

ASSEMBLY BILL NO. 444—ASSEMBLYWOMAN BACKUS

MARCH 27, 2023

Referred to Committee on Judiciary

SUMMARY—Revises provisions concerning child welfare.
(BDR 11-614)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to child welfare; establishing various provisions governing proceedings relating to the custody, adoption or protection of Indian children or the termination of parental rights; requiring the Division of Child and Family Services of the Department of Health and Human Services to adopt various regulations; requiring an agency which provides child welfare services to provide certain training for its personnel; requiring the Division and the Court Administrator to submit certain reports to the Chairs of the Senate and Assembly Standing Committees on Judiciary; authorizing the Nevada Supreme Court and the Court Administrator to adopt certain rules; repealing certain unnecessary provisions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The federal Indian Child Welfare Act, 25 U.S.C. §§ 1901 et seq., was enacted in 1978 to protect Indian children from the removal from their homes and families and gives Indian tribes jurisdiction over the Indian children within their tribe. Existing Nevada law recognizes the jurisdiction of Indian tribes in various proceedings relating to the custody, adoption or protection of Indian children or the termination of parental rights. (NRS 3.223, 62D.210, 125A.215, 127.010, 127.018, 128.020, 128.023, 432B.410, 432B.425) This bill establishes various provisions governing proceedings relating to the custody, adoption or protection of Indian children or the termination of parental rights to provide additional protections for Indian children in state law.

Sections 2-38 of this bill establish provisions concerning proceedings in which the legal or physical custody of an Indian child is an issue. **Section 2** of this bill explains the legislative intent of **sections 2-38**. **Sections 3.5-17** of this bill define



terms for the purposes of **sections 2-38**. **Section 17.5** of this bill provides that the provisions of **sections 2-38** do not apply if: (1) in certain circumstances, a parent of an Indian child is voluntarily terminating his or her parental rights and an extended family member of the Indian child is subsequently adopting the Indian child upon the termination of the parental rights of the parent; (2) an Indian child is being adopted after being born to a gestational carrier pursuant to a gestational agreement; or (3) an Indian child is being adopted by a stepparent or other nonbiological parent in a confirmatory adoption.

Section 18 of this bill provides that a person has custody of an Indian child if the person has physical or legal custody of the Indian child under any applicable tribal law, tribal custom or state law.

Section 20 of this bill requires a court to consider certain factors, in consultation with the Indian child's tribe, when making a determination regarding the best interests of the Indian child in a child custody proceeding. **Section 21** of this bill establishes the order of priority for the domicile of an Indian child.

Section 22 of this bill requires the appropriate agency which provides child welfare services to: (1) provide assistance with enrolling an Indian child who is a child in need of protection or who may be in need of protection in a tribe with which the child is eligible for enrollment unless the Indian child's parent objects; and (2) notify the Indian child's parent of his or her right to object to such assistance from the agency.

Section 23 of this bill sets forth the manner in which the tribe of an Indian child is determined for purposes of a child custody proceeding involving the Indian child and, if the Indian child is a member of or eligible for membership with more than one tribe, requires the court to designate the tribe with which the Indian child has the more significant contacts by considering certain factors.

Section 24 of this bill requires a court to: (1) determine, in any child custody proceeding involving an Indian child, the residence and domicile of the Indian child and whether he or she is a ward of a tribal court; and (2) communicate with any tribal courts to the extent necessary to make such determinations.

Section 25 of this bill requires agencies which provide child welfare services to make a good faith effort to enter into a tribal-state agreement with any Indian tribe in Nevada and authorizes such agencies to enter into a tribal-state agreement with any Indian tribe outside of Nevada if the tribe has significant numbers of Indian children who reside in Nevada and are members of or eligible for membership with the tribe. **Section 25** also establishes provisions concerning the contents of and requirements regarding such tribal-state agreements.

Section 26 of this bill provides that the jurisdiction of a court in a child custody proceeding involving an Indian child is concurrent with the jurisdiction of the tribe of the Indian child. **Section 26** also establishes the circumstances in which the tribe of an Indian child has exclusive jurisdiction in such cases.

Section 27 of this bill requires, in general, a court to transfer a child custody proceeding involving an Indian child if the parent, Indian custodian or tribe of the Indian child petitions the court to transfer the proceeding to tribal court. **Section 27** also establishes various other provisions regarding such a transfer and the denial of such a transfer by the court. **Section 28** of this bill sets forth the actions that a court is required to take upon granting a transfer motion under **section 27**.

Section 29 of this bill establishes requirements for certain persons and the court with regard to determining whether a child is an Indian child in child custody proceedings.

Section 30 of this bill provides that in a child custody proceeding, if a person is required to determine whether a child is an Indian child, the person is required to make a good faith effort to make such a determination by consulting with certain persons. **Section 30** also establishes the circumstances in which a court or person



has reason to know that a child is an Indian child and imposes certain requirements on a court concerning the procedure for verifying whether a child is an Indian child.

Section 31 of this bill requires the person taking a child into protective custody in an emergency proceeding to make a good faith effort to determine whether there is reason to know that the child is an Indian child and, if there is reason to know that the child is an Indian child, the appropriate agency which provides child welfare services is required, if the nature of the emergency allows, to notify any tribe of which the child is or may be a member and provide certain information, including a statement that the tribe has a right to participate in the proceeding as a party or in an advisory capacity. **Section 31** also imposes certain requirements relating to: (1) the provision of notice of a child custody proceeding if there is reason to know that a child alleged to be within the court's jurisdiction is an Indian child; and (2) the hearing regarding the proceeding.

Section 32 of this bill provides that if a court finds at a hearing in a child custody proceeding that a child is an Indian child, at least one qualified expert witness must testify regarding certain information. If a qualified witness is required to testify, **section 32** requires the petitioner in the proceeding to contact the tribe of the Indian child and request that the tribe identify one or more persons who can testify as a qualified witness. Additionally, **section 32** authorizes a court to hear supplemental testimony from certain professionals.

Section 33 of this bill provides that if a child in a child custody proceeding is an Indian child and active efforts, which are efforts that are affirmative, active, thorough, timely and intended to maintain or reunite an Indian child with the Indian child's family, are required, the court is required to determine whether active efforts have been made to prevent the breakup of or to reunite the family. **Section 33** establishes requirements relating to active efforts.

Section 34 of this bill authorizes a tribe that is a party to a proceeding to be represented by any person, regardless of whether the person is licensed to practice law. **Section 34** also authorizes an attorney who is not barred from practicing law in Nevada to appear in any proceeding involving an Indian child without associating with local counsel if the attorney establishes to the satisfaction of the State Bar of Nevada that certain requirements are met.

Section 35 of this bill provides that in a proceeding involving a child who is or may be in need of protection, if the child is an Indian child, the court is required to appoint counsel to represent the Indian child and, in certain circumstances, also appoint counsel to represent the Indian child's parent or Indian custodian. **Section 35** also authorizes an attorney who is appointed to represent an Indian child to inspect certain records of the Indian child without the consent of the Indian child or his or her parent or Indian custodian.

Section 36 of this bill authorizes each party in a child custody proceeding in which the child is an Indian child to timely examine all reports and documents held by an agency which provides child welfare services that are not otherwise subject to a discovery exception or precluded under state or federal law.

Section 37 of this bill establishes requirements concerning the: (1) least restrictive setting in which an Indian child must be placed if the parental rights of the Indian child's parents have not been terminated and the Indian child is in need of placement or continuation in substitute care; and (2) placement of an Indian child if the parental rights of the Indian child's parents have been terminated and the Indian child is in need of an adoptive placement. **Section 37** also authorizes the alternative placement of an Indian child in certain circumstances.

Section 38 of this bill authorizes certain persons to file a petition to vacate an order or a judgment involving an Indian child regarding jurisdiction, placement, guardianship or the termination of parental rights in a pending child custody proceeding under **sections 2-38** or, if no proceeding is pending, in any court with jurisdiction over the matter. **Section 38** requires the court to vacate an order or



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judgment regarding jurisdiction, placement, guardianship or the termination of parental rights if certain provisions of **sections 2-38** have been violated and the court determines that vacating the order or judgment is proper.

Sections 42-50 of this bill establish provisions specifically relating to the adoption of Indian children. **Section 42** of this bill provides that a petition for adoption of a child must include certain contents concerning whether there is reason to know that the child who is the subject of the petition is an Indian child and requires a petitioner who has reason to know that the child is an Indian child to serve copies of the petition on certain persons and file with the court a declaration of compliance concerning such notice. **Section 43** of this bill: (1) requires written consent to the adoption of an Indian child to be given by the Indian child's parents unless their parental rights have been terminated; (2) establishes requirements concerning such consent; and (3) authorizes the withdrawal of such consent.

Section 45 of this bill establishes provisions concerning the entry of a judgment for the adoption of a child, including certain requirements relating to the adoption of an Indian child. **Section 46** of this bill authorizes the filing of a petition to vacate a judgment of adoption of an Indian child and requires the court to vacate the judgment if the petition is timely filed and the court finds by clear and convincing evidence that the consent of a parent to the adoption was obtained through fraud or duress. **Section 47** of this bill requires a court to provide notice to certain persons and the appropriate agency which provides child welfare services if a judgment of adoption of an Indian child is vacated and, unless the return of custody of the Indian child to a former parent or prior Indian custodian or the restoration of parental rights is not in the best interests of the child, return custody of the Indian child to the former parent or prior Indian custodian or restore parental rights.

Section 48 of this bill requires that access to the adoption records of an Indian child be given to the Indian child's tribe or the United States Secretary of the Interior not later than 14 days after the request for such records.

