

## CHAPTER 260

### JUVENILES

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#### GENERAL PROVISIONS

**260.01** [Repealed, 1959 c 685 s 53]

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

Subdivision 1. **Citation.** Sections 260.011 to 260.91 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 [Repealed, 1999 c 139 art 4 s 3]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

#### **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, 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 when a child cannot be reunified with the parent or guardian from whom the child was removed, 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 re-

quired 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 section 260C.201, subdivision 11, paragraph (e), clause (1), or a similar law of another jurisdiction; or

(5) 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.201, subdivision 11, or a termination of parental rights petition under sections 260C.141 and 260C.301 must be filed. A permanency hearing under section 260C.201, subdivision 11, must be held within 30 days of this determination.

(c) In the case of an Indian child, in proceedings under sections 260B.178 or 260C.178, 260C.201, and 260C.301 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; or

(2) given the particular circumstances of the child and family at the time of the child's removal, there are no services or efforts available which 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.212, subdivision 4;

(3) conduct a relative search as required under section 260C.212, subdivision 5; and

(4) 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, preferably 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 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. At each stage of the proceedings where 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) it has made reasonable efforts to prevent placement of the child in foster care;

(2) it 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) it has made reasonable efforts to finalize an alternative permanent home for the child; or

(4) 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 peti-

tion filed under section 260C.141, by filing an affidavit summarizing the agency's reasonable efforts or facts the agency believes demonstrate 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 reasonable efforts for reunification after a hearing according to section 260C.163, where the court finds there is not clear and convincing evidence of the facts upon which the court based its prima facie determination. In this case when 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 surviving 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 surviving child; or

(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.

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

(1) relevant to the safety and protection of the child;

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

(3) culturally appropriate;

(4) available and accessible;

(5) consistent and timely; and

(6) realistic under the circumstances.

In the alternative, the court may determine that 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 treatment of a child with a mental disability when the child's diagnostic assessment or individual treatment plan indicates that appropriate and necessary treatment cannot be effectively provided outside of a residential or inpatient treatment program.

(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 its decision and both plans for concurrent reasonable efforts to all parties and the court. When the agency discloses its decision to proceed on 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

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

**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 260.021 to 260.101 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

**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]

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- 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]
- 260.17 [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]

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- 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

### 260.51 INTERSTATE COMPACT ON JUVENILES.

The governor is authorized and directed to execute a compact on behalf of this state with any other state or states legally joining therein in the form substantially as follows:

#### INTERSTATE COMPACT ON JUVENILES

The contracting states solemnly agree:

#### ARTICLE I

That juveniles who are not under proper supervision and control, or who have absconded, escaped or run away, are likely to endanger their own health, morals and welfare, and the health, morals and welfare of others. The cooperation of the states party to this compact is therefore necessary to provide for the welfare and protection of juveniles and of the public with respect to

- (1) cooperative supervision of delinquent juveniles on probation or parole;
- (2) the return, from one state to another, of delinquent juveniles who have escaped or absconded;
- (3) the return, from one state to another of nondelinquent juveniles who have run away from home; and

(4) additional measures for the protection of juveniles and of the public, which any two or more of the party states may find desirable to undertake cooperatively. In carrying out the provisions of this compact the party states shall be guided by the noncriminal, reformatory and protective policies which guide their laws concerning delinquent, neglected or dependent juveniles generally. It shall be the policy of the states party to this compact to cooperate and observe their respective responsibilities for the prompt return and acceptance of juveniles and delinquent juveniles who become subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the foregoing purposes.

#### ARTICLE II

That all remedies and procedures provided by this compact shall be in addition to and not in substitution for other rights, remedies and procedures, and shall not be in derogation of parental rights and responsibilities.

