

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

Subdivision 1. **Active efforts.** Active efforts includes acknowledging traditional helping and healing systems of an Indian child's tribe and using these systems as the core to help and heal the Indian child and family.

Subd. 2. **Requirements for local social services agencies.** A local social services agency shall:

- (1) work with the Indian child's tribe and family to develop an alternative plan to out-of-home placement;
- (2) before making a decision that may affect an Indian child's safety and well-being or when contemplating out-of-home placement of an Indian child, seek guidance from the Indian child's tribe on family structure, how the family can seek help, what family and tribal resources are available, and what barriers the family faces at that time that could threaten its preservation; and
- (3) request participation of the Indian child's tribe at the earliest possible time and request the tribe's active participation throughout the case.

Subd. 3. **Required findings that active efforts were provided.** A court shall not order an out-of-home or permanency placement for an Indian child unless the court finds that the local social services agency made active efforts to the Indian child's family. In determining whether the local social services agency made active efforts for purposes of out-of-home placement and permanency, the court shall make findings regarding whether the following activities were appropriate and whether the local social services agency made appropriate and meaningful services available to the family based upon that family's specific needs:

(1) whether the local social services agency made efforts at the earliest point possible to (i) identify whether a child may be an Indian child as defined in the Indian Child Welfare Act, United States Code, title 25, section 1903, and section 260.755, subdivision 8; and (ii) identify and request participation of the Indian child's tribe at the earliest point possible and throughout the investigation or assessment, case planning, provision of services, and case completion;

(2) whether the local social services agency requested that a tribally designated representative with substantial knowledge of prevailing social and cultural standards and child-rearing practices within the tribal community evaluate the circumstances of the Indian child's family and assist in developing a case plan that uses tribal and Indian community resources;

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

(4) whether the local social services agency notified and consulted with the Indian child's extended family members, as identified by the child, the child's parents, or the tribe; whether extended family members were consulted to provide support to the child and parents, to inform the local social services agency and court as to cultural connections and family structure, to assist in identifying appropriate cultural services and supports for the child and parents, and to identify and serve as a placement and permanency resource for the child; and if there was difficulty contacting or engaging with extended family members, whether

assistance was sought from the tribe, the Department of Human Services, or other agencies with expertise in working with Indian families;

(5) whether the local social services agency provided services and resources to relatives who are considered the primary placement option for an Indian child, as agreed by the local social services agency and the tribe, to overcome barriers to providing care to an Indian child. Services and resources shall include but are not limited to child care assistance, financial assistance, housing resources, emergency resources, and foster care licensing assistance and resources; and

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

**History:** 2015 c 78 art 1 s 21