Section 49 of this bill requires the appropriate agency which provides child welfare services to file with the court in a proceeding for the adoption of a minor child a written compliance report that reflects the agency's review of the petition for adoption and advises the court on whether the petitioner submitted complete and sufficient documentation relating to the petitioner's compliance with the inquiry and notice requirements and placement preferences. **Section 49** requires the Division of Child and Family Services of the Department of Health and Human Services (hereinafter "Division") to adopt regulations providing a nonexhaustive description of the documentation that may be submitted to the court as evidence of such compliance and any other regulations for the preparation of such compliance reports that are necessary for agencies which provide child welfare services to carry out their duties. **Section 49** also authorizes the Court Administrator to prepare and make available to the public certain forms and information to assist petitioners and to design and offer trainings to courts having jurisdiction over adoption matters.

Section 50 of this bill establishes provisions governing tribal customary adoption, which is the adoption of an Indian child by and through the tribal custom, traditions or law of the child's tribe without the termination of parental rights. **Section 50** requires the Division to adopt certain regulations concerning tribal customary adoption and authorizes: (1) the Supreme Court to adopt rules necessary for the court processes to implement the provisions relating to tribal customary adoption; and (2) the Court Administrator to prepare necessary forms for the implementation of the provisions relating to tribal customary adoption. **Section 73** of this bill requires the Division to submit a report to the Chairs of the Senate and Assembly Standing Committees on Judiciary describing the implementation of tribal customary adoption as an alternative permanency option for wards who are Indian children and the Division's recommendation for proposed legislation to improve the tribal customary adoption process.



Section 41.5 of this bill provides that the provisions of **sections 42-50** do not apply if: (1) in certain circumstances, a parent of an Indian child is voluntarily terminating his or her parental rights and an extended family member of the Indian child is subsequently adopting the Indian child upon the termination of the parental rights of the parent; (2) an Indian child is being adopted after being born to a gestational carrier pursuant to a gestational agreement; or (3) an Indian child is being adopted by a stepparent or other nonbiological parent in a confirmatory adoption. **Section 57** of this bill similarly provides that provisions relating to proceedings that otherwise concern the termination of parental rights of the parent of an Indian child do not apply in certain circumstances if a parent of an Indian child is voluntarily terminating his or her parental rights and an extended family member of the Indian child is subsequently adopting the Indian child upon the termination of the parental rights of the parent.

Section 65 of this bill requires the Division to adopt regulations necessary for the implementation of **sections 2-38 and 42-50**.

Section 67 of this bill requires an agency which provides child welfare services to provide training for its personnel regarding the requirements of **sections 2-38 and 42-50**.

Sections 40, 51-62 and 64-70 of this bill make conforming changes to provisions of existing law to reflect the changes made in **sections 2-38**. **Section 78** of this bill repeals certain provisions of existing law that are no longer necessary because of the provisions of **sections 2-38**.

Section 72 of this bill requires the Division and the Court Administrator to submit biennial reports to the Chairs of the Senate and Assembly Standing Committees on Judiciary containing certain data relating to Indian children in dependency proceedings. **Section 76** of this bill authorizes the Court Administrator to adopt any rules necessary to implement **sections 2-38 and 42-50**.

WHEREAS, Current research shows that family, culture and community promote resiliency and health development in Indian children; and

WHEREAS, Congress, working with tribal nations, tribal leadership and advocates for Indian children, passed the Indian Child Welfare Act, 25 U.S.C. §§ 1901 et seq., in 1978 to stop the removal of Indian children from their homes, families and communities; and

WHEREAS, At the time Congress passed the Indian Child Welfare Act, Indian children were being removed by public and private agencies at rates as high as 25 percent to 35 percent; and

WHEREAS, Indian children continue to be removed from their homes at rates higher than other non-Indian children; and

WHEREAS, Despite requirements under the Indian Child Welfare Act, application of the Indian Child Welfare Act in Nevada courts is inconsistent; and

WHEREAS, Clearly addressing in state law the coordination between and respective roles of the state and tribes regarding the provision of child welfare services to Indian children will provide uniform and consistent direction to state courts, tribes and practitioners to prevent unlawful removals of Indian children from



their families and promote the stable placement of Indian children in loving, permanent homes that are connected to family and culture; now, therefore,

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Title 11 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 38, inclusive, of this act.

Sec. 2. 1. *The Legislature hereby finds that the United States Congress recognizes the special legal status of Indian tribes and their members. It is the policy of this State to protect the health and safety of Indian children and the stability and security of Indian tribes and families by promoting practices designed to prevent the removal of Indian children from their families and, if removal is necessary and lawful, to prioritize the placement of an Indian child with the Indian child's extended family and tribal community.*

2. This State recognizes the inherent jurisdiction of Indian tribes to make decisions regarding the custody of Indian children and also recognizes the importance of ensuring that Indian children and Indian families receive appropriate services to obviate the need to remove an Indian child from the Indian child's home and, if removal is necessary and lawful, to effect the child's safe return home.

3. Sections 2 to 38, inclusive, of this act create additional safeguards for Indian children to address disproportionate rates of removal, to improve the treatment of and services provided to Indian children and Indian families in the child welfare system and to ensure that Indian children who must be removed are placed with Indian families, communities and cultures.

Sec. 3. *As used in sections 2 to 38, inclusive, of this act, the words and terms defined in sections 3.5 to 17, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3.5. *"Agency" means an agency which provides child welfare services, as defined in NRS 432B.030.*

Sec. 4. *"Child custody proceeding" means a matter in which the legal custody or physical custody of an Indian child is an issue, including, without limitation, a matter arising under chapter 125A, 127, 128 or 432B of NRS. The term does not include an emergency proceeding.*

Sec. 5. *"Division" means the Division of Child and Family Services of the Department of Health and Human Services.*



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1 **Sec. 6.** *“Emergency proceeding” means any court action that*
2 *involves the emergency removal or emergency placement of an*
3 *Indian child, with or without a protective custody order.*

4 **Sec. 7.** *“Extended family member” has the meaning given*
5 *that term by the law or custom of an Indian child’s tribe or, if that*
6 *meaning cannot be determined, means a person who has attained*
7 *18 years of age and who is the Indian child’s grandparent, aunt,*
8 *uncle, brother, sister, sister-in-law, brother-in-law, niece, nephew,*
9 *first cousin, second cousin, stepparent or another person*
10 *determined by the Indian child’s tribe, clan or band member.*

11 **Sec. 8.** *“Indian” means a person who is a member of an*
12 *Indian tribe or who is an Alaska Native and a member of a*
13 *regional corporation as defined in section 7 of the Alaska Native*
14 *Claims Settlement Act, 43 U.S.C. § 1606.*

15 **Sec. 9.** *“Indian child” means any unmarried person who has*
16 *not attained 18 years of age and is:*

17 1. *A member or citizen of an Indian tribe; or*

18 2. *Eligible for membership or citizenship in an Indian tribe*
19 *and is the biological child of a member of an Indian tribe.*

20 **Sec. 10.** *“Indian custodian” means an Indian, other than the*
21 *Indian child’s parent, who has custody, as described in subsection*
22 *1 of section 18 of this act, of the Indian child, or to whom*
23 *temporary physical care, custody and control has been transferred*
24 *by the Indian child’s parent.*

25 **Sec. 11.** *“Indian tribe” or “tribe” means any Indian tribe,*
26 *band, nation or other organized group or community of Indians*
27 *federally recognized as eligible for the services provided to Indians*
28 *by the United States Secretary of the Interior because of their*
29 *status as Indians, including any Alaska Native village as defined*
30 *in 43 U.S.C. § 1602(c).*

31 **Sec. 12.** *“Juvenile court” has the meaning ascribed to it in*
32 *NRS 62A.180.*

33 **Sec. 13.** *“Member” or “membership” means a determination*
34 *by an Indian tribe that a person is a member or citizen in that*
35 *Indian tribe.*

36 **Sec. 14.** *“Parent” means:*

37 1. *A biological parent of an Indian child;*

38 2. *An Indian who has lawfully adopted an Indian child,*
39 *including adoptions made under tribal law or custom; or*

40 3. *A person who has established a parent and child*
41 *relationship with an Indian child pursuant to the laws of this*
42 *State.*

43 **Sec. 15.** *“Party” means a party to a proceeding.*

44 **Sec. 16.** *“Reservation” means Indian country as defined in*
45 *18 U.S.C. § 1151 and any lands not covered under that section, the*



1 *title to which is held by the United States in trust for the benefit of*
2 *an Indian tribe or person or held by an Indian tribe or person*
3 *subject to a restriction by the United States against alienation.*

4 **Sec. 17.** *“Tribal court” means a court with jurisdiction over*
5 *child custody proceedings that is either a Court of Indian*
6 *Offenses, a court established and operated under the code or*
7 *custom of an Indian tribe or any other administrative body of a*
8 *tribe that is vested with authority over child custody proceedings.*

9 **Sec. 17.5.** *1. Notwithstanding any other provision of law,*
10 *the provisions of sections 2 to 38, inclusive, of this act do not apply*
11 *if:*

12 *(a) A parent of an Indian child is voluntarily terminating his*
13 *or her parental rights and the provisions of chapter 432B of NRS*
14 *do not apply, and an extended family member of the Indian child*
15 *is subsequently adopting the Indian child upon the termination of*
16 *the parental rights of the parent of the Indian child;*

17 *(b) An Indian child is being adopted after being born to a*
18 *gestational carrier pursuant to a gestational agreement; or*

19 *(c) An Indian child is being adopted by a stepparent or other*
20 *nonbiological parent in a confirmatory adoption.*

21 **2.** *As used in this section:*

22 *(a) “Confirmatory adoption” means an adoption in which a*
23 *nonbiological parent of a child, including, without limitation, a*
24 *stepparent, co-parent or second parent, adopts the child to confirm*
25 *the parental rights of the nonbiological parent.*

26 *(b) “Gestational agreement” has the meaning ascribed to it in*
27 *NRS 126.570.*

28 *(c) “Gestational carrier” has the meaning ascribed to it in*
29 *NRS 126.580.*

30 **Sec. 18.** *1. A person has custody of an Indian child under*
31 *sections 2 to 38, inclusive, of this act if the person has physical*
32 *custody or legal custody of the Indian child under any applicable*
33 *tribal law, tribal custom or state law.*

34 **2.** *An Indian child’s parent has continued custody of the*
35 *Indian child if the parent currently has, or previously had, custody*
36 *of the Indian child.*

37 **Sec. 19.** (Deleted by amendment.)

