 1999 c 139 art 1 s 6; 2007 c 147 art 1 s 12; 2013 c 65 s 1; 2015 c 78 art 1 s 22,23; 2023 c 16 s 38

## **260.765 VOLUNTARY FOSTER CARE PLACEMENT.**

Subdivision 1. **Determination of Indian child's Tribe.** The child-placing agency shall follow the notice provisions in section 260.761.

**Subd. 1a. Identification of extended family members.** Any agency considering placement of an Indian child shall make active efforts to identify and locate extended family members.

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

**Subd. 2. Notice.** When an Indian child is voluntarily placed in foster care, the child-placing agency involved in the decision to place the child shall give notice of the placement to the child's parent, parents, Indian custodian, and the Tribal social services agency within seven days of placement, excluding weekends and holidays.

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

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

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

Subd. 4. **Withdrawal of consent to voluntary placement; return of child in voluntary placement.** Any parent or Indian custodian may withdraw consent to a child placement at any time and, upon the withdrawal of consent, the child shall be returned to the parent or the Indian custodian. Upon demand by the parent or Indian custodian of an Indian child, the child-placing agency that placed the child shall return the child in voluntary foster care placement to the parent or Indian custodian within 24 hours of the receipt of the demand. If the request for return does not satisfy the requirement of section 260.755, subdivision 5, the child-placing agency shall immediately inform the parent or Indian custodian of the Indian child of the requirement.

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

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

Subd. 5. [Renumbered subd 1a]

**History:** 1999 c 139 art 1 s 5; 2007 c 147 art 1 s 11; 1999 c 139 art 1 s 5; 2007 c 147 art 1 s 11; 2023 c 16 s 19-26,38

## **260.771 INVOLUNTARY CHILD PLACEMENT PROCEEDINGS.**

Subdivision 1. [Renumbered 260.763, subd 1]

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

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

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

Subd. 1d. **Notice of hearings.** The notice provisions in section 260.761 apply to all involuntary child placement proceedings under this section. An Indian child ten years of age and older, the Indian child's parent or parents, the Indian custodian, and the Indian child's Tribe shall have notice of the right to participate in all hearings regarding the Indian child.

Subd. 2. **Court determination of Tribal affiliation of child.** In any child placement proceeding, the court shall establish whether an Indian child is involved and the identity of the Indian child's Tribe. Sections 260.751 to 260.835 and the federal Indian Child Welfare Act are applicable without exception in any child placement proceeding involving an Indian child. Sections 260.751 to 260.835 apply to child placement proceedings involving an Indian child whether the child is in the physical or legal custody of an Indian parent or parents, Indian custodian, Indian extended family member, or other person at the commencement of the proceedings. A court shall not determine the applicability of sections 260.751 to 260.835 or the federal Indian Child Welfare Act to a child placement proceeding based upon whether an Indian child is part of an existing Indian family or based upon the level of contact a child has with the child's Indian Tribe, reservation, society, or off-reservation community.

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

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

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

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

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

Subd. 3. [Renumbered 260.763, subd 4]

Subd. 3a. [Renumbered 260.763, subd 5]

Subd. 4. (a) [Renumbered 260.763, subd 2]

(b) [Renumbered 260.763 subd 2a]

Subd. 5. [Renumbered 260.763, subd 3]

Subd. 6. **Qualified expert witness and evidentiary requirements.** (a) In an involuntary foster care placement proceeding, the court must determine by clear and convincing evidence, including testimony of



a qualified expert witness, that continued custody of the child by the parent or Indian custodian is likely to result in serious emotional damage or serious physical damage to the child.

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

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

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

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

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

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

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

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

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

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

Subd. 7. [Renumbered 260.773]

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

**History:** 1999 c 139 art 1 s 6; 2007 c 147 art 1 s 12,13; 2013 c 65 s 1; 2015 c 78 art 1 s 22-25; 1999 c 139 art 1 s 6; 2007 c 147 art 1 s 12; 2015 c 71 art 1 s 24; 2023 c 16 s 27,38

## **260.773 PLACEMENT OF INDIAN CHILDREN.**

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

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

Subd. 3. **Placement options.** Preference shall be given, in the absence of good cause to the contrary, to a placement with:

- (1) a noncustodial parent or Indian custodian;
- (2) a member of the child's extended family;
- (3) a foster home licensed, approved, or specified by the Indian child's Tribe;
- (4) an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
- (5) an institution for children approved by an Indian Tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.

Subd. 4. **Placement preference.** In any adoptive placement, transfer of custody placement, or other permanency placement of an Indian child, a preference shall be given, in the absence of good cause to the contrary, to a placement with:

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

Subd. 5. **Suitability of placement.** The county shall defer to the judgment of the Indian child's Tribe as to the suitability of a placement.

Subd. 6. **Preference of Indian child or parent.** The court shall consider the preference of the Indian child or parent.

Subd. 7. **Standards applied to preference requirements.** The standards to be applied in meeting the preference requirements of this section shall be the prevailing social and cultural standards of the Indian

community in which the parent or extended family resides or with which the parent or extended family members maintain social and cultural ties.

**Subd. 8. Removal of Indian child from placement.** Whenever an Indian child is removed from a foster care home or institution for the purpose of further foster care, preadoptive, or adoptive placement, the placement shall be in accordance with the placement preferences, except in the case where an Indian child is being returned to the parent or Indian custodian from whose custody the Indian child was originally removed.

**Subd. 9. Record required.** A record of each such placement of an Indian child under state law shall be maintained by the county in which the placement was made and by the Department of Human Services evidencing the efforts to comply with the order of preference specified in this section. The record shall be made available at any time upon the request of the Secretary of the Interior or the Indian child's Tribe.

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

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

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

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

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

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

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

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

**Subd. 12. Burden of establishing good cause to modify order of placement preferences.** A party who proposes that the required order of placement preferences not be followed bears the burden of establishing by clear and convincing evidence that good cause exists to modify the order of placement preferences.

**Subd. 13. Court written findings.** If the court finds there is good cause to place the Indian child outside the order of placement preferences, the court must make written findings.

**Subd. 14. Good cause finding; active efforts.** A good cause finding under this subdivision must consider whether active efforts were provided to extended family members who are considered the primary placement option to assist them in becoming a placement option for the Indian child as required by section 260.762.

Subd. 15. **Placement outside order of placement preferences; ongoing assessment.** When an Indian child is placed outside the order of placement preferences, good cause to continue this placement must be determined at every stage of the proceedings.