#### ARTICLE III

That, for the purposes of this compact, "delinquent juvenile" means any juvenile who has been adjudged delinquent and who, at the time the provisions of this compact are in-

voked, is still subject to the jurisdiction of the court that has made such adjudication or to the jurisdiction or supervision of an agency or institution pursuant to an order of such court; "probation or parole" means any kind of conditional release of juveniles authorized under the laws of the states party hereto; "court" means any court having jurisdiction over delinquent, neglected or dependent children; "state" means any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and "residence" or any variant thereof means a place at which a home or regular place of abode is maintained.

#### ARTICLE IV

(a) That the parent, guardian, person or agency entitled to legal custody of a juvenile who has not been adjudged delinquent but who has run away without the consent of such parent, guardian, person or agency may petition the appropriate court in the demanding state for the issuance of a requisition for his return. The petition shall state the name and age of the juvenile, the name of the petitioner and the basis of entitlement to the juvenile's custody, the circumstances of his running away, his location if known at the time application is made, and such other facts as may tend to show that the juvenile who has run away is endangering his own welfare or the welfare of others and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the document or documents on which the petitioner's entitlement to the juvenile's custody is based, such as birth records, letters of guardianship, or custody decrees. Such further affidavits and other documents as may be deemed proper may be submitted with such petition. The judge of the court to which this application is made may hold a hearing thereon to determine whether for the purposes of this compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not he is an emancipated minor, and whether or not it is in the best interest of the juvenile to compel his return to the state. If the judge determines, either with or without a hearing, that the juvenile should be returned, he shall present to the appropriate court or to the executive authority of the state where the juvenile is alleged to be located, a written requisition for the return of such juvenile. Such requisition shall set forth the name and age of the juvenile, the determination of the court that the juvenile has run away without the consent of a parent, guardian, person or agency entitled to his legal custody, and that it is in the best interest and for the protection of such juvenile that he be returned. In the event that a proceeding for the adjudication of the juvenile as a delinquent, neglected or dependent juvenile is pending in the court at the time when such juvenile runs away, the court may issue a requisition for the return of such juvenile upon its own motion, regardless of the consent of the parent, guardian, person or agency entitled to legal custody, reciting therein the nature and circumstances of the pending proceeding. The requisition shall in every case be executed in duplicate and shall be signed by the judge. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of such court. Upon the receipt of a requisition demanding the return of a juvenile who has run away, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No juvenile detained upon such order shall be delivered over to the officer whom the court demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of a court in the state, who shall inform him of the demand made for his return, and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such juvenile over to the officer whom the court demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a juvenile who has run away from another state party to this compact without the consent of a parent, guardian, person or agency entitled to his legal custody, such juvenile may be taken into custody without a requisition and

brought forthwith before a judge of the appropriate court who may appoint counsel or guardian ad litem for such juvenile and who shall determine after a hearing whether sufficient cause exists to hold the person, subject to the order of the court, for his own protection and welfare, for such a time not exceeding 90 days as will enable his return to another state party to this compact pursuant to a requisition for his return from a court of that state. If, at the time when a state seeks the return of a juvenile who has run away, there is pending in the state wherein he is found any criminal charge, or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a juvenile is returned under this Article shall be responsible for payment of the transportation costs of such return.

(c) That "juvenile" as used in this Article means any person who is a minor under the law of the state of residence of the parent, guardian, person or agency entitled to legal custody of such minor.

#### ARTICLE V

(a) That the appropriate person or authority from whose probation or parole supervision a delinquent juvenile has absconded or from whose institutional custody he has escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of such delinquent juvenile. Such requisition shall state the name and age of the delinquent juvenile, the particulars of his adjudication as a delinquent juvenile, the circumstances of the breach of the terms of his probation or parole or of his escape from an institution or agency vested with his legal custody or supervision, and the location of such delinquent juvenile, if known, at the time the requisition is made. The requisition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the judgment, formal adjudication, or order of commitment which subjects such delinquent juvenile to probation or parole or to the legal custody of the institution or agency concerned. Such further affidavits and other documents as may be deemed proper may be submitted with such requisition. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of the appropriate court. Upon the receipt of a requisition demanding the return of a delinquent juvenile who has absconded or escaped, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such delinquent juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No delinquent juvenile detained upon such order shall be delivered over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of an appropriate court in the state, who shall inform him of the demand made for his return and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such delinquent juvenile over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, such person may be taken into custody in any other state party to this compact without a requisition. But in such event, he must