38 **Sec. 20.** *In a child custody proceeding involving an Indian*
39 *child, when making a determination regarding the best interests of*
40 *the child in accordance with sections 2 to 38, inclusive, of this act,*
41 *chapter 125A, 127, 128 or 432B of NRS, the Indian Child Welfare*
42 *Act, 25 U.S.C. §§ 1901 et seq., or any applicable regulations or*
43 *rules regarding sections 2 to 38, inclusive, of this act, chapter*
44 *125A, 127, 128 or 432B of NRS or the Indian Child Welfare Act,*



1 *the court shall, in consultation with the Indian child's tribe,*
2 *consider the following:*

3 *1. The protection of the safety, well-being, development and*
4 *stability of the Indian child;*

5 *2. The prevention of unnecessary out-of-home placement of*
6 *the Indian child;*

7 *3. The prioritization of placement of the Indian child in*
8 *accordance with the placement preferences under section 37 of*
9 *this act;*

10 *4. The value to the Indian child of establishing, developing or*
11 *maintaining a political, cultural, social and spiritual relationship*
12 *with the Indian child's tribe and tribal community; and*

13 *5. The importance to the Indian child of the Indian tribe's*
14 *ability to maintain the tribe's existence and integrity in promotion*
15 *of the stability and security of Indian children and families.*

16 **Sec. 21.** *For purposes of sections 2 to 38, inclusive, of this*
17 *act:*

18 *1. A person's domicile is the place the person regards as*
19 *home, where the person intends to remain or to which, if absent,*
20 *the person intends to return.*

21 *2. An Indian child's domicile is, in order of priority, the*
22 *domicile of:*

23 *(a) The Indian child's parents or, if the Indian child's parents*
24 *do not have the same domicile, the Indian child's parent who has*
25 *physical custody of the Indian child;*

26 *(b) The Indian child's Indian custodian; or*

27 *(c) The Indian child's guardian.*

28 **Sec. 22.** *1. Unless an Indian child's parent objects, the*
29 *appropriate agency shall provide assistance with enrolling an*
30 *Indian child within the jurisdiction of the juvenile court under*
31 *NRS 432B.410 in a tribe with which the child is eligible for*
32 *enrollment.*

33 *2. In any child custody proceeding under chapter 432B of*
34 *NRS, if the appropriate agency reasonably believes that the Indian*
35 *child is eligible for enrollment in a tribe, the agency shall notify*
36 *the Indian child's parents of their right to object to the agency's*
37 *assistance under subsection 1. The provision of notice pursuant to*
38 *this subsection is deemed to be satisfied by sending the notice to*
39 *the last known mailing address of each of the Indian child's*
40 *parents.*

41 **Sec. 23.** *1. In a child custody proceeding in which an*
42 *Indian child is alleged to be within the jurisdiction of the court,*
43 *the Indian child's tribe is:*



(a) If the Indian child is a member of or is eligible for membership in only one tribe, the tribe of which the Indian child is a member or eligible for membership.

(b) If the Indian child is a member of one tribe but is eligible for membership in one or more other tribes, the tribe of which the Indian child is a member.

(c) If the Indian child is a member of more than one tribe or if the Indian child is not a member of any tribe but is eligible for membership with more than one tribe:

(1) The tribe designated by agreement between the tribes of which the Indian child is a member or in which the Indian child is eligible for membership; or

(2) If the tribes are unable to agree on the designation of the Indian child's tribe, the tribe designated by the court.

2. When designating an Indian child's tribe under subparagraph (2) of paragraph (c) of subsection 1, the court shall, after a hearing, designate the tribe with which the Indian child has the more significant contacts, taking into consideration the following:

(a) The preference of the Indian child's parent;

(b) The duration of the Indian child's current or prior domicile or residence on or near the reservation of each tribe;

(c) The tribal membership of the Indian child's custodial parent or Indian custodian;

(d) The interests asserted by each tribe;

(e) Whether a tribe has previously adjudicated a case involving the Indian child; and

(f) If the court determines that the Indian child is of sufficient age and capacity to meaningfully self-identify, the self-identification of the Indian child.

3. If an Indian child is a member of or is eligible for membership in more than one tribe, the court may, in its discretion, permit a tribe, in addition to the Indian child's tribe, to participate in a proceeding under chapter 432B of NRS involving the Indian child in an advisory capacity or as a party.

Sec. 24. In any child custody proceeding based on allegations that an Indian child is within the jurisdiction of the court, the court must determine the residence and domicile of the Indian child and whether the Indian child is a ward of tribal court. The court shall communicate with any tribal courts to the extent necessary to make a determination under this section.

Sec. 25. 1. Agencies shall make a good faith effort to enter into a tribal-state agreement with any Indian tribe within the borders of this State. Agencies may also enter into a tribal-state agreement with any Indian tribe outside of this State having



1 *significant numbers of member children or membership-eligible*
2 *children residing in this State.*

3 2. *The purposes of a tribal-state agreement are to promote the*
4 *continued existence and integrity of the Indian tribe as a political*
5 *entity and to protect the vital interests of Indian children in*
6 *securing and maintaining political, cultural and social*
7 *relationships with their tribe.*

8 3. *A tribal-state agreement may include agreements*
9 *regarding default jurisdiction over cases in which the state courts*
10 *and tribal courts have concurrent jurisdiction, the transfer of*
11 *cases between state courts and tribal courts, the assessment,*
12 *removal, placement, custody and adoption of Indian children and*
13 *any other child welfare services provided to Indian children.*

14 4. *A tribal-state agreement must:*

15 (a) *Provide for the cooperative delivery of child welfare*
16 *services to Indian children in this State, including, without*
17 *limitation, the utilization, to the extent available, of services*
18 *provided by the tribe or an organization whose mission is to serve*
19 *the American Indian or Alaska Native population to implement*
20 *the terms of the tribal-state agreement; and*

21 (b) *If services provided by the tribe or an organization whose*
22 *mission is to serve the American Indian or Alaska Native*
23 *population are unavailable, provide for an agency's use of*
24 *community services and resources developed specifically for*
25 *Indian families that have the demonstrated experience and*
26 *capacity to provide culturally relevant and effective services to*
27 *Indian children.*

28 **Sec. 26.** 1. *Except as otherwise provided in this section, the*
29 *court's jurisdiction in a child custody proceeding involving an*
30 *Indian child is concurrent with the Indian child's tribe.*

31 2. *The tribe has exclusive jurisdiction in a child custody*
32 *proceeding involving an Indian child if:*

33 (a) *The Indian child is a ward of a tribal court of the tribe; or*

34 (b) *The Indian child resides or is domiciled within the*
35 *reservation of the tribe.*

36 3. *Communications between the court and a tribal court*
37 *regarding calendars, court records and similar matters may occur*
38 *without informing the parties or creating a record of the*
39 *communications.*

40 4. *Notwithstanding the provisions of this section, the juvenile*
41 *court has temporary exclusive jurisdiction over an Indian child*
42 *who is placed in protective custody pursuant to chapter 432B of*
43 *NRS.*



5. As used in this section, “record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

Sec. 27. 1. Except as otherwise provided in subsection 4, the court shall transfer a child custody proceeding involving an Indian child if, at any time during the proceeding, the Indian child’s parent, Indian custodian or tribe petitions the court to transfer the proceeding to the tribal court.

2. Upon receipt of a transfer motion, the court shall contact the Indian child’s tribe and request a timely response regarding whether the tribe intends to decline the transfer.

3. If a party objects to the transfer motion for good cause, the court shall fix the time for hearing on objections to the motion. At the hearing, the objecting party has the burden of proof of establishing by clear and convincing evidence that good cause exists to deny the transfer. If the Indian child’s tribe contests the assertion that good cause exists to deny the transfer, the court shall give the tribe’s argument substantial weight. When making a determination whether good cause exists to deny the transfer motion, the court may not consider:

(a) Whether the proceeding is at an advanced stage;

(b) Whether there has been a prior proceeding involving the Indian child in which a transfer motion was not filed;

(c) Whether the transfer could affect the placement of the Indian child;

(d) The cultural connections of the Indian child with the tribe or the tribe’s reservation; or

(e) The socioeconomic conditions of the Indian child’s tribe or any negative perception of tribal or United States Bureau of Indian Affairs’ social services or judicial systems.

4. The court shall deny the transfer motion if:

(a) The tribe declines the transfer orally on the record or in writing;

(b) The Indian child’s parent objects to the transfer; or

(c) The court finds by clear and convincing evidence, after hearing, that good cause exists to deny the transfer.

5. Notwithstanding paragraph (b) of subsection 4, the objection of the Indian child’s parent does not preclude the transfer if:

(a) The objecting parent dies or the objecting parent’s parental rights are terminated and have not been restored; and

(b) The Indian child’s remaining parent, Indian custodian or tribe files a new transfer motion subsequent to the death of the objecting parent or the termination of the parental rights of the objecting parent.



6. If the court denies a transfer under this section, the court shall document the basis for the denial in a written order.