**History:** 2015 c 78 art 1 s 25; 2023 c 16 s 27,38

## **260.774 IMPROPER REMOVAL OF CHILD, DECLINATION OF JURISDICTION, INVALIDATION, RETURN OF CUSTODY.**

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

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

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

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

(1) dismiss the petition without prejudice; and

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

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

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

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

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

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

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

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

**History:** 2023 c 16 s 28,38

**260.7745 COUNTY AND TRIBAL AGREEMENTS; MALTREATMENT ASSESSMENTS AND INVESTIGATIONS OF INDIAN CHILDREN.**

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

**History:** *ISp 2020 c 2 art 5 s 66; 2023 c 16 s 17,29,38*

**260.775 PLACEMENT RECORDS.**

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

(b) This section expires January 1, 2032.

**History:** 1999 c 139 art 1 s 7; 2022 c 98 art 14 s 28

**260.781 RECORDS; INFORMATION AVAILABILITY.**

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

- (1) the name and Tribal affiliation of the child;
- (2) the names and addresses of the biological parents;
- (3) the names and addresses of the adoptive parents; and
- (4) the identity of any agency having files or information relating to the adoptive placement.

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

(b) For:

- (1) disclosure of information for enrollment of an Indian child in the Tribe;
- (2) determination of member rights or benefits; or

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

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

Subd. 2. **Disclosure of records.** Upon the request of an adopted Indian person over the age of 18, the adoptive or foster parents of an Indian person, or an Indian Tribal social services agency, the Department of Human Services shall disclose to the Indian person's Tribe information necessary for membership of an Indian person in the Tribe in which the person may be eligible for membership or for determining any rights or benefits associated with that membership. When the documents relating to the person contain an affidavit from the biological or adoptive parent or parents requesting anonymity, the department must use the procedures described in subdivision 1.

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

**History:** 1999 c 139 art 1 s 8; 2023 c 16 s 30

## 260.785 INDIAN CHILD WELFARE GRANTS.

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

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

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

Subd. 4. **Request for proposals.** The commissioner shall request proposals for grants under subdivisions 1, 2, and 3, and specify the information and criteria required.

**History:** 1999 c 139 art 1 s 9; 2016 c 158 art 1 s 150; 2023 c 16 s 31

**260.786 CHILD WELFARE STAFF ALLOCATION FOR TRIBES.**

Subdivision 1. **Allocations.** The commissioner shall allocate \$80,000 annually to each of Minnesota's federally recognized Tribes that, at the beginning of the fiscal year, have not joined and are not in the process of planning to join the American Indian Child welfare initiative under section 256.01, subdivision 14b. Tribes not participating in or planning to join the initiative as of July 1, 2023, are: Bois Fort Band of Chippewa, Fond du Lac Band of Lake Superior Chippewa, Grand Portage Band of Lake Superior Chippewa, Lower Sioux Indian Community, Prairie Island Indian Community, and Upper Sioux Indian Community.

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

Subd. 3. **Reporting.** By June 1 each year, Tribes receiving this money shall provide a report to the commissioner. The report shall be written in a manner prescribed by the commissioner and must include an accounting of money spent, staff hired, job duties, and other information as required by the commissioner.

Subd. 4. **Redistribution of money.** If a Tribe joins the American Indian child welfare initiative, the payment for that Tribe shall be distributed equally among the remaining Tribes receiving an allocation under this section.

**History:** 2023 c 70 art 14 s 7

**260.791 GRANT APPLICATIONS.**

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

**History:** 1999 c 139 art 1 s 10; art 4 s 2; 2023 c 16 s 32

**260.795 ELIGIBLE SERVICES.**

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

- (1) placement prevention and reunification services;
- (2) family-based services;
- (3) individual and family counseling;
- (4) access to professional individual, group, and family counseling;
- (5) crisis intervention and crisis counseling;
- (6) development of foster and adoptive placement resources, including recruitment, licensing, and support;
- (7) court advocacy;

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

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

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

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

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

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

(2) teenage pregnancy;

(3) independent living skills;

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

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

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

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

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

(9) other activities and services approved by the commissioner that further the goals of the Indian Child Welfare Act and the Indian Family Preservation Act. The commissioner may specify the priority of an activity and service based on its success in furthering these goals.

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

Subd. 2. **Inappropriate expenditures.** Indian child welfare grant money must not be used for:

(1) child day care necessary solely because of employment or training for employment of a parent or other relative with whom the child is living;

(2) foster care maintenance or difficulty of care payments;

(3) residential facility payments;



(4) adoption assistance payments;

(5) public assistance payments for Minnesota family investment program assistance, supplemental aid, medical assistance, general assistance, or community health services authorized by sections 145A.01 to 145A.14; or

(6) administrative costs for income maintenance staff.

Subd. 3. **Revenue enhancement.** The commissioner shall submit claims for federal reimbursement earned through the activities and services supported through Indian child welfare grants. The commissioner may set aside a portion of the federal funds earned under this subdivision to establish and support a new Indian child welfare position in the Department of Human Services to provide program development. The commissioner shall use any federal revenue not set aside to expand services under section 260.785. The federal revenue earned under this subdivision is available for these purposes until the funds are expended.

**History:** 1999 c 139 art 1 s 11; art 4 s 2; 1999 c 159 s 108; 2016 c 158 art 2 s 112; 2023 c 16 s 33

#### **260.805 CONTINUED LEGAL RESPONSIBILITY OF CHILD-PLACING AGENCIES.**

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

**History:** 1999 c 139 art 1 s 12; 2023 c 16 s 34

#### **260.810 PAYMENTS; REQUIRED REPORTS.**

Subdivision 1. **Payments.** The commissioner shall make grant payments to each approved program in four quarterly installments a year. The commissioner may certify an advance payment for the first quarter of the state fiscal year. Later payments must be made upon receipt by the state of a quarterly report on finances and program activities.

Subd. 2. **Quarterly report.** The commissioner shall specify requirements for reports, including quarterly fiscal reports, according to section 256.01, subdivision 2, paragraph (p). Each quarter, an approved program receiving an Indian child welfare grant shall submit a report to the commissioner that includes:

(1) a detailed accounting of grant money expended during the preceding quarter, specifying expenditures by line item and year to date; and

(2) a description of Indian child welfare activities conducted during the preceding quarter, including the number of clients served and the type of services provided.

The quarterly reports must be submitted no later than 30 days after the end of each quarter of the state fiscal year.

Subd. 3. **Final report.** A final evaluation report must be submitted by each approved program. It must include client outcomes, cost and effectiveness in meeting the goals of the Indian Family Preservation Act and permanency planning goals.

**History:** 1999 c 139 art 1 s 13; 2015 c 78 art 4 s 61

**260.815 MONITORING AND EVALUATION.**

The commissioner shall design and implement methods for monitoring the delivery and evaluating the effectiveness of Indian child welfare services funded through these grants.