be taken forthwith before a judge of the appropriate court, who may appoint counsel or guardian ad litem for such person and who shall determine, after a hearing, whether sufficient cause exists to hold the person subject to the order of the court for such a time, not exceeding 90 days, as will enable his detention under a detention order issued on a requisition pursuant to this Article. If, at the time when a state seeks the return of a delinquent juvenile who has either absconded while on probation or parole or escaped from an institution or agency vested with his legal custody or supervision, there is pending in the state wherein he is detained any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the delinquent juvenile being returned, shall be permitted to transport such delinquent juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he escaped or absconded, the delinquent juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a delinquent juvenile is returned under this Article shall be responsible for payment of the transportation costs of such return.

#### ARTICLE VI

That any delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, and any juvenile who has run away from any state party to this compact, who is taken into custody without a requisition in another state party to this compact under the provisions of Article IV(a) or of Article V(a), may consent to his immediate return to the state from which he absconded, escaped or run away. Such consent shall be given by the juvenile or delinquent juvenile and his counsel or guardian ad litem if any, by executing or subscribing a writing, in the presence of a judge of the appropriate court, which states that the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, consent to his return to the demanding state. Before such consent shall be executed or subscribed, however, the judge, in the presence of counsel or guardian ad litem, if any, shall inform the juvenile or delinquent juvenile of his rights under this compact. When the consent has been duly executed, it shall be forwarded to and filed with the compact administrator of the state in which the court is located and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to deliver him to the duly accredited officer or officers of the state demanding his return, and shall cause to be delivered to such officer or officers a copy of the consent. The court may, however, upon the request of the state to which the juvenile or delinquent juvenile is being returned, order him to return unaccompanied to such state and shall provide him with a copy of such court order; in such event a copy of the consent shall be forwarded to the compact administrator of the state to which said juvenile or delinquent juvenile is ordered to return.

#### ARTICLE VII

(a) That the duly constituted judicial and administrative authorities of a state party to this compact (herein called "sending state") may permit any delinquent juvenile within such state, placed on probation or parole, to reside in any other state party to this compact (herein called "receiving state") while on probation or parole; and the receiving state shall accept such delinquent juvenile, if the parent, guardian or person entitled to the legal custody of such delinquent juvenile is residing or undertakes to reside within the receiving state. Before granting such permission, opportunity shall be given to the receiving state to make such investigations as it deems necessary. The authorities of the sending state shall send to the authorities of the receiving state copies of pertinent court orders, social case studies and all other available information which may be of value to and assist the receiving state in supervising a probationer or parolee under this compact. A receiving state, in its discretion, may agree to

accept supervision of a probationer or parolee in cases where the parent, guardian or person entitled to legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted the sending state may transfer supervision accordingly.

(b) That each receiving state will assume the duties of visitation and of supervision over any such delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.

(c) That, after consultation between the appropriate authorities of the sending state and of the receiving state as to the desirability and necessity of returning such a delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there apprehend and retake any such delinquent juvenile on probation or parole. For that purpose, no formalities will be required, other than establishing the authority of the officer and the identity of the delinquent juvenile to be retaken and returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to retake a delinquent juvenile on probation or parole, there is pending against him within the receiving state any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for any act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states partly to this compact, without interference.

(d) That the sending state shall be responsible under this Article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.

#### ARTICLE VIII

(a) That the provision of Articles IV(b), V(b), and VII(d) of this compact shall not be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

(b) That nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to cost for which such party state or subdivision thereof may be responsible pursuant to Article IV(b), V(b) or VII(d) of this compact.