Sec. 28. Upon granting a transfer motion under section 27 of this act, the court shall expeditiously:

1. Notify the tribal court of the pending dismissal of the child custody proceeding;

2. Transfer all information regarding the proceeding, including, without limitation, pleadings and court records, to the tribal court;

3. If the Indian child is alleged to be within the jurisdiction of the juvenile court under NRS 432B.410, direct the appropriate agency to:

(a) Coordinate with the tribal court and the Indian child's tribe to ensure that the transfer of the proceeding and the transfer of custody of the Indian child is accomplished with minimal disruption of services to the Indian child and the Indian child's family; and

(b) Provide the Indian child's tribe with documentation related to the Indian child's eligibility for state and federal assistance and information related to the Indian child's social history, treatment diagnosis and services and other relevant case and service related data; and

4. Dismiss the proceeding upon confirmation from the tribal court that the tribal court received the transferred information.

Sec. 29. Notwithstanding any other provision of law and in addition to any other requirements, in any child custody proceeding:

1. Each petitioner and every other person otherwise required by the court or by any applicable law shall:

(a) Determine whether there is reason to know that the child is an Indian child; and

(b) Demonstrate to the court that he or she made efforts to determine whether a child is an Indian child.

2. The court shall:

(a) Make a finding regarding whether there is reason to know that the child is an Indian child, unless the court has previously found that the child is an Indian child; and

(b) Not enter a custody order in the matter until all applicable inquiry and notice requirements set forth in sections 2 to 38, inclusive, of this act have been met.

Sec. 30. 1. Except if the person already knows that a child is an Indian child, whenever a person is required in a child custody proceeding to determine whether there is reason to know that the child is an Indian child, the person shall make a good



faith effort to determine whether the child is an Indian child, including, without limitation, by consulting with:

- (a) The child;*
- (b) The child's parent or parents;*
- (c) Any person having custody of the child or with whom the child resides;*
- (d) Extended family members of the child;*
- (e) Any other person who may reasonably be expected to have information regarding the child's membership or eligibility for membership in an Indian tribe; and*
- (f) Any Indian tribe of which the child may be a member or of which the child may be eligible for membership.*

2. A court or person has reason to know that a child is an Indian child if:

- (a) The person knows that the child is an Indian child;*
- (b) The court has found that the child is an Indian child or that there is reason to know that the child is an Indian child;*
- (c) Any person present in the proceeding, officer of the court involved in the proceeding, Indian tribe, Indian organization or agency informs the court or the person that the child is an Indian child or that information has been discovered indicating that the child is an Indian child;*
- (d) The child indicates to the court or the person that the child is an Indian child;*
- (e) The court or the person is informed that the domicile or residence of the child, the child's parent or the child's Indian custodian is on a reservation or in an Alaska Native village;*
- (f) The court or the person is informed that the child is or has been a ward of a tribal court;*
- (g) The court or the person is informed that the child or the child's parent possesses an identification card or other record indicating membership in an Indian tribe;*
- (h) Testimony or documents presented to the court indicate in any way that the child may be an Indian child; or*
- (i) Any other indicia provided to the court or the person, or within the knowledge of the court or the person, indicates that the child is an Indian child.*

3. Except as otherwise provided in section 49 of this act, whenever a person is required to demonstrate to the court in a child custody proceeding that the person made efforts to determine whether a child is an Indian child, the court shall make written findings regarding whether the person satisfied the inquiry requirements under subsection 1 and whether the child is an Indian child or whether there is reason to know that the child is an Indian child. At the commencement of any hearing in an



1 *emergency proceeding or a child custody proceeding, unless the*
2 *court previously found that the child is an Indian child, the court*
3 *shall ask, on the record, each person present on the matter*
4 *whether the person has reason to know that the child is an Indian*
5 *child and shall make a finding regarding whether there is reason*
6 *to know that the child is an Indian child.*

7 4. *If the court finds under subsection 3 that there is:*

8 (a) *Reason to know that the child is an Indian child but the*
9 *court does not have sufficient evidence to find that the child is an*
10 *Indian child, the court shall order that the inquiry as to whether*
11 *the child is an Indian child continue until the court finds that the*
12 *child is not an Indian child.*

13 (b) *Not reason to know that the child is an Indian child, the*
14 *court shall order each party to immediately inform the court if the*
15 *party receives information providing reason to know that the child*
16 *is an Indian child.*

17 5. *If the court finds under subsection 3 that there is reason to*
18 *know that the child is an Indian child but the court does not have*
19 *sufficient evidence to make a finding that the child is or is not an*
20 *Indian child, the court shall require the appropriate agency or*
21 *other party to submit a report, declaration or testimony on the*
22 *record that the agency or other party used due diligence to identify*
23 *and work with all of the tribes of which the child may be a member*
24 *or in which the child may be eligible for membership to verify*
25 *whether the child is a member or is eligible for membership.*

26 6. *A person making an inquiry under this section shall*
27 *request that any tribe receiving information under this section*
28 *keep documents and information regarding the inquiry*
29 *confidential if the proceeding arises under chapter 432B of NRS*
30 *or a consenting parent in an adoption proceeding requests*
31 *anonymity. A request from a consenting parent for anonymity*
32 *does not relieve the court or any party in an adoption proceeding*
33 *from the duty to verify whether the child is an Indian child.*

34 **Sec. 31.** 1. *In an emergency proceeding, the person taking*
35 *a child into protective custody must make a good faith effort to*
36 *determine whether there is reason to know that the child is an*
37 *Indian child and, if there is reason to know that the child is an*
38 *Indian child and the nature of the emergency allows, the*
39 *appropriate agency shall notify by telephone, electronic mail,*
40 *facsimile or other means of immediate communication any tribe of*
41 *which the child is or may be a member. Notification under this*
42 *subsection must include the basis for the child's removal, the time,*
43 *date and place of the initial hearing and a statement that the tribe*
44 *has the right to participate in the proceeding as a party or in an*
45 *advisory capacity.*



2. Except as provided in subsection 1, if there is reason to know that a child in a child custody proceeding who is alleged to be within the court's jurisdiction is an Indian child and notice is required, the party providing notice shall:

(a) Promptly send notice of the proceeding as described in subsection 3; and

(b) File a copy of each notice sent pursuant to this section with the court, together with any return receipts or other proof of service.

3. Notice under subsection 2 must be:

(a) Sent to:

(1) Each tribe of which the child may be a member or of which the Indian child may be eligible for membership; or

(2) The appropriate Regional Director of the United States Bureau of Indian Affairs listed in 25 C.F.R. § 23.11(b), if the identity or location of the child's tribe cannot be ascertained.

(b) Sent by registered or certified mail, return receipt requested.

(c) In clear and understandable language and include the following:

(1) The child's name, date of birth and, if known, place of birth;

(2) To the extent known:

(I) All names, including maiden, married and former names or aliases, of the child's parents, the places of birth of the child's parents' and tribal enrollment numbers; and

(II) The names, dates of birth, places of birth and tribal enrollment information of other direct lineal ancestors of the child;

(3) The name of each Indian tribe of which the child is a member or in which the Indian child may be eligible for membership;

(4) If notice is required to be sent to the appropriate Regional Director of the United States Bureau of Indian Affairs under subparagraph (2) of paragraph (a), to the extent known, information regarding the child's direct lineal ancestors, an ancestral chart for each biological parent, and the child's tribal affiliations and blood quantum;

(5) In a child custody proceeding, a copy of the petition or motion initiating the proceeding and, if a hearing has been scheduled, information on the date, time and location of the hearing;

(6) The name of the petitioner and the name and address of the attorney of the petitioner;

(7) In a proceeding under chapter 432B of NRS:



(I) A statement that the child's parent or Indian custodian has the right to participate in the proceeding as a party to the proceeding;

(II) A statement that the child's tribe has the right to participate in the proceeding as a party or in an advisory capacity;

(III) A statement that if the court determines that the child's parent or Indian custodian is unable to afford counsel, the parent or Indian custodian has the right to court-appointed counsel; and

(IV) A statement that the child's parent, Indian custodian or tribe has the right, upon request, to up to 20 additional days to prepare for the proceeding;

(8) A statement that the child's parent, Indian custodian or tribe has the right to petition the court to transfer the child custody proceeding to the tribal court;

(9) A statement describing the potential legal consequences of the proceeding on the future parental and custodial rights of the parent or Indian custodian;

(10) The mailing addresses and telephone numbers of the court and contact information for all parties to the proceeding; and

(11) A statement that the information contained in the notice is confidential and that the notice should not be shared with any person not needing the information to exercise rights under sections 2 to 38, inclusive, of this act.

4. If there is a reason to know that the Indian child's parent or Indian custodian has limited English proficiency, the court must provide language access services as required by Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d et seq., and other applicable federal and state laws. If the court is unable to secure translation or interpretation support, the court shall contact or direct a party to contact the Indian child's tribe or the local office of the United States Bureau of Indian Affairs for assistance identifying a qualified translator or interpreter.

5. If a child is known to be an Indian child, a hearing may not be held until at least 10 days after the receipt of the notice by the Indian child's tribe or, if applicable, the United States Bureau of Indian Affairs. Upon request, the court shall grant the Indian child's parent, Indian custodian or tribe up to 20 additional days from the date upon which notice was received by the tribe to prepare for participation in the hearing. Nothing in this subsection prevents a court at an emergency proceeding before the expiration of the waiting period described in this subsection from reviewing the removal of an Indian child from the Indian child's parent or Indian custodian to determine whether the removal or



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placement is no longer necessary to prevent imminent physical damage or harm to the Indian child.

Sec. 32. 1. In any child custody proceeding that requires the testimony of a qualified expert witness, the petitioner shall contact the Indian child's tribe and request that the tribe identify one or more persons meeting the criteria described in subsection 3 or 4. The petitioner may also request the assistance of the United States Bureau of Indian Affairs in locating persons meeting the criteria described in subsection 3 or 4.