**History:** 1999 c 139 art 1 s 14

**260.821 GRANT FORMULA.**

Subdivision 1. **Primary support grants.** (a) The amount available for grants established under section 260.785, subdivision 1, to tribes, Indian organizations, and tribal social services agency programs located off-reservation is four-fifths of the total annual appropriation for Indian child welfare grants.

(b) The commissioner shall award tribes at least 70 percent of the amount set in paragraph (a) for primary support grants. Each tribe shall be awarded a base amount of five percent of the total amount set in this paragraph. In addition, each tribe shall be allocated a proportion of the balance of the amount set in this paragraph, less the total base amounts for all reservations. This proportion must equal the ratio of the tribe's on-reservation population to the state's total on-reservation population. Population data must be based on the most recent federal census data according to the state demographer's office.

(c) The commissioner shall award Indian organizations and tribal social services agency programs located off-reservation that serve Indian children and families up to 30 percent of the amount set in paragraph (a) for primary support grants. A maximum of four multiservice Indian organizations and tribal social services agency programs located off-reservation may be awarded grants under this paragraph. "Multiservice Indian organizations" means Indian organizations recognized by the Indian community as providing a broad continuum of social, educational, or cultural services, including Indian child welfare services designed to meet the unique needs of the Indian communities in Minneapolis, St. Paul, and Duluth. Grants may be awarded to programs that submit acceptable proposals, comply with the goals and the application process of the program, and have budgets that reflect appropriate and efficient use of funds. To maintain continuity of service in Indian communities, primary support grants awarded under this paragraph which meet the grant criteria and have demonstrated satisfactory performance as established by the commissioner may be awarded on a noncompetitive basis. The commissioner may revoke or deny funding for Indian organizations or tribal social services agencies failing to meet the grant criteria established by the commissioner, and the commissioner may request new proposals from Indian organizations or tribal social services agencies to the extent that funding is available.

Subd. 2. **Special focus grants.** The amount available for grants established under section 260.785, subdivision 2, for child-placing agencies, Tribes, Indian organizations, and other social services organizations is one-fifth of the total annual appropriation for Indian child welfare grants. The maximum award under this subdivision is \$100,000 a year for programs approved by the commissioner.

**History:** 1999 c 139 art 1 s 15; 2023 c 16 s 35

**260.831 UNDISTRIBUTED FUNDS.**

Undistributed funds must be reallocated by the Department of Human Services to any other grant categories established under section 260.785, subdivision 1 or 2, for the goals of this grant process. Undistributed funds are available until expended.

**History:** 1999 c 139 art 1 s 16

**260.835 AMERICAN INDIAN CHILD WELFARE ADVISORY COUNCIL.**

Subdivision 1. **Creation.** The commissioner shall appoint an American Indian Advisory Council to help formulate policies and procedures relating to Indian child welfare services and to make recommendations regarding approval of grants provided under section 260.785, subdivisions 1, 2, and 3. The council shall consist of 17 members appointed by the commissioner and must include representatives of each of the 11 Minnesota reservations who are authorized by tribal resolution, one representative from the Duluth Urban Indian Community, three representatives from the Minneapolis Urban Indian Community, and two representatives from the St. Paul Urban Indian Community. Representatives from the urban Indian communities must be selected through an open appointments process under section 15.0597. The terms, compensation, and removal of American Indian Child Welfare Advisory Council members shall be as provided in section 15.059.

Subd. 2. MS 2022 [Repealed, 2023 c 50 art 1 s 38]

*[See Note.]*

**History:** 1999 c 139 art 1 s 17; 1Sp2005 c 4 art 3 s 17; 2008 c 361 art 6 s 22; 2012 c 271 s 4; 2013 c 142 art 2 s 5; 2014 c 286 art 7 s 12; art 8 s 39; 2014 c 291 art 3 s 8; 2018 c 164 s 4; 2023 c 16 s 36

**NOTE:** This section was also amended by Laws 2023, chapter 16, section 36, to read as follows:

"Subd 2. **Expiration.** This section does not expire."

**260.836 SEVERABILITY.**

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

**History:** 2023 c 16 s 37

**INTERSTATE COMPACT****260.851 INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN.**

The Interstate Compact on the Placement of Children is hereby enacted into law and entered into with all other jurisdictions legally joining therein in form substantially as follows:

**ARTICLE 1****PURPOSE AND POLICY**

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

(a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(b) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(c) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis on which to evaluate a projected placement before it is made.

(d) Appropriate jurisdictional arrangements for the care of children will be promoted.

## ARTICLE 2

### DEFINITIONS

As used in this compact:

(a) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship or similar control.

(b) "Sending agency" means a party state, officer or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency or other entity which sends, brings, or causes to be sent or brought any child to another party state.

(c) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

(d) "Placement" means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective or persons having epilepsy or any institution primarily educational in character, and any hospital or other medical facility.

## ARTICLE 3

### CONDITIONS FOR PLACEMENT

(a) No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

(b) Prior to sending, bringing or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

(1) The name, date and place of birth of the child.

(2) The identity and address or addresses of the parents or legal guardian.

(3) The name and address of the person, agency or institution to or with which the sending agency proposes to send, bring, or place the child.

(4) A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(c) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to paragraph (b) of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

(d) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

#### ARTICLE 4

##### PENALTY FOR ILLEGAL PLACEMENT

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children.

#### ARTICLE 5

##### RETENTION OF JURISDICTION

(a) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

(b) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of such case by the latter as agent for the sending agency.

(c) Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph (a) hereof.

#### ARTICLE 6

##### INSTITUTIONAL CARE OF DELINQUENT CHILDREN

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the

parent or guardian with opportunity to be heard, prior to his being sent to such other party jurisdiction for institutional care and the court finds that:

1. Equivalent facilities for the child are not available in the sending agency's jurisdiction; and
2. Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

## ARTICLE 7

### COMPACT ADMINISTRATOR

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in his jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

## ARTICLE 8

### LIMITATIONS

This compact shall not apply to:

(a) The sending or bringing of a child into a receiving state by his parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with any such relative or nonagency guardian in the receiving state.

(b) Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

## ARTICLE 9

### ENACTMENT AND WITHDRAWAL

This compact shall be open to joinder by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the Government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.

## ARTICLE 10

### CONSTRUCTION AND SEVERABILITY

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of

this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

**History:** *1999 c 139 art 1 s 18*

**NOTE:** This section is repealed by Laws 2008, chapter 361, article 6, section 59, effective upon legislative enactment of the interstate compact in section 260.93 by no fewer than 35 states.