#### ARTICLE IX

That, to every extent possible, it shall be the policy of states party to this compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail or lockup nor be detained or transported in association with criminal, vicious or dissolute persons.

#### ARTICLE X

That the duly constituted administrative authorities of a state party to this compact may enter into supplementary agreements with any other state or states party hereto for the cooperative care, treatment and rehabilitation of delinquent juveniles whenever they shall find that such agreements will improve the facilities or programs available for such care, treatment and rehabilitation. Such care, treatment and rehabilitation may be provided in an institution located within any state entering into such supplementary agreement. Such supplementary agreement shall (1) provide the rates to be paid for the care, treatment and custody of such delinquent juveniles, taking into consideration the character of facilities, services and subsistence furnished; (2) provide that the delinquent juvenile shall be given a court hearing prior to his being sent to another state for care, treatment and custody; (3) provide that the state receiving such a delinquent juvenile in one of its institutions shall act solely as agent for

the state sending such delinquent juvenile; (4) provide that the sending state shall at all times retain jurisdiction over delinquent juveniles sent to an institution in another state; (5) provide for reasonable inspection of such institutions by the sending state; (6) provide that the consent of the parent, guardian, person or agency entitled to the legal custody of said delinquent juvenile shall be secured prior to his being sent to another state; and (7) make provision for such other matters and details as shall be necessary to protect the rights and equities of such delinquent juveniles and of the cooperating states.

#### ARTICLE XI

That any state party to this compact may accept any and all donations, gifts and grants of money, equipment and services from the federal or any local government, or any agency thereof and from any person, firm or corporation, for any of the purposes and functions of this compact, and may receive and utilize the same subject to the terms, conditions and regulations governing such donations, gifts and grants.

#### ARTICLE XII

That the governor of each state party to this compact shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

#### ARTICLE XIII

That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

#### ARTICLE XIV

That this compact shall continue in force and remain binding upon each executing state until renounced by it. Renunciation of this compact shall be by the same authority which executed it, by sending six months' notice in writing of its intention to withdraw from the compact to the other states party hereto. The duties and obligations of a renouncing state under Article VII hereof shall continue as to parolees and probationers residing therein at the time of withdrawal until retaken or finally discharged. Supplementary agreements entered into under Article X hereof shall be subject to renunciation as provided by such supplementary agreements, and shall not be subject to the six months' renunciation notice of the present Article.

#### ARTICLE XV

That 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 participating 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 participating therein, 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.

#### ARTICLE XVI

(a) That this Article shall provide additional remedies, and shall be binding only as among and between those party states which specifically execute the same.

(b) For the purposes of this Article, "child," as used herein, means any minor within the jurisdictional age limits of any court in the home state.

(c) When any child is brought before a court of a state of which the child is not a resident, and the state is willing to permit the child's return to the home state of the child, the home state, upon being so advised by the state in which the proceeding is pending, shall immediate-

ly institute proceedings to determine the residence and jurisdictional facts as to the child in the home state, and upon finding that the child is in fact a resident of that state and subject to the jurisdiction of the court thereof, shall within five days authorize the return of the child to the home state, and to the parent or custodial agency legally authorized to accept the custody in the home state, and at the expense of the state, to be paid from the funds as the home state may procure, designate, or provide, prompt action being of the essence.

#### ARTICLE XVII

(a) This Article shall provide additional remedies, and shall be binding only as among and between those party states which specifically execute the same.

(b) All provisions and procedures of Articles V and VI of the Interstate Compact on Juveniles shall be construed to apply to any juvenile charged with being a delinquent by reason of a violation of any criminal law. Any juvenile, charged with being a delinquent by reason of violating any criminal law shall be returned to the requesting state upon a requisition to the state where the juvenile may be found. A petition in the case shall be filed in a court of competent jurisdiction in the requesting state where the violation of criminal law is alleged to have been committed. The petition may be filed regardless of whether the juvenile has left the state before or after the filing of the petition. The requisition described in Article V of the compact shall be forwarded by the judge of the court in which the petition has been filed.