2. At a hearing in a child custody proceeding, if the court has found that a child is an Indian child, at least one qualified expert witness must testify regarding whether the continued custody of the Indian child by the child's parent or custody by the child's Indian custodian is likely to result in serious emotional or physical damage to the Indian child.

3. A person is a qualified expert witness under this section if the Indian child's tribe has designated the person as being qualified to testify to the prevailing social and cultural standards of the tribe.

4. If the Indian child's tribe has not identified a qualified expert witness, the following persons, in order of priority, may testify as a qualified expert witness:

(a) A member of the Indian child's tribe or another person who is recognized by the tribe as knowledgeable about tribal customs regarding family organization or child rearing practices;

(b) A person having substantial experience in the delivery of child and family services to Indians and extensive knowledge of prevailing social and cultural standards and child rearing practices within the Indian child's tribe; or

(c) Any person having substantial experience in the delivery of child and family services to Indians and knowledge of prevailing social and cultural standards and child rearing practices in Indian tribes with cultural similarities to the child's tribe.

5. In addition to testimony from a qualified expert witness, the court may hear supplemental testimony regarding information described in subsection 2 from a professional having substantial education and experience in the area of the professional's specialty.

6. No petitioning party, employees of the petitioning party or an employee of an agency may serve as a qualified expert witness or a professional under this section.

Sec. 33. 1. If a child in a child custody proceeding is an Indian child and active efforts are required, the court must determine whether active efforts have been made to prevent the breakup of the family or to reunite the family.



2. Active efforts require a higher standard of conduct than reasonable efforts.

3. Active efforts must:

(a) Be documented in detail in writing and on the record;

(b) If the child is alleged to be within the jurisdiction of the juvenile court under NRS 432B.410, include assisting the Indian child's parent or parents or Indian custodian through the steps of a case plan;

(c) Include, to the extent possible, providing assistance with the cooperation of the Indian child's tribe;

(d) Be conducted in partnership with the Indian child and the Indian child's parents, extended family members, Indian custodians and tribe; and

(e) Be tailored to the facts and circumstances of the case.

4. As used in this section, "active efforts" means efforts that are affirmative, active, thorough, timely and intended to maintain or reunite an Indian child with the Indian child's family.

Sec. 34. 1. Notwithstanding the provisions of NRS 7.285, a tribe that is a party to a child custody proceeding may be represented by any person, regardless of whether the person is licensed to practice law.

2. An attorney who is not barred from practicing law in this State may appear in any proceeding involving an Indian child without associating with local counsel if the attorney establishes to the satisfaction of the State Bar of Nevada that:

(a) The attorney will appear in a court in this State for the limited purpose of participating in a proceeding under chapter 432B of NRS subject to the provisions of sections 2 to 38, inclusive, of this act;

(b) The attorney represents an Indian child's parent, Indian custodian or tribe; and

(c) The Indian child's tribe has affirmed the Indian child's membership or eligibility for membership under tribal law.

3. An Indian custodian or tribe may notify the court, orally on the record or in writing, that the Indian custodian or tribe withdraws as a party to the proceeding.

Sec. 35. 1. If a child in a proceeding under chapter 432B of NRS is an Indian child:

(a) The court shall appoint counsel to represent the Indian child.

(b) If the Indian child's parent or Indian custodian requests counsel to represent the parent or Indian custodian but is without sufficient financial means to employ suitable counsel possessing skills and experience commensurate with the nature of the petition and the complexity of the case, the court shall appoint suitable



counsel to represent the Indian child's parent or Indian custodian if the parent or Indian custodian is determined to be financially eligible for the appointment of such counsel.

2. Except as otherwise provided in this subsection, upon presentation of the order of appointment under this section by the attorney for the Indian child, any agency, hospital, school organization, division or department of this State, doctor, nurse or other health care provider, psychologist, psychiatrist, law enforcement agency or mental health clinic shall permit the attorney for the Indian child to inspect and copy any records of the Indian child involved in the case, without the consent of the Indian child or the Indian child's parent or Indian custodian. This subsection does not apply to records of a law enforcement agency relating to an ongoing investigation before bringing charges.

Sec. 36. *1. In any child custody proceeding, if the child is an Indian child, each party has the right to timely examine all reports or other documents held by an agency that are not otherwise subject to a discovery exception or precluded under state or federal law.*

2. The preservation of confidentiality under this section does not relieve the court or any petitioners in an adoption proceeding from the duty to comply with the placement preferences under section 37 of this act if the child is an Indian child.

Sec. 37. *1. Except as otherwise provided in subsection 3, if the parental rights of an Indian child's parents have not been terminated and the Indian child is in need of placement or continuation in substitute care, the child must be placed in the least restrictive setting that:*

(a) Most closely approximates a family, taking into consideration sibling attachment;

(b) Allows the Indian child's special needs, if any, to be met;

(c) Is in reasonable proximity to the Indian child's home, extended family or siblings; and

(d) Is in accordance with the order of preference established by the Indian child's tribe or, if the Indian child's tribe has not established placement preferences, is in accordance with the following order of preference:

(1) A member of the Indian child's extended family;

(2) A foster home licensed, approved or specified by the Indian child's tribe;

(3) A foster home licensed or approved by a licensing authority in this State and in which one or more of the licensed or approved foster parents is an Indian; or



(4) *An institution for children that has a program suitable to meet the Indian child's needs and is approved by an Indian tribe or operated by an Indian organization.*

2. *Except as otherwise provided in subsection 3, if the parental rights of the Indian child's parents have been terminated and the Indian child is in need of an adoptive placement, the Indian child shall be placed:*

(a) *In accordance with the order of preference established by the Indian child's tribe; or*

(b) *If the Indian child's tribe has not established placement preferences, according to the following order of preference:*

(1) *With a member of the Indian child's extended family;*

(2) *With other members of the Indian child's tribe; or*

(3) *With other Indian families.*

3. *If an Indian child is placed outside of the placement preferences set forth in subsection 1 or 2, the party placing the child shall file a motion requesting that the court make a finding that good cause exists for placement outside of such placement preferences. If the court determines that the moving party has established, by clear and convincing evidence, that there is good cause to depart from the placement preferences under this section, the court may authorize placement in an alternative placement. The court's determination under this subsection:*

(a) *Must be in writing and be based on:*

(1) *The preferences of the Indian child;*

(2) *The presence of a sibling attachment that cannot be maintained through placement consistent with the placement preferences established by subsection 1 or 2;*

(3) *Any extraordinary physical, mental or emotional needs of the Indian child that require specialized treatment services if, despite active efforts, those services are unavailable in the community where families who meet the placement preferences under subsection 1 or 2 reside; or*

(4) *Whether, despite a diligent search, a placement meeting the placement preferences under this section is unavailable, as determined by the prevailing social and cultural standards of the Indian community in which the Indian child's parent or extended family resides or with which the Indian child's parent or extended family members maintain social and cultural ties.*

(b) *Must, in applying the placement preferences under this subsection, give weight to a parent's request for anonymity if the placement is an adoptive placement to which the parent has consented.*

(c) *May be informed by but not determined by the placement request of a parent of the Indian child, after the parent has*



1 reviewed the placement options, if any, that comply with the
2 placement preferences under this section.

3 (d) May not be based on:

4 (1) The socioeconomic conditions of the Indian child's
5 tribe;

6 (2) Any perception of the tribal or United States Bureau of
7 Indian Affairs social services or judicial systems;

8 (3) The distance between a placement meeting the
9 placement preferences under this section that is located on or near
10 a reservation and the Indian child's parent; or

11 (4) The ordinary bonding or attachment between the Indian
12 child and a nonpreferred placement arising from time spent in the
13 nonpreferred placement.

14 **Sec. 38.** 1. A petition to vacate an order or a judgment
15 involving an Indian child regarding jurisdiction, placement,
16 guardianship or the termination of parental rights may be filed in
17 a pending child custody proceeding involving the Indian child or,
18 if none, in any court of competent jurisdiction by:

19 (a) The Indian child who was alleged to be within the
20 jurisdiction of the court;

21 (b) The Indian child's parent or Indian custodian from whose
22 custody such child was removed or whose parental rights were
23 terminated; or

24 (c) The Indian child's tribe.

25 2. The court shall vacate an order or judgment involving an
26 Indian child regarding jurisdiction, placement, guardianship or
27 the termination of parental rights if the court determines that any
28 provision of section 26 or 27, subsection 2 or 5 of section 31,
29 paragraph (a) or (b) of subsection 3 of section 31, subsection 1 of
30 section 35 or section 36 of this act or, if required, subsection 2 of
31 section 32 or section 33 or 37 of this act has been violated and the
32 court determines it is appropriate to vacate the order or judgment.

33 3. If the vacated order or judgment resulted in the removal or
34 placement of the Indian child, the court shall order the child
35 immediately returned to the Indian child's parent or Indian
36 custodian and the court's order must include a transition plan for
37 the physical custody of the child, which may include protective
38 supervision.

39 4. If the vacated order or judgment terminated parental
40 rights, the court shall order the previously terminated parental
41 rights to be restored.

42 5. If the State or any other party affirmatively asks the court
43 to reconsider the issues under the vacated order or judgment, the
44 court's findings or determinations must be readjudicated.



6. *As used in this section, “termination of parental rights” includes, without limitation, the involuntary termination of parental rights under chapter 128 or 432B of NRS.*

Sec. 39. (Deleted by amendment.)