**260.852** [Renumbered 260.92]

**260.853** [Renumbered 260.93]

#### **260.855 FINANCIAL RESPONSIBILITY.**

Financial responsibility for any child placed pursuant to the provisions of the Interstate Compact on the Placement of Children shall be determined in accordance with the provisions of article 5 thereof in the first instance. However, in the event of partial or complete default of performance thereunder, the provisions of sections 518C.101 to 518C.902 also may be invoked.

**History:** *1999 c 139 art 1 s 19*

#### **260.861 APPROPRIATE PUBLIC AUTHORITIES DEFINED.**

The "appropriate public authorities" as used in article 3 of the Interstate Compact on the Placement of Children shall, with reference to this state, mean the commissioner of human services. The commissioner of human services or the commissioner's delegate shall receive and act with reference to notices required by said article 3.

**History:** *1999 c 139 art 1 s 20*

#### **260.865 APPROPRIATE AUTHORITY IN RECEIVING STATE DEFINED.**

As used in paragraph (a) of article 5 of the Interstate Compact on the Placement of Children, the phrase "appropriate authority in the receiving state" with reference to this state shall mean the commissioner of human services or the commissioner's delegate.

**History:** *1999 c 139 art 1 s 21*

#### **260.871 AGREEMENTS.**

The officers and agencies of this state and its subdivisions having authority to place children are hereby empowered to enter into agreements with appropriate officers or agencies of or in other party states pursuant to paragraph (b) of article 5 of the Interstate Compact on the Placement of Children. Any such agreement which contains a financial commitment or imposes a financial obligation on this state or subdivision or agency thereof shall not be binding unless it has the approval in writing of the commissioner of human services in the case of the state and of the chief local fiscal officer in the case of a subdivision of the state.

**History:** *1999 c 139 art 1 s 22*

#### **260.875 REQUIREMENTS FOR VISITATION; SUPERVISION.**

Any requirements for visitation, inspection or supervision of children, homes, institutions or other agencies in another party state which may apply under section 260C.212 shall be deemed to be met if

performed pursuant to an agreement entered into by appropriate officers or agencies of this state or a subdivision thereof as contemplated by paragraph (b) of article 5 of the Interstate Compact on the Placement of Children.

**History:** 1999 c 139 art 1 s 23

#### **260.881 CERTAIN LAWS NOT APPLICABLE.**

The provisions of section 257.06 shall not apply to placements made pursuant to the Interstate Compact on the Placement of Children.

**History:** 1999 c 139 art 1 s 24

#### **260.885 COURT JURISDICTION RETAINED.**

Any court having jurisdiction to place delinquent children may place such a child in an institution or in another state pursuant to article 6 of the Interstate Compact on the Placement of Children and shall retain jurisdiction as provided in article 5 thereof.

**History:** 1999 c 139 art 1 s 25

#### **260.91 EXECUTIVE HEAD DEFINED.**

As used in article 7 of the Interstate Compact on the Placement of Children, the term "executive head" means the governor. The governor is hereby authorized to appoint a compact administrator in accordance with the terms of said article 7.

**History:** 1999 c 139 art 1 s 26

#### **260.92 PLACEMENT PROCEDURES.**

Subdivision 1. **Home study.** The state must have procedures for the orderly and timely interstate placement of children that are implemented in accordance with an interstate compact and that, within 60 days after the state receives from another state a request to conduct a study of a home environment for purposes of assessing the safety and suitability of placing a child in the home, the state shall, directly or by contract, conduct and complete a home study and return to the other state a report on the results of the study, which shall address the extent to which placement in the home would meet the needs of the child; except in the case of a home study begun before October 1, 2008, if the state fails to comply with conducting and completing the home study within the 60-day period and this is as a result of circumstances beyond the control of the state, the state has 75 days to comply if the state documents the circumstances involved and certifies that completing the home study is in the best interests of the child.

This subdivision does not require the completion within the applicable period of the parts of the home study involving the education and training of the prospective foster or adoptive parents.

Subd. 2. **Effect of received report.** The state shall treat any report described in subdivision 1 that is received from another state, an Indian tribe, or a private agency under contract with another state or Indian tribe as meeting any requirements imposed by the state for the completion of a home study before placing a child in the home, unless, within 14 days after receipt of the report, the state determines, based on grounds that are specific to the content of the report, that making a decision in reliance on the report would be contrary to the welfare of the child.



Subd. 3. **Resources.** The state shall make effective use of cross-jurisdictional resources, including through contract for the purchase of services, and shall eliminate legal barriers to facilitate timely adoptive or permanent placements for waiting children. The state shall not impose any restriction on the use of private agencies for the purpose of conducting a home study to meet the 60-day requirement.

Subd. 4. **Incentive eligibility.** Minnesota is an incentive-eligible state and must:

- (1) have an approved plan as required by the United States Secretary of Health and Human Services;
- (2) be in compliance with the data requirements of the United States Department of Health and Human Services; and
- (3) have data that verify that a home study is completed within 30 days.

Subd. 5. **Data requirements.** The state shall provide to the United States Secretary of Health and Human Services a written report, covering the preceding fiscal year, that specifies:

- (1) the total number of interstate home studies requested by the state with respect to children in foster care under the responsibility of the state, and with respect to each study, the identity of the other state involved;
- (2) the total number of timely interstate home studies completed by the state with respect to children in foster care under the responsibility of other states and, with respect to each study, the identity of the other state involved; and
- (3) other information the United States Secretary of Health and Human Services requires in order to determine whether Minnesota is a home study incentive-eligible state.

Subd. 6. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Home study" means an evaluation of a home environment conducted in accordance with applicable requirements of the state in which the home is located, to determine whether a proposed placement of a child would meet the individual needs of the child, including the child's safety; permanency; health; well-being; and mental, emotional, and physical development.

(c) "Interstate home study" means a home study conducted by a state at the request of another state to facilitate an adoptive or foster placement in the state of a child in foster care under the responsibility of the state.

(d) "Timely interstate home study" means an interstate home study completed by a state if the state provides to the state that requested the study, within 30 days after receipt of the request, a report on the results of the study, except that there is no requirement for completion within the 30-day period of the parts of the home study involving the education and training of the prospective foster or adoptive parents.

Subd. 7. **Background study requirements for adoption and foster care.** (a) Background study requirements for an adoption home study must be completed consistent with section 259.41, subdivisions 1, 2, and 3.

(b) Background study requirements for a foster care license must be completed consistent with section 245C.08.

Subd. 8. **Home visits.** If a child has been placed in foster care outside the state in which the home of the parents of the child is located, periodically, but at least every six months, a caseworker on the staff of

the agency of the state in which the home of the parents of the child is located or the state in which the child has been placed, or a private agency under contract with either state, must visit the child in the home or institution and submit a report on each visit to the agency of the state in which the home of the parents of the child is located.