**History:** 1957 c 892 s 1; 1982 c 371 s 1; 1Sp2001 c 9 art 15 s 32

#### 260.52 DEFINITIONS.

As used in the Interstate Compact on Juveniles, the following words and phrases have the following meanings as to this state:

- (1) "Executive authority" means the compact administrator.
- (2) The "appropriate court" of this state to issue a requisition under Article IV of the compact is the juvenile court of the county of the petitioner's residence, or, if the petitioner is a child welfare agency, the juvenile court of the county where it has its principal office, or, if the petitioner is the state Department of Human Services, any juvenile court in the state.
- (3) The "appropriate court" of this state to receive a requisition under Article IV or V of the compact is the juvenile court of the county where the juvenile is located.

**History:** 1957 c 892 s 2; 1984 c 654 art 5 s 58

#### 260.53 COMPACT ADMINISTRATOR.

(1) Pursuant to the Interstate Compact on Juveniles, the governor is authorized to designate the commissioner of corrections to be the compact administrator, who, acting jointly with like officers of other party states, shall promulgate rules to carry out more effectively the terms of the compact. The compact administrator shall serve subject to the pleasure of the governor. The compact administrator is authorized to cooperate with all departments, agencies and officers of and in the government of this state and its political subdivisions in facilitating the proper administration of the compact or of any supplementary agreement entered into by this state thereunder.

(2) The compact administrator shall determine for this state whether to receive juvenile probationers and parolees of other states pursuant to Article VII of the Interstate Compact on Juveniles and shall arrange for the supervision of each such probationer or parolee so received, either by the commissioner of corrections or by a person appointed to perform supervision service for the juvenile court of the county where the juvenile is to reside, whichever is more convenient. Such persons shall in all such cases make periodic reports to the compact administrator regarding the conduct and progress of such juveniles.

**History:** 1957 c 892 s 3; 1974 c 125 s 1; 1986 c 444

#### 260.54 SUPPLEMENTARY AGREEMENTS.

The compact administrator is authorized to enter into supplementary agreements with appropriate officials of other states pursuant to Article X of the Interstate Compact on Juve-

niles. In the event that such supplementary agreement requires or contemplates the use of any institution or facility of this state or the provision of any service by this state, said supplementary agreement shall have no effect until approved by the department or agency under whose jurisdiction the institution or facility is operated or which shall be charged with the rendering of such service.

**History:** 1957 c 892 s 4

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

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

(1) In the case of a runaway under Article IV, 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 under Article V or Article VI, 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 under Article VI, 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

### **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 on 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, except that the costs of counsel to a guardian ad litem in the Eighth Judicial District shall be paid by the state courts until the recommendations of the task force created in Laws 1999, chapter 216, article 7, section 42, are implemented.

**History:** 1957 c 892 s 6; 1986 c 444; 1999 c 216 art 7 s 24



**260.57 ENFORCEMENT.**

The courts, departments, agencies and officers of this state and its political subdivisions shall enforce the Interstate Compact on 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

**MINNESOTA INDIAN 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

**260.755 DEFINITIONS.**

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

Subd. 2. **Administrative review.** "Administrative review" means review under section 260C.212.

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

(a) "Adoptive placement" means the permanent placement of an Indian child for adoption, including an action resulting in a final decree of adoption.

(b) "Involuntary foster care placement" means an action removing an Indian child from its 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 child returned upon demand, but parental rights have not been terminated.

(c) "Preadoptive placement" means 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.

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

The terms include placements based upon juvenile status offenses, but do 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. 4. **Commissioner.** "Commissioner" means the commissioner of human services.

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. 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. 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.

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 ex-

press 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 band under the Alaska Native Claims Settlement Act, United States Code, title 43, section 1602, and exercising tribal governmental powers.

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. It does not include an unmarried father whose paternity has not been acknowledged or established.