Sec. 40. NRS 125A.215 is hereby amended to read as follows:

125A.215 1. ~~[A child custody proceeding that pertains to an Indian child as defined in the Indian Child Welfare Act of 1978, 25 U.S.C. §§ 1901 et seq., is not subject to the provisions of this chapter to the extent that the proceeding is governed by the Indian Child Welfare Act.~~

~~—2.]~~ A court of this state shall treat ~~[a]~~ *an Indian* tribe as if it were a state of the United States for the purpose of applying NRS 125A.005 to 125A.395, inclusive.

~~[3.]~~ 2. A child custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of the provisions of this chapter must be recognized and enforced pursuant to NRS 125A.405 to 125A.585, inclusive.

Sec. 41. Chapter 127 of NRS is hereby amended by adding thereto the provisions set forth as sections 41.5 to 50, inclusive, of this act.

Sec. 41.5. 1. *Notwithstanding any other provision of law, the provisions of sections 42 to 50, inclusive, of this act, do not apply if:*

(a) *A parent of an Indian child is voluntarily terminating his or her parental rights and the provisions of chapter 432B of NRS do not apply, and an extended family member of the Indian child is subsequently adopting the Indian child upon the termination of the parental rights of the parent of the Indian child;*

(b) *An Indian child is being adopted after being born to a gestational carrier pursuant to a gestational agreement; or*

(c) *An Indian child is being adopted by a stepparent or other nonbiological parent in a confirmatory adoption.*

2. *As used in this section:*

(a) *“Confirmatory adoption” means an adoption in which a nonbiological parent of a child, including, without limitation, a stepparent, co-parent or second parent, adopts the child to confirm the parental rights of the nonbiological parent.*

(b) *“Extended family member” has the meaning ascribed to it in section 7 of this act.*

(c) *“Gestational agreement” has the meaning ascribed to it in NRS 126.570.*

(d) *“Gestational carrier” has the meaning ascribed to it in NRS 126.580.*



Sec. 42. 1. *In addition to the requirements set forth in NRS 127.110, a petition for adoption of a child must contain:*

(a) A declaration under penalty of perjury and documentation, as described by the regulations adopted by the Division pursuant to section 49 of this act, of the petitioner's good faith efforts described in subsection 1 of section 30 of this act, to determine whether there is reason to know that the child is an Indian child;

(b) A statement as to whether the petitioner has reason to know that the child is an Indian child; and

(c) If the petitioner has reason to know that the child is an Indian child:

(1) A declaration under penalty of perjury and documentation, as described by the regulations adopted by the Division pursuant to section 49 of this act, showing that the proposed adoptive placement complies with the requirements under section 37 of this act; or

(2) A statement that the petitioner is moving the court under subsection 3 of section 37 of this act for a finding, by clear and convincing evidence, that good cause exists for alternative adoptive placement and a statement describing the details supporting the assertion of the petitioner that good cause exists for the alternative placement, as described in subsection 3 of section 37 of this act.

2. *A petition for adoption of a child must, if applicable, request the following:*

(a) A finding that the petitioner complied with the inquiry requirements under subsection 1 of section 30 of this act;

(b) A finding of whether there is reason to know that the child is an Indian child;

(c) If the court finds that the child is an Indian child:

(1) The determinations required under section 24 of this act regarding the Indian child's residence, domicile and wardship status;

(2) A finding that the petitioner complied with the notice requirements under subsection 2 of section 31 of this act; and

(3) A finding that the adoptive placement complies with the placement preferences under section 37 of this act or, if not, that upon the petitioner's motion under subsection 3 of section 37 of this act, good cause exists for placement contrary to the placement preferences in section 37 of this act.

3. *If the petitioner has reason to know that the child is an Indian child, within 30 days after filing the petition, the petitioner shall:*



(a) Serve copies of the petition by registered or certified mail, return receipt requested, together with the notice of proceeding in the form required under subsection 3 of section 31 of this act, to:

(1) Each tribe of which the Indian child may be a member or in which the Indian child may be eligible for membership;

(2) The appropriate Regional Director of the United States Bureau of Indian Affairs listed in 25 C.F.R. § 23.11(b), if the identity or location of the child's parents, Indian custodian or tribe cannot be ascertained; and

(3) The appropriate agency which provides child welfare services.

(b) File a declaration of compliance with the court, including a copy of each notice sent, together with any return receipts or other proof of service.

Sec. 43. 1. If a petition for adoption of a child concerns the adoption of an Indian child, except as otherwise provided in subsection 4 and unless the parental rights of the Indian child's parents have been terminated, consent in writing to the adoption must be given by the Indian child's parents. Such written consent must be filed with the court.

2. An Indian child's parent may consent to the adoption of the Indian child at any time not less than 10 days following the date of the Indian child's birth by executing the consent in person before the court on the record.

3. Before the execution of a parent's consent under subsection 2, the court must explain to the parent on the record in detail and in the language of the parent:

(a) The right to legal counsel;

(b) The terms and consequences of the consent in detail; and

(c) That at any time before the entry of the judgment of adoption, the parent may withdraw consent for any reason and petition the court to have the child returned.

4. After the execution of a parent's consent under subsection 2, the court shall certify that the court made the explanation under subsection 3 and that the parent fully understood the explanation.

5. At any time before the entry of a judgment of adoption, an Indian child's parent may withdraw the parent's consent under this section. The withdrawal of consent must be made by filing the written withdrawal with the court or by making a statement of withdrawal on the record in the adoption proceeding. Upon entry of the withdrawal of consent, the court must promptly notify the person or entity that arranged the adoptive placement to regain custody and control of the Indian child. A parent who withdraws his or her consent may petition the court for the return of the child.



6. *As used in this section, “parent” has the meaning ascribed to it in section 14 of this act.*

Sec. 44. (Deleted by amendment.)

Sec. 45. 1. *If, upon a petition for adoption of a child duly presented and consented to, the court is satisfied as to the identity and relations of the persons, that the petitioner is of sufficient ability to bring up the child and furnish suitable nurture and education, having reference to the degree and condition of the parents, and that it is fit and proper that such adoption be effected, a judgment shall be made setting forth the facts and ordering that from the date of the judgment, the child, for all legal intents and purposes, is the child of the petitioner.*

2. *A judgment entered under this section must include:*

(a) *A finding that the petitioner complied with the inquiry requirements under subsection 1 of section 30 of this act to determine whether there is reason to know that the child is an Indian child; and*

(b) *A finding that the child is or is not an Indian child.*

3. *In an adoption of an Indian child, the judgment must include:*

(a) *The birth name and date of birth of the Indian child, the Indian child’s tribal affiliation and the name of the Indian child after adoption;*

(b) *If known, the names and addresses of the biological parents;*

(c) *The names and addresses of the adoptive parents;*

(d) *The name and contact information for any agency having files or information relating to the adoption;*

(e) *Any information relating to tribal membership or eligibility for tribal membership of the Indian child;*

(f) *The determination regarding the Indian child’s residence, domicile and tribal wardship status as required under section 24 of this act;*

(g) *A finding that the petitioner complied with the notice requirements under subsection 2 of section 31 of this act;*

(h) *If the adoptive placement and the parents entered into a post-adoptive contact agreement or the adoptive placement and the Indian child’s tribe has entered into an agreement that requires the adoptive placement to maintain connection between the child and the child’s tribe, the terms of the agreement; and*

(i) *A finding that the adoptive placement complies with the placement preferences under section 37 of this act or, if the placement does not comply with the placement preferences under section 37 of this act, a finding upon the petitioner’s motion under*



subsubsection 3 of section 37 of this act that good cause exists for placement contrary to the placement preferences.

4. For each finding or determination made under this section, the court must provide a description of the facts upon which the finding or determination is based.

5. Upon entry of the judgment of adoption of an Indian child, the court shall provide to the United States Secretary of the Interior copies of the judgment entered under this section and any document signed by a consenting parent requesting anonymity.

Sec. 46. 1. A petition to vacate a judgment of adoption of an Indian child under this chapter may be filed in a court of competent jurisdiction by a parent who consented to the adoption.

2. Upon the filing of a petition under this section, the court shall set a time for a hearing on the petition and provide notice of the petition and hearing to each party to the adoption proceeding and to the Indian child's tribe.

3. After a hearing on the petition, the court shall vacate the judgment of adoption if:

(a) The petition is filed not later than 2 years following the date of the judgment; and

(b) The court finds by clear and convincing evidence that the parent's consent was obtained through fraud or duress.

4. When the court vacates a judgment of adoption under this section, the court shall also order that the parental rights of the parent whose consent the court found was obtained through fraud or duress be restored. The order restoring parental rights under this section must include a plan for the physical custody of the Indian child, whether the Indian child will be placed with an agency which provides child welfare services or with the parent.

Sec. 47. 1. If a judgment of adoption of an Indian child under this chapter is vacated, the court vacating the judgment must notify, by registered or certified mail with return receipt requested, the Indian child's former parents, prior Indian custodian, if any, and Indian tribe and the appropriate agency which provides child welfare services.

2. The notice required under subsection 1 must:

(a) Include the Indian child's current name and any former names as reflected in the court record;

(b) Inform the recipient of the right to move the court for the return of custody of and restoration of parental rights to the Indian child, if appropriate, under this section;

(c) Provide sufficient information to allow the recipient to participate in any scheduled hearings; and

(d) Be sent to the last known address in the court record.