**History:** 2007 c 147 art 1 s 14

### **260.925 APPLICATION OF LAWS; GENDER-AFFIRMING HEALTH CARE.**

A law of another state that authorizes a state agency to remove a child from the child's parent or guardian because the parent or guardian allowed the child to receive gender-affirming health care, as defined in section 543.23, paragraph (b), is against the public policy of this state and must not be enforced or applied in a case pending in a court in this state. A court order for the removal of a child issued in another state because the child's parent or guardian assisted the child in receiving gender-affirming care in this state must not be enforced in this state.

**History:** 2023 c 29 s 1

## **INTERSTATE COMPACT FOR CHILD PLACEMENT**

### **260.93 INTERSTATE COMPACT FOR THE PLACEMENT OF CHILDREN.**

#### **ARTICLE I. PURPOSE**

The purpose of this Interstate Compact for the Placement of Children is to:

- A. Provide a process through which children subject to this compact are placed in safe and suitable homes in a timely manner.
- B. Facilitate ongoing supervision of a placement, the delivery of services, and communication between the states.
- C. Provide operating procedures that will ensure that children are placed in safe and suitable homes in a timely manner.
- D. Provide for the promulgation and enforcement of administrative rules implementing the provisions of this compact and regulating the covered activities of the member states.
- E. Provide for uniform data collection and information sharing between member states under this compact.
- F. Promote coordination between this compact, the Interstate Compact for Juveniles, the Interstate Compact on Adoption and Medical Assistance, and other compacts affecting the placement of and which provide services to children otherwise subject to this compact.
- G. Provide for a state's continuing legal jurisdiction and responsibility for placement and care of a child that it would have had if the placement were intrastate.
- H. Provide for the promulgation of guidelines, in collaboration with Indian tribes, for interstate cases involving Indian children as is or may be permitted by federal law.

#### **ARTICLE II. DEFINITIONS**

As used in this compact,

A. "Approved placement" means the public child-placing agency in the receiving state has determined that the placement is both safe and suitable for the child.

B. "Assessment" means an evaluation of a prospective placement by a public child-placing agency to determine whether the placement meets the individualized needs of the child, including but not limited to the child's safety and stability, health and well-being, and mental, emotional, and physical development. An assessment is only applicable to a placement by a public child-placing agency.

C. "Child" means an individual who has not attained the age of eighteen (18).

D. "Certification" means attesting, declaring, or swearing before a judge or notary public.

E. "Default" means the failure of a member state to perform the obligations or responsibilities imposed upon it by this compact, the bylaws or rules of the Interstate Commission.

F. "Home study" means an evaluation of a home environment conducted according to the applicable requirements of the state in which the home is located, and documents the preparation and the suitability of the placement resource for placement of a child according to the laws and requirements of the state in which the home is located.

G. "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaskan native village as defined in section 3(c) of the Alaska Native Claims Settlement Act at United States Code, title 43, chapter 33, section 1602(c).

H. "Interstate Commission for the Placement of Children" means the commission that is created under Article VIII of this compact and which is generally referred to as the Interstate Commission.

I. "Jurisdiction" means the power and authority of a court to hear and decide matters.

J. "Legal risk placement" ("Legal risk adoption") means a placement made preliminary to an adoption where the prospective adoptive parents acknowledge in writing that a child can be ordered returned to the sending state or the birth mother's state of residence, if different from the sending state and a final decree of adoption shall not be entered in any jurisdiction until all required consents are obtained or are dispensed with according to applicable law.

K. "Member state" means a state that has enacted this compact.

L. "Noncustodial parent" means a person who, at the time of the commencement of court proceedings in the sending state, does not have sole legal custody of the child or has joint legal custody of a child, and who is not the subject of allegations or findings of child abuse or neglect.

M. "Nonmember state" means a state which has not enacted this compact.

N. "Notice of residential placement" means information regarding a placement into a residential facility provided to the receiving state including, but not limited to the name, date and place of birth of the child, the identity and address of the parent or legal guardian, evidence of authority to make the placement, and the name and address of the facility in which the child will be placed. Notice of residential placement shall also include information regarding a discharge and any unauthorized absence from the facility.

O. "Placement" means the act by a public or private child-placing agency intended to arrange for the care or custody of a child in another state.

P. "Private child-placing agency" means any private corporation, agency, foundation, institution, or charitable organization, or any private person or attorney that facilitates, causes, or is involved in the placement of a child from one state to another and that is not an instrumentality of the state or acting under color of state law.

Q. "Provisional placement" means a determination made by the public child-placing agency in the receiving state that the proposed placement is safe and suitable, and, to the extent allowable, the receiving state has temporarily waived its standards or requirements otherwise applicable to prospective foster or adoptive parents so as to not delay the placement. Completion of an assessment and the receiving state requirements regarding training for prospective foster or adoptive parents shall not delay an otherwise safe and suitable placement.

R. "Public child-placing agency" means any government child welfare agency or child protection agency or a private entity under contract with such an agency, regardless of whether they act on behalf of a state, county, municipality, or other governmental unit and which facilitates, causes, or is involved in the placement of a child from one state to another.

S. "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought.

T. "Relative" means someone who is related to the child as a parent, stepparent, sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin or a nonrelative with such significant ties to the child that they may be regarded as relatives as determined by the court in the sending state.

U. "Residential facility" means a facility providing a level of care that is sufficient to substitute for parental responsibility or foster care, and is beyond what is needed for assessment or treatment of an acute condition. For purposes of the compact, residential facilities do not include institutions primarily educational in character, hospitals, or other medical facilities.

V. "Rule" means a written directive, mandate, standard, or principle issued by the Interstate Commission promulgated pursuant to Article XI of this compact that is of general applicability and that implements, interprets, or prescribes a policy or provision of the compact. Rule has the force and effect of an administrative rule in a member state, and includes the amendment, repeal, or suspension of an existing rule.

W. "Sending state" means the state from which the placement of a child is initiated.

X. "Service member's permanent duty station" means the military installation where an active duty Armed Services member is currently assigned and is physically located under competent orders that do not specify the duty as temporary.

Y. "Service member's state of legal residence" means the state in which the active duty Armed Services member is considered a resident for tax and voting purposes.

Z. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other territory of the United States.

AA. "State court" means a judicial body of a state that is vested by law with responsibility for adjudicating cases involving abuse, neglect, deprivation, delinquency, or status offenses of individuals who have not attained the age of eighteen (18).

BB. "Supervision" means monitoring provided by the receiving state once a child has been placed in a receiving state pursuant to this compact.