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. 17. **Private child-placing agency.** "Private child-placing agency" means a private organization, association, or corporation providing assistance to children and parents in their own homes and placing children in foster care or for adoption.

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 federally recognized jurisdiction over child custody proceedings which is either a court of Indian offenses, or a court established and operated under the code or custom of an Indian tribe, or the administrative body of a tribe which is vested with authority over child custody proceedings. Except as provided in section 260.771, subdivision 5, nothing in this chapter shall be construed as conferring jurisdiction on an Indian tribe.

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 local social services agency or private child-placing agency resulting in the temporary placement of an Indian child away from the home of the child's parents or Indian custodian in a foster home, institution, or the home of a guardian, and the parent or Indian custodian may have the child returned upon demand.

**History:** 1999 c 139 art 1 s 3

**260.761 SOCIAL SERVICES AGENCY AND PRIVATE LICENSED CHILD-PLACING AGENCY NOTICE TO TRIBES.**

Subdivision 1. **Determination of Indian child's tribe.** The local social services agency or private licensed child-placing agency shall determine whether a child brought to its attention for the purposes described in this section is an Indian child and the identity of the Indian child's tribe.

Subd. 2. **Agency notice of potential out-of-home placement.** When a local social services agency or private child-placing agency determines that an Indian child is in a dependent or other condition that could lead to an out-of-home placement and requires the continued involvement of the agency with the child for a period in excess of 30 days, the agency shall send notice of the condition and of the initial steps taken to remedy it to the Indian child's tribal social services agency within seven days of the determination. At this and any subsequent stage of its involvement with an Indian child, the agency shall, upon request, give the tribal social services agency full cooperation including access to all files concerning the child. If the files contain confidential or private data, the agency may require execution of an agreement with the tribal social services agency that the tribal social services agency shall maintain the data according to statutory provisions applicable to the data. This subdivision applies whenever the court transfers legal custody of an Indian child under section 260B.198, subdivision 1, paragraph (c), clause (1), (2), or (3), following an adjudication for a misdemeanor-level delinquent act.

Subd. 3. **Notice of potential preadoptive or adoptive placement.** In any voluntary adoptive or preadoptive placement proceeding in which a local social services agency, private child-placing agency, petitioner in the adoption, or any other party 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 agency or person shall notify the Indian child's tribal social services agency by registered mail with return receipt requested of the pending proceeding and of the right of intervention under subdivision 6. If the identity or location of the child's tribe cannot be determined, the notice must be given to the United States secretary of interior in like manner, who will have 15 days after receipt of the notice to provide the requisite notice to the tribe. No preadoptive or adoptive placement proceeding may be held until at least ten days after receipt of the notice by the tribe or secretary. Upon request, the tribe must be granted up to 20 additional days to prepare for the proceeding. The agency or notifying party shall include in the notice the identity of the birth parents and child absent written objection by the birth parents. The private child-placing agency shall inform the birth parents of the Indian child of any services available to the Indian child through the child's tribal social services agency, including child placement services, and shall additionally provide the birth parents of the Indian child with all information sent from the tribal social services agency in response to the notice.

Subd. 4. **Unknown father.** If the local social services agency, private child-placing agency, the court, petitioner, or any other party has reason to believe that a child who is the subject of an adoptive 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 agency or person shall provide to the tribe believed to be the Indian child's tribe information sufficient to enable the tribe to determine the child's eligibility for membership in the tribe, including, but not limited to, the legal and maiden name of the birth mother, her date of birth, the names and dates of birth of her parents and grandparents, and, if available, information pertaining to the possible identity, tribal affiliation, or location of the birth father.

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

Subd. 6. **Indian tribe's right of intervention.** In any state court proceeding for the voluntary adoptive or preadoptive placement of an Indian child, the Indian child's tribe shall have a right to intervene at any point in the proceeding.

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

**History:** 1999 c 139 art 1 s 4

### 260.765 VOLUNTARY FOSTER CARE PLACEMENT.

Subdivision 1. **Determination of Indian child's tribe.** The local social services agency or private licensed child-placing agency shall determine whether a child brought to its attention for the purposes described in this section is an Indian child and the identity of the Indian child's tribe.