3. *An Indian child's former parent or prior Indian custodian may waive notice under this section by executing a waiver of notice in person before the court and filing the waiver with the court. The waiver must clearly set out any conditions to the waiver. Before the execution of the waiver, the court must explain to the former parent or prior Indian custodian, on the record in detail and in the language of the former parent or prior Indian custodian:*

- (a) The former parent's right to legal counsel, if applicable;*
- (b) The terms and consequences of the waiver; and*
- (c) How the waiver may be revoked.*

4. *After execution of the waiver pursuant to subsection 3, the court shall certify that it provided the explanation as required under subsection 3 and that the former parent or prior Indian custodian fully understood the explanation.*

5. *At any time before the entry of a judgment of adoption of an Indian child, the former parent or prior Indian custodian may revoke a waiver executed by the former parent or prior Indian custodian pursuant to subsection 3 by filing a written revocation with the court or by making a statement of revocation on the record in a proceeding for the adoption of the Indian child.*

6. *If a judgment of adoption of an Indian child under this chapter is vacated other than as provided in section 38 of this act, an Indian child's former parent or prior Indian custodian may intervene in the proceeding and move the court for the Indian child to be returned to the custody of the former parent or prior Indian custodian and for the parental rights to the Indian child to be restored. The moving party shall provide by registered or certified mail, return receipt requested, notice of the motion for the Indian child to be returned to the custody of the former parent or prior Indian custodian and the time set for filing objections to the motion, together with notice of proceeding in the form required under subsection 3 of section 31 of this act to:*

- (a) The agency which provides child welfare services in the county in which the order was vacated;*
- (b) Each tribe of which the child may be a member or in which the Indian child may be eligible for membership;*
- (c) The child's parents;*
- (d) The child's Indian custodian, if applicable; and*
- (e) The appropriate Regional Director of the United States Bureau of Indian Affairs listed in 25 C.F.R. § 23.11(b), if the identity or location of the child's parents cannot be ascertained.*

↪ *The petitioner shall file a declaration of compliance, including a copy of each notice sent under this subsection, together with any return receipts or other proof of service.*



7. Upon the filing of an objection to a motion made pursuant to subsection 6, the court shall fix the time for hearing on objections.

8. The court shall order the Indian child to be returned to the custody of the former parent or prior Indian custodian or restore the parental rights to the Indian child unless the court finds, by clear and convincing evidence, that the return of custody or restoration of parental rights is not in the child's best interests, as described in section 20 of this act. If the court orders the Indian child to be returned to the custody of the former parent or prior Indian custodian, the court's order must include a transition plan for the physical custody of the child, which may include protective supervision.

9. As used in this section:

(a) "Former parent" means a person who was previously the legal parent of an Indian child subject to a judgment of adoption under this chapter and whose parental rights have not been restored under section 46 of this act.

(b) "Prior Indian custodian" means a person who was previously the custodian of an Indian child subject to a judgment of adoption of the child under this chapter.

Sec. 48. 1. Notwithstanding any other provision of law, if an Indian child's tribe or the United States Secretary of the Interior requests access to the adoption records of an Indian child, the court must make the records available not later than 14 days following the date of the request.

2. The records made available under subsection 1 must, at a minimum, include the petition, all substantive orders entered in the adoption proceeding, the complete record of the placement finding and, if the placement departs from the placement preferences under section 37 of this act, detailed documentation of the efforts to comply with the placement preferences.

Sec. 49. 1. In a proceeding for the adoption of a minor child, within 90 days after service of a petition upon the appropriate agency which provides child welfare services as required pursuant to section 42 of this act, the agency shall file with the court an ICWA compliance report, which must reflect the agency's review of the petition and advise the court on whether the documentation submitted by the petitioner is sufficient and complete for the court to make the findings required pursuant to subsection 2. Nothing in this section requires the agency to make a determination of law regarding the documentation provided by the petitioner.

2. Upon receiving an ICWA compliance report, the court shall order the matter to proceed if the court finds that the



petitioner satisfied the inquiry requirements under subsection 1 of section 30 of this act and, if applicable, the notice requirements under subsection 2 of section 31 of this act. If the court finds that:

(a) Subject to the procedures under subsection 3 of section 30 of this act, the child is an Indian child, the court's order under this subsection must include a finding regarding whether the proposed adoptive placement complies with the preferences under section 37 of this act. If the court finds that the proposed adoptive placement does not comply with such preferences or that the documentation provided by the petitioner is insufficient for the court to make a finding, the court shall direct the petitioner to amend the petition to cure the deficiency or file a motion under subsection 3 of section 37 of this act, for authority to make the placement contrary to the placement preferences under section 37 of this act.

(b) The petitioner failed to satisfy the inquiry requirements under subsection 1 of section 30 of this act or, if applicable, the notice requirements under subsection 2 of section 31 of this act, or if the documentation supplied by the petitioner is insufficient for the court to make those findings, the court shall direct the petitioner to cure the inquiry or notice deficiency and file an amended petition. If the court directs the petitioner to file an amended petition pursuant to this subsection or a motion and the petitioner fails to do so within a reasonable amount of time, the court shall order the petitioner to appear and show cause why the court should not dismiss the petition.

3. The Division shall adopt regulations providing a nonexhaustive description of the documentation that petitioners or moving parties in proceedings under this chapter may submit to the court to document compliance with the inquiry requirements under subsection 1 of section 30 of this act and notice requirements under subsection 2 of section 31 of this act and the placement preferences under section 37 of this act, including, without limitation:

(a) Descriptions of the consultations the petitioner or moving party made with the persons described in subsection 1 of section 30 of this act and subsection 3 of section 31 of this act and the responses the petitioner or moving party obtained;

(b) Descriptions of any oral responses and copies of any written responses the petitioner or moving party obtained from the persons described in subsection 1 of section 30 of this act and subsection 3 of section 31 of this act;

(c) Copies of any identification cards or other records indicating the membership of the child or the child's parent in an Indian tribe;



(d) Copies of any tribal court records regarding the Indian child;

(e) Any reports, declarations or testimony on the record documenting the due diligence of the petitioner or moving party to identify and work with all of the tribes of which the petitioner or moving party has reason to know that the child may be a member or in which the child may be eligible for membership; and

(f) The declaration of compliance regarding the notices the petitioner sent, as described in section 42 of this act.

4. The Division shall adopt any other regulations for the preparation of ICWA compliance reports that are necessary for agencies which provide child welfare services to carry out their duties under this chapter.

5. The Court Administrator may prepare and make available to the public forms and information to assist petitioners to comply with the requirements under this section and sections 30, 31, 37 and 42 of this act and any related rules or regulations, including, without limitation:

(a) Forms of petitions required under section 42 of this act, motions to request a deviation from the placement preferences under subsection 3 of section 37 of this act and notices required under subsection 3 of section 31 of this act; and

(b) Worksheets and checklists to assist petitioners with the inquiry required under subsection 1 of section 30 of this act the notices required under subsection 2 of section 31 of this act, and assessing whether proposed adoptive placements satisfy the preferences under section 37 of this act.

6. The Court Administrator may design and offer trainings to courts having jurisdiction over adoption matters regarding the application of sections 2 to 38, inclusive, of this act and sections 42 to 50, inclusive, of this act to adoptions of minor children, including, without limitation, identifying when there is reason to know that the child is an Indian child and making findings regarding the sufficiency of inquiry and notice and the appropriateness of adoptive placements.

7. As used in this section, "ICWA compliance report" means a written report prepared by an agency which provides child welfare services concerning compliance with the Indian Child Welfare Act.

Sec. 50. 1. If the court determines that tribal customary adoption is in the best interests, as described in section 20 of this act, of a ward who is an Indian child and the Indian child's tribe consents to the tribal customary adoption:

(a) The appropriate agency which provides child welfare services shall provide the Indian child's tribe and proposed tribal



1 *customary adoptive parents with a written report on the Indian*
2 *child, including, without limitation, to the extent not otherwise*
3 *prohibited by state or federal law, the medical background, if*
4 *known, of the Indian child's parents, and the Indian child's*
5 *educational information, developmental history and medical*
6 *background, including all known diagnostic information, current*
7 *medical reports and any psychological evaluations.*

8 *(b) The court shall accept a tribal customary adoptive home*
9 *study conducted by the Indian child's tribe if the home study:*

10 *(1) Includes federal criminal background checks, including*
11 *reports of child abuse, that meet the standards applicable under*
12 *the laws of this State for all other proposed adoptive placements;*

13 *(2) Uses the prevailing social and cultural standards of the*
14 *Indian child's tribe as the standards for evaluation of the proposed*
15 *adoptive placement;*

16 *(3) Includes an evaluation of the background, safety and*
17 *health information of the proposed adoptive placement, including*
18 *the biological, psychological and social factors of the proposed*
19 *adoptive placement and assessment of the commitment, capability*
20 *and suitability of the proposed adoptive placement to meet the*
21 *Indian child's needs; and*

22 *(4) Except where the proposed adoptive placement is the*
23 *Indian child's current foster care placement, is completed before*
24 *the placement of the Indian child in the proposed adoptive*
25 *placement.*

26 *(c) Notwithstanding subsection 2, the court may not accept the*
27 *tribe's order or judgment of tribal customary adoption if any adult*
28 *living in the proposed adoptive placement has a felony conviction*
29 *for child abuse or neglect, spousal abuse, crimes against a child,*
30 *including child pornography, or a crime involving violence. The*
31 *Division shall, by regulation, define "crime involving violence" for*
32 *the purposes of this paragraph. The definition must include rape,*
33 *sexual assault and homicide, but must not include other physical*
34 *assault or battery.*

35 *2. The court shall accept an order or judgment for tribal*
36 *customary adoption that is filed by the Indian child's tribe if:*

37 *(a) The court determines that tribal customary adoption is an*
38 *appropriate permanent placement option for the Indian child;*

39 *(b) The court finds that the tribal customary adoption is in the*
40 *Indian child's best interests, as described in section 20 of this act;*
41 *and*

42 *(c) The order or judgment:*

43 *(1) Includes a description of the modification of the legal*
44 *relationship of the Indian child's parents or Indian custodian and*
45 *the Indian child, including any contact between the Indian child*



1 *and the Indian child's parents or Indian custodian,*
2 *responsibilities of the Indian child's parents or Indian custodian*
3 *and the rights of inheritance of the parents and Indian child;*