## ARTICLE III. APPLICABILITY

A. Except as otherwise provided in Article III, Section B, this compact shall apply to:

1. The interstate placement of a child subject to ongoing court jurisdiction in the sending state, due to allegations or findings that the child has been abused, neglected, or deprived as defined by the laws of the sending state, provided, however, that the placement of such a child into a residential facility shall only require notice of residential placement to the receiving state prior to placement.

2. The interstate placement of a child adjudicated delinquent or unmanageable based on the laws of the sending state and subject to ongoing court jurisdiction of the sending state if:

a. the child is being placed in a residential facility in another member state and is not covered under another compact; or

b. the child is being placed in another member state and the determination of safety and suitability of the placement and services required is not provided through another compact.

3. The interstate placement of any child by a public child-placing agency or private child-placing agency as defined in this compact as a preliminary step to a possible adoption.

B. The provisions of this compact shall not apply to:

1. The interstate placement of a child in a custody proceeding in which a public child-placing agency is not a party, provided the placement is not intended to effectuate an adoption.

2. The interstate placement of a child with a nonrelative in a receiving state by a parent with the legal authority to make such a placement provided, however, that the placement is not intended to effectuate an adoption.

3. The interstate placement of a child by one relative with the lawful authority to make such a placement directly with a relative in a receiving state.

4. The placement of a child, not subject to Article III, Section A, into a residential facility by the child's parent.

5. The placement of a child with a noncustodial parent provided that:

a. The noncustodial parent proves to the satisfaction of a court in the sending state a substantial relationship with the child;

b. The court in the sending state makes a written finding that placement with the noncustodial parent is in the best interests of the child; and

c. The court in the sending state dismisses its jurisdiction in interstate placements in which the public child-placing agency is a party to the proceedings.

6. A child entering the United States from a foreign country for the purpose of adoption or leaving the United States to go to a foreign country for the purpose of adoption in that country.

7. Cases in which a U.S. citizen child living overseas with the child's family, at least one of whom is in the United States armed services, and who is stationed overseas, is removed and placed in a state.

8. The sending of a child by a public child-placing agency or a private child-placing agency for a visit as defined by the rules of the Interstate Commission.

C. For purposes of determining the applicability of this compact to the placement of a child with a family in the armed services, the public child-placing agency or private child-placing agency may choose the state of the service member's permanent duty station or the service member's declared legal residence.

D. Nothing in this compact shall be construed to prohibit the concurrent application of the provisions of this compact with other applicable interstate compacts including the Interstate Compact for Juveniles and the Interstate Compact on Adoption and Medical Assistance. The Interstate Commission may in cooperation with other interstate compact commissions having responsibility for the interstate movement, placement, or transfer of children, promulgate like rules to ensure the coordination of services, timely placement of children, and the reduction of unnecessary or duplicative administrative or procedural requirements.

#### ARTICLE IV. JURISDICTION

A. Except as provided in article IV, section H and article V, section B, paragraphs 2 and 3, concerning private and independent adoptions and in interstate placements in which the public child-placing agency is not a party to a custody proceeding, the sending state shall retain jurisdiction over a child with respect to all matters of custody and disposition of the child which it would have had if the child had remained in the sending state. Such jurisdiction shall also include the power to order the return of the child to the sending state.

B. When an issue of child protection or custody is brought before a court in the receiving state, such court shall confer with the court of the sending state to determine the most appropriate forum for adjudication.

C. In cases that are before courts and subject to this compact, the taking of testimony for hearings before any judicial officer may occur in person or by telephone; by audio-video conference; or by other means as approved by the rules of the Interstate Commission. Judicial officers may communicate with other judicial officers and persons involved in the interstate process as may be permitted by their Canons of Judicial Conduct and any rules promulgated by the Interstate Commission.

D. In accordance with its own laws, the court in the sending state shall have authority to terminate its jurisdiction if:

1. The child is reunified with the parent in the receiving state who is the subject of allegations or findings of abuse or neglect, only with the concurrence of the public child-placing agency in the receiving state; or
2. The child is adopted;
3. The child reaches the age of majority under the laws of the sending state; or
4. The child achieves legal independence pursuant to the laws of the sending state; or
5. A guardianship is created by a court in the receiving state with the concurrence of the court in the sending state; or
6. An Indian tribe has petitioned for and received jurisdiction from the court in the sending state; or
7. The public child-placing agency of the sending state requests termination and has obtained the concurrence of the public child-placing agency in the receiving state.

E. When a sending state court terminates its jurisdiction, the receiving state child-placing agency shall be notified.

F. Nothing in this article shall defeat a claim of jurisdiction by a receiving state court sufficient to deal with an act of truancy, delinquency, crime, or behavior involving a child as defined by the laws of the receiving state committed by the child in the receiving state which would be a violation of its laws.

G. Nothing in this article shall limit the receiving state's ability to take emergency jurisdiction for the protection of the child.

H. The substantive laws of the state in which an adoption will be finalized shall solely govern all issues relating to the adoption of the child and the court in which the adoption proceeding is filed shall have subject matter jurisdiction regarding all substantive issues relating to the adoption, except:

1. when the child is a ward of another court that established jurisdiction over the child prior to the placement;
2. when the child is in the legal custody of a public agency in the sending state; or
3. when the court in the sending state has otherwise appropriately assumed jurisdiction over the child, prior to the submission of the request for approval of placement.

#### ARTICLE V. PLACEMENT EVALUATION

A. Prior to sending, bringing, or causing a child to be sent or brought into a receiving state, the public child-placing agency shall provide a written request for assessment to the receiving state.

B. For placements by a private child-placing agency, a child may be sent or brought, or caused to be sent or brought, into a receiving state, upon receipt and immediate review of the required content in a request for approval of a placement in both the sending and receiving state's public child-placing agency. The required content to accompany a request for provisional approval shall include all of the following:

1. A request for approval identifying the child, birth parents, the prospective adoptive parents, and the supervising agency, signed by the person requesting approval; and
2. The appropriate consents or relinquishments signed by the birthparents in accordance with the laws of the sending state or, where permitted, the laws of the state where the adoption will be finalized; and
3. Certification by a licensed attorney or other authorized agent of a private adoption agency that the consent or relinquishment is in compliance with the applicable laws of the sending state, or where permitted the laws of the state where finalization of the adoption will occur; and
4. A home study; and
5. An acknowledgment of legal risk signed by the prospective adoptive parents.

C. The sending state and the receiving state may request additional information or documents prior to finalization of an approved placement, but they may not delay travel by the prospective adoptive parents with the child if the required content for approval has been submitted, received, and reviewed by the public child-placing agency in both the sending state and the receiving state.