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

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

At this and any subsequent stage of its involvement with an Indian child, the agency shall, upon request, give the tribal social services agency full cooperation including access to all files concerning the child. If the files contain confidential or private data, the agency may require execution of an agreement with the tribal social services agency that the tribal social services agency shall maintain the data according to statutory provisions applicable to the data.

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 participation in the review.

Subd. 4. **Return of child in voluntary placement.** Upon demand by the parent or Indian custodian of an Indian child, the local social services agency or private licensed child-placing agency shall return the child in voluntary foster care placement to the parent or Indian custodian within 24 hours of the receipt of the demand. If the request for return does not satisfy the requirement of section 260.755, subdivision 5, the local social services agency or private child-placing agency shall immediately inform the parent or Indian custodian of the Indian child of the requirement.

Subd. 5. **Identification of extended family members.** Any agency considering placement of an Indian child shall make reasonable efforts to identify and locate extended family members.

**History:** 1999 c 139 art 1 s 5

### 260.771 CHILD PLACEMENT PROCEEDINGS.

Subdivision 1. **Indian tribe jurisdiction.** An Indian tribe with a tribal court has exclusive jurisdiction over a child placement proceeding involving an Indian child who resides within the reservation of such tribe at the commencement of the proceedings. When an Indian child is in the legal custody of a person or agency pursuant to an order of a tribal court, the Indian tribe retains exclusive jurisdiction, notwithstanding the residence or domicile of the 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.

Subd. 3. **Transfer of proceedings.** In a proceeding for the termination of parental rights or involuntary foster care placement of an Indian child not within the jurisdiction of subdivision 1, the court, in the absence of good cause to the contrary, shall transfer the proceeding to the jurisdiction of the tribe absent objection by either parent, upon the petition of either parent or the Indian custodian or the Indian child's tribe. The transfer shall be subject to declination by the tribal court of such tribe.

Subd. 4. **Effect of tribal court placement orders.** To the extent that any child subject to sections 260.755 to 260.835 is otherwise eligible for social services, orders of a tribal court concerning placement of such child shall have the same force and effect as orders of a court of this state. In any case where the tribal court orders placement through a local social services agency, the court shall provide to the local agency notice and an opportunity to be heard regarding the placement. Determination of county of financial responsibility for the placement shall be determined by the local social services 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. 5. **Indian tribe agreements.** The commissioner is hereby authorized to enter into agreements with Indian tribes pursuant to United States Code, title 25, section 1919, respecting care and custody of Indian children and jurisdiction over child custody 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.

**History:** 1999 c 139 art 1 s 6

#### 260.775 PLACEMENT RECORDS.

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.

**History:** 1999 c 139 art 1 s 7

#### 260.781 RECORDS; INFORMATION AVAILABILITY.

Subdivision 1. **Court decree information.** 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.

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

or adoptive parent or parents requesting anonymity, the department must use the procedures described in United States Code, title 25, section 1951, paragraph (b).

**History:** 1999 c 139 art 1 s 8

#### **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 local social services 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 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

#### **260.791 GRANT APPLICATIONS.**

A tribe, Indian organization, or tribal social services agency program located off-reservation may apply for primary support grants under section 260.785, subdivision 1. A local social services 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

#### **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 local social services 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, general assistance medical care, 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

**260.805 CONTINUED LEGAL RESPONSIBILITY OF LOCAL SOCIAL SERVICES AGENCIES.**

The legal responsibility of local social services 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

**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 (17). 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

**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 local social services 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

### 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. **Expiration.** Notwithstanding section 15.059, subdivision 5, the American Indian Child Welfare Advisory Council expires June 30, 2008.

**History:** 1999 c 139 art 1 s 17; 1Sp2005 c 4 art 3 s 17

## 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

#### **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 agen-

cies 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