4 (2) *Includes a description of the Indian child's legal*
5 *relationship with the tribe; and*

6 (3) *Does not include any child support obligation from the*
7 *Indian child's parents or Indian custodian.*

8 ➤ *The court shall afford full faith and credit to a tribal customary*
9 *adoption order or judgment that is accepted under this subsection.*

10 3. *A tribal customary adoptive parent is not required to file a*
11 *petition for adoption when the court accepts a tribal customary*
12 *adoption order or judgment under subsection 2. The clerk of the*
13 *court may not charge or collect a fee for a proceeding under this*
14 *subsection.*

15 4. *After accepting a tribal customary adoption order or*
16 *judgment under subsection 2, the court that accepted the order or*
17 *judgment shall proceed as provided in section 45 of this act and*
18 *enter a judgment of adoption. In addition to the requirements*
19 *under section 45 of this act, the judgment of adoption must*
20 *include a statement that any parental rights or obligations not*
21 *specified in the judgment are transferred to the tribal customary*
22 *adoptive parents and a description of any parental rights or duties*
23 *retained by the Indian child's parents, the rights of inheritance of*
24 *the parents and Indian child and the Indian child's legal*
25 *relationship with the child's tribe.*

26 5. *A tribal customary adoption under this section does not*
27 *require the consent of the Indian child or the child's parents.*

28 6. *Upon the court's entry of a judgment of adoption under*
29 *this section, the court's jurisdiction over the Indian child*
30 *terminates.*

31 7. *Any parental rights or obligations not specifically retained*
32 *by the Indian child's parents in the judgment of adoption are*
33 *conclusively presumed to transfer to the tribal customary adoptive*
34 *parents.*

35 8. *This section remains operative only to the extent that*
36 *compliance with the provisions of this section do not conflict with*
37 *federal law as a condition of receiving funding under Title IV-E of*
38 *the Social Security Act, 42 U.S.C. §§ 601 et seq.*

39 9. *The Division shall adopt regulations requiring that any*
40 *report regarding a ward who is an Indian child that an agency*
41 *which provides child welfare services submits to the court,*
42 *including any home studies, placement reports or other reports*
43 *required by law must address tribal customary adoption as a*
44 *permanency option. The Supreme Court may adopt rules*
45 *necessary for the court processes to implement the provisions of*



this section, and the Court Administrator may prepare necessary forms for the implementation of this section.

10. As used in this section, “tribal customary adoption” means the adoption of an Indian child, by and through the tribal custom, traditions or law of the child’s tribe, and which may be effected without the termination of parental rights.

Sec. 51. NRS 127.003 is hereby amended to read as follows:

127.003 As used in this chapter, unless the context otherwise requires:

1. “Agency which provides child welfare services” has the meaning ascribed to it in NRS 432B.030.

2. “Division” means the Division of Child and Family Services of the Department of Health and Human Services.

3. “Indian child” has the meaning ascribed to it in ~~[25 U.S.C. § 1903.~~

~~—4. “Indian Child Welfare Act” means the Indian Child Welfare Act of 1978, 25 U.S.C. §§ 1901 et seq.]~~ *section 9 of this act.*

Sec. 51.5. (Deleted by amendment.)

Sec. 52. NRS 127.010 is hereby amended to read as follows:

127.010 Except ~~[if the child involved is subject to the jurisdiction of an Indian tribe pursuant to the Indian Child Welfare Act.]~~ *as otherwise provided in section 26 of this act,* the district courts of this State have original jurisdiction in adoption proceedings.

Sec. 53. NRS 127.018 is hereby amended to read as follows:

127.018 1. ~~[Unless the child involved is subject to the jurisdiction of an Indian tribe pursuant to the Indian Child Welfare Act.]~~ *Except as otherwise provided in sections 2 to 38, inclusive, of this act and sections 42 to 50, inclusive, of this act,* a child of whom this State:

(a) Is the home state on the date of the commencement of the proceeding; or

(b) Was the home state within 6 months before the commencement of the proceeding,

➔ may not be adopted except upon an order of a district court in this State.

2. As used in this section, “home state” means:

(a) The state in which a child lived for at least 6 consecutive months, including any temporary absence from the state, immediately before the commencement of a proceeding; or

(b) In the case of a child less than 6 months of age, the state in which the child lived from birth, including any temporary absence from the state.



Sec. 54. NRS 127.053 is hereby amended to read as follows:

127.053 No consent to a specific adoption executed in this State, or executed outside this State for use in this State, is valid unless it:

1. Identifies the child to be adopted by name, if any, sex and date of birth.

2. Is in writing and signed by the person consenting to the adoption as required in this chapter.

3. Is acknowledged by the person consenting and signing the consent to adoption in the manner and form required for conveyances of real property.

4. Contains, at the time of execution, the name of the person or persons to whom consent to adopt the child is given.

5. *Indicates whether the person giving the consent has reason to know that the child is an Indian child and, if the person does not have reason to know that the child is an Indian child, includes a statement that the person will inform the court immediately if, before the entry of the judgment of adoption under section 45 of this act, the person receives information that provides reason to know that the child is an Indian child.*

6. Is attested by at least two competent, disinterested witnesses who subscribe their names to the consent in the presence of the person consenting. If neither the petitioner nor the spouse of a petitioner is related to the child within the third degree of consanguinity, then one of the witnesses must be a social worker employed by:

(a) An agency which provides child welfare services;

(b) An agency licensed in this state to place children for adoption;

(c) A comparable state or county agency of another state; or

(d) An agency authorized under the laws of another state to place children for adoption, if the natural parent resides in that state.

Sec. 55. NRS 127.110 is hereby amended to read as follows:

127.110 1. A petition for adoption of a child who currently resides in the home of the petitioners may be filed at any time after the child has lived in the home for 30 days.

2. The petition for adoption must state, in substance, the following:

(a) The full name and age of the petitioners.

(b) The age of the child sought to be adopted and the period that the child has lived in the home of petitioners before the filing of the petition.

(c) That it is the desire of the petitioners that the relationship of parent and child be established between them and the child.



(d) Their desire that the name of the child be changed, together with the new name desired.

(e) That the petitioners are fit and proper persons to have the care and custody of the child.

(f) That they are financially able to provide for the child.

(g) That there has been a full compliance with the law in regard to consent to adoption.

(h) That there has been a full compliance with NRS 127.220 to 127.310, inclusive.

(i) Whether the *petitioners have reason to know that the* child is ~~known to be~~ an Indian child.

(j) That there are no known signs that the child is currently experiencing victimization from human trafficking, exploitation or abuse.

3. ~~[No]~~ *Except as otherwise provided in sections 17.5 and 41.5 of this act, no* order of adoption may be entered unless there has been full compliance with the provisions of NRS 127.220 to 127.310, inclusive ~~[.]~~ , *and the provisions of sections 2 to 38, inclusive, of this act and sections 42 to 50, inclusive, of this act.*

Sec. 56. NRS 128.020 is hereby amended to read as follows:

128.020 Except ~~[if the child involved is subject to the jurisdiction of an Indian tribe pursuant to the Indian Child Welfare Act,]~~ *as otherwise provided in section 26 of this act,* the district courts have jurisdiction in all cases and proceedings under this chapter. The jurisdiction of the district courts extends to any child who should be declared free from the custody and control of either or both of his or her parents.

Sec. 57. NRS 128.023 is hereby amended to read as follows:

128.023 1. ~~[H]~~ *Except as otherwise provided in subsection 3, if* proceedings pursuant to this chapter involve the termination of parental rights of the parent of an Indian child, the court shall ~~[:~~

~~—(a) Cause the Indian child's tribe to be notified in writing in the manner provided in the Indian Child Welfare Act. If the Indian child is eligible for membership in more than one tribe, each tribe must be notified.~~

~~—(b) Transfer the proceedings to the Indian child's tribe in accordance with the Indian Child Welfare Act.~~

~~—(c) If a tribe declines or is unable to exercise jurisdiction, exercise its jurisdiction as provided in the Indian Child Welfare Act.]~~ *require that notice of the proceedings and any other notice required pursuant to this chapter be provided in accordance with section 31 of this act.*

2. If the court determines that the parent of an Indian child for whom termination of parental rights is sought is indigent, the court:

(a) Shall appoint an attorney to represent the parent; and



(b) May apply to the Secretary of the Interior for the payment of the fees and expenses of such an attorney,
➔ as provided in the Indian Child Welfare Act.

3. The provisions of this section do not apply if a parent of an Indian child is voluntarily terminating his or her parental rights and the provisions of chapter 432B of NRS do not apply, and an extended family member of the Indian child is subsequently adopting the Indian child upon the termination of the parental rights of the parent of the Indian child. As used in this subsection, "extended family member" has the meaning ascribed to it in section 7 of this act.

Sec. 58. NRS 128.050 is hereby amended to read as follows:

128.050 1. The proceedings must be entitled, "In the matter of the parental rights as to, a minor."

2. A petition must be verified and may be upon information and belief. It must set forth plainly:

(a) The facts which bring the child within the purview of this chapter.

(b) The name, age and residence of the child.

(c) The names and residences of the parents of the child.

(d) The name and residence of the person or persons having physical custody or control of the child.

(e) The name and residence of the child's legal guardian, if there is one.

(f) The name and residence of the child's nearest known relative, if no parent or guardian can be found.

(g) Whether the *petitioner has reason to know that the* child is ~~[known to be]~~ an Indian child.

3. If any of the facts required by subsection 2 are not known by the petitioner, the petition must so state.

4. If the petitioner is a mother filing with respect to her unborn child, the petition must so state and must contain the name and residence of the father or putative father, if known.

5. If the petitioner or the child is receiving public assistance, the petition must so