D. Approval from the public child-placing agency in the receiving state for a provisional or approved placement is required as provided for in the rules of the Interstate Commission.

E. The procedures for making, and the request for an assessment, shall contain all information and be in such form as provided for in the rules of the Interstate Commission.

F. Upon receipt of a request from the public child-placing agency of the sending state, the receiving state shall initiate an assessment of the proposed placement to determine its safety and suitability. If the proposed placement is a placement with a relative, the public child-placing agency of the sending state may request a determination for a provisional placement.

G. The public child-placing agency in the receiving state may request from the public child-placing agency or the private child-placing agency in the sending state, and shall be entitled to receive supporting or additional information necessary to complete the assessment.

#### ARTICLE VI. PLACEMENT AUTHORITY

A. Except as otherwise provided in this compact, no child subject to this compact shall be placed into a receiving state until approval for such placement is obtained.

B. If the public child-placing agency in the receiving state does not approve the proposed placement then the child shall not be placed. The receiving state shall provide written documentation of any such determination in accordance with the rules promulgated by the Interstate Commission. Such determination is not subject to judicial review in the sending state.

C. If the proposed placement is not approved, any interested party shall have standing to seek an administrative review of the receiving state's determination.

1. The administrative review and any further judicial review associated with the determination shall be conducted in the receiving state pursuant to its applicable Administrative Procedure Act.

2. If a determination not to approve the placement of the child in the receiving state is overturned upon review, the placement shall be deemed approved, provided however that all administrative or judicial remedies have been exhausted or the time for such remedies has passed.

#### ARTICLE VII. PLACING AGENCY RESPONSIBILITY

A. For the interstate placement of a child made by a public child-placing agency or state court:

1. The public child-placing agency in the sending state shall have financial responsibility for:

a. the ongoing support and maintenance for the child during the period of the placement, unless otherwise provided for in the receiving state; and

b. as determined by the public child-placing agency in the sending state, services for the child beyond the public services for which the child is eligible in the receiving state.

2. The receiving state shall only have financial responsibility for:

a. any assessment conducted by the receiving state; and

b. supervision conducted by the receiving state at the level necessary to support the placement as agreed upon by the public child-placing agencies of the receiving and sending state.

3. Nothing in this provision shall prohibit public child-placing agencies in the sending state from entering into agreements with licensed agencies or persons in the receiving state to conduct assessments and provide supervision.

B. For the placement of a child by a private child-placing agency preliminary to a possible adoption, the private child-placing agency shall be:



1. Legally responsible for the child during the period of placement as provided for in the law of the sending state until the finalization of the adoption.

2. Financially responsible for the child absent a contractual agreement to the contrary.

C. The public child-placing agency in the receiving state shall provide timely assessments, as provided for in the rules of the Interstate Commission.

D. The public child-placing agency in the receiving state shall provide, or arrange for the provision of, supervision and services for the child, including timely reports, during the period of the placement.

E. Nothing in this compact shall be construed as to limit the authority of the public child-placing agency in the receiving state from contracting with a licensed agency or person in the receiving state for an assessment or the provision of supervision or services for the child or otherwise authorizing the provision of supervision or services by a licensed agency during the period of placement.

F. Each member state shall provide for coordination among its branches of government concerning the state's participation in, and compliance with, the compact and Interstate Commission activities, through the creation of an advisory council or use of an existing body or board.

G. Each member state shall establish a central state compact office, which shall be responsible for state compliance with the compact and the rules of the Interstate Commission.

H. The public child-placing agency in the sending state shall oversee compliance with the provisions of the Indian Child Welfare Act (United States Code, title 25, chapter 21, section 1901 et seq.) for placements subject to the provisions of this compact, prior to placement.

I. With the consent of the Interstate Commission, states may enter into limited agreements that facilitate the timely assessment and provision of services and supervision of placements under this compact.

#### ARTICLE VIII. INTERSTATE COMMISSION FOR THE PLACEMENT OF CHILDREN

The member states hereby establish, by way of this compact, a commission known as the "Interstate Commission for the Placement of Children." The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

A. Be a joint commission of the member states and shall have the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by subsequent concurrent action of the respective legislatures of the member states.

B. Consist of one commissioner from each member state who shall be appointed by the executive head of the state human services administration with ultimate responsibility for the child welfare program. The appointed commissioner shall have the legal authority to vote on policy-related matters governed by this compact binding the state.

1. Each member state represented at a meeting of the Interstate Commission is entitled to one vote.

2. A majority of the member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

3. A representative shall not delegate a vote to another member state.

4. A representative may delegate voting authority to another person from their state for a specified meeting.

C. In addition to the commissioners of each member state, the Interstate Commission shall include persons who are members of interested organizations as defined in the bylaws or rules of the Interstate Commission. Such members shall be ex officio and shall not be entitled to vote on any matter before the Interstate Commission.

D. Establish an executive committee which shall have the authority to administer the day-to-day operations and administration of the Interstate Commission. It shall not have the power to engage in rulemaking.

#### ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the following powers:

A. To promulgate rules and take all necessary actions to effect the goals, purposes and obligations as enumerated in this compact.

B. To provide for dispute resolution among member states.

C. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules or actions.

D. To enforce compliance with this compact or the bylaws or rules of the Interstate Commission pursuant to Article XII.

E. Collect standardized data concerning the interstate placement of children subject to this compact as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements.

F. To establish and maintain offices as may be necessary for the transacting of its business.

G. To purchase and maintain insurance and bonds.

H. To hire or contract for services of personnel or consultants as necessary to carry out its functions under the compact and establish personnel qualification policies, and rates of compensation.

I. To establish and appoint committees and officers including, but not limited to, an executive committee as required by Article X.

J. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose thereof.

K. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed.

L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.

M. To establish a budget and make expenditures.

N. To adopt a seal and bylaws governing the management and operation of the Interstate Commission.

O. To report annually to the legislatures, governors, the judiciary, and state advisory councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

P. To coordinate and provide education, training, and public awareness regarding the interstate movement of children for officials involved in such activity.

Q. To maintain books and records in accordance with the bylaws of the Interstate Commission.

R. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

#### ARTICLE X. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

##### A. Bylaws

1. Within 12 months after the first Interstate Commission meeting, the Interstate Commission shall adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact.

