

260.771 CHILD PLACEMENT PROCEEDINGS.

Subdivision 1. **Indian tribe jurisdiction.** An Indian tribe has exclusive jurisdiction over a child placement proceeding involving an Indian child who resides or is domiciled within the reservation of the tribe, except where jurisdiction is otherwise vested in the state by existing federal law. When an Indian child is a ward of the 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. This chapter and the federal Indian Child Welfare Act are applicable without exception in any child custody proceeding, as defined in the federal act, involving an Indian child. This chapter applies to child custody proceedings involving an Indian child whether the child is in the physical or legal custody of an Indian parent, Indian custodian, Indian extended family member, or other person at the commencement of the proceedings. A court shall not determine the applicability of this chapter or the federal Indian Child Welfare Act to a child custody proceeding based upon whether an Indian child is part of an existing Indian family or based upon the level of contact a child has with the child's Indian tribe, reservation, society, or off-reservation community.

Subd. 3. **Transfer of proceedings.** (a) In a proceeding for: (1) the termination of parental rights; or (2) the involuntary foster care placement of an Indian child not within the jurisdiction of subdivision 1, the court, in the absence of good cause to the contrary, shall transfer the proceeding to the jurisdiction of the tribe absent objection by either parent, upon the petition of either parent or the Indian custodian or the Indian child's tribe. The transfer is subject to declination by the tribal court of the tribe.

(b) In a proceeding for the preadoptive or adoptive placement of an Indian child not within the jurisdiction of subdivision 1, the court, in the absence of good cause to the contrary, shall transfer the proceeding to the jurisdiction of the tribe. The transfer is subject to declination by the tribal court of the tribe. For the purposes of this subdivision, "preadoptive placement" and "adoptive placement" have the meanings give in section 260.755, subdivision 3.

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; 2007 c 147 art 1 s 12,13; 2013 c 65 s 1