2. The Interstate Commission's bylaws and rules shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

##### B. Meetings

1. The Interstate Commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states shall call additional meetings.

2. Public notice shall be given by the Interstate Commission of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds vote that an open meeting would be likely to:

a. relate solely to the Interstate Commission's internal personnel practices and procedures; or

b. disclose matters specifically exempted from disclosure by federal law; or

c. disclose financial or commercial information which is privileged, proprietary or confidential in nature;

or

d. involve accusing a person of a crime, or formally censuring a person; or

e. disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy or physically endanger one or more persons; or

f. disclose investigative records compiled for law enforcement purposes; or

g. specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

3. For a meeting, or portion of a meeting, closed pursuant to this provision, the Interstate Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemption provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All

documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission or by court order.

4. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or other electronic communication.

#### C. Officers and Staff

1. The Interstate Commission may, through its executive committee, appoint or retain a staff director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The staff director shall serve as secretary to the Interstate Commission, but shall not have a vote. The staff director may hire and supervise such other staff as may be authorized by the Interstate Commission.

2. The Interstate Commission shall elect, from among its members, a chairperson and a vice chairperson of the executive committee and other necessary officers, each of whom shall have such authority and duties as may be specified in the bylaws.

#### D. Qualified Immunity, Defense and Indemnification

1. The Interstate Commission's staff director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

a. The liability of the Interstate Commission's staff director and employees or Interstate Commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

b. The Interstate Commission shall defend the staff director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state shall defend the commissioner of a member state in a civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

c. To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of

Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE XI. RULEMAKING FUNCTIONS OF  
THE INTERSTATE COMMISSION

A. The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

B. Rulemaking shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000), or such other administrative procedure acts as the Interstate Commission deems appropriate consistent with due process requirements under the United States Constitution as now or hereafter interpreted by the United States Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the Interstate Commission.

C. When promulgating a rule, the Interstate Commission shall, at a minimum:

1. Publish the proposed rule's entire text stating the reason(s) for that proposed rule; and
2. Allow and invite any and all persons to submit written data, facts, opinions, and arguments, which information shall be added to the record, and be made publicly available; and
3. Promulgate a final rule and its effective date, if appropriate, based on input from state or local officials, or interested parties.

D. Rules promulgated by the Interstate Commission shall have the force and effect of administrative rules and shall be binding in the compacting states to the extent and in the manner provided for in this compact.

E. Not later than 60 days after a rule is promulgated, an interested person may file a petition in the United States District Court for the District of Columbia or in the Federal District Court where the Interstate Commission's principal office is located for judicial review of such rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside.

F. If a majority of the legislatures of the member states rejects a rule, those states may by enactment of a statute or resolution in the same manner used to adopt the compact cause that such rule shall have no further force and effect in any member state.

G. The existing rules governing the operation of the Interstate Compact on the Placement of Children superseded by this act shall be null and void no less than 12, but no more than 24 months after the first meeting of the Interstate Commission created hereunder, as determined by the members during the first meeting.

H. Within the first 12 months of operation, the Interstate Commission shall promulgate rules addressing the following:

1. Transition rules
2. Forms and procedures

3. Timelines
4. Data collection and reporting
5. Rulemaking
6. Visitation
7. Progress reports/supervision
8. Sharing of information/confidentiality
9. Financing of the Interstate Commission
10. Mediation, arbitration, and dispute resolution
11. Education, training, and technical assistance
12. Enforcement
13. Coordination with other interstate compacts

I. Upon determination by a majority of the members of the Interstate Commission that an emergency exists:

1. The Interstate Commission may promulgate an emergency rule only if it is required to:
  - a. Protect the children covered by this compact from an imminent threat to their health, safety, and well-being; or
  - b. Prevent loss of federal or state funds; or
  - c. Meet a deadline for the promulgation of an administrative rule required by federal law.
2. An emergency rule shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, but no later than 90 days after the effective date of the emergency rule.
3. An emergency rule shall be promulgated as provided for in the rules of the Interstate Commission.

## ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

### A. Oversight

1. The Interstate Commission shall oversee the administration and operation of the compact.
2. The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and the rules of the Interstate Commission and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The compact and its rules shall be binding in the compacting states to the extent and in the manner provided for in this compact.
3. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact.

4. The Interstate Commission shall be entitled to receive service of process in any action in which the validity of a compact provision or rule is the issue for which a judicial determination has been sought and shall have standing to intervene in any proceedings. Failure to provide service of process to the Interstate Commission shall render any judgment, order or other determination, however so captioned or classified, void as to the Interstate Commission, this compact, its bylaws, or rules of the Interstate Commission.

#### B. Dispute Resolution

1. The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and nonmember states.

2. The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among compacting states. The costs of such mediation or dispute resolution shall be the responsibility of the parties to the dispute.

#### C. Enforcement

1. If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, its bylaws or rules, the Interstate Commission may:

a. Provide remedial training and specific technical assistance; or

b. Provide written notice to the defaulting state and other member states, of the nature of the default and the means of curing the default. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default; or

c. By majority vote of the members, initiate against a defaulting member state legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal office, to enforce compliance with the provisions of the compact, its bylaws, or rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees; or

d. Avail itself of any other remedies available under state law or the regulation of official or professional conduct.

### ARTICLE XIII. FINANCING OF THE COMMISSION

A. The Interstate Commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

B. The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved by its members each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission which shall promulgate a rule binding upon all member states.

C. The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

#### ARTICLE XIV. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

A. Any state is eligible to become a member state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 states. The effective date shall be the later of July 1, 2007 or upon enactment of the compact into law by the 35th state. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The executive heads of the state human services administration with ultimate responsibility for the child welfare program of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states.

C. The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding on the member states unless and until it is enacted into law by unanimous consent of the member states.

#### ARTICLE XV. WITHDRAWAL AND DISSOLUTION

A. Withdrawal

1. Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact specifically repealing the statute which enacted the compact into law.

2. Withdrawal from this compact shall be by the enactment of a statute repealing the same. The effective date of withdrawal shall be the effective date of the repeal of the statute.

3. The withdrawing state shall immediately notify the president of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall then notify the other member states of the withdrawing state's intent to withdraw.

4. The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal.

5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the members of the Interstate Commission.

B. Dissolution of Compact

1. This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.



#### ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

C. Nothing in this compact shall be construed to prohibit the concurrent applicability of other interstate compacts to which the states are members.

#### ARTICLE XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS

##### A. Other Laws

1. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

##### B. Binding Effect of the Compact

1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

2. All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

3. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

#### ARTICLE XVIII. INDIAN TRIBES

Notwithstanding any other provision in this compact, the Interstate Commission may promulgate guidelines to permit Indian tribes to utilize the compact to achieve any or all of the purposes of the compact as specified in Article I. The Interstate Commission shall make reasonable efforts to consult with Indian tribes in promulgating guidelines to reflect the diverse circumstances of the various Indian tribes.

**History:** 2008 c 361 art 6 s 23; 2009 c 163 art 1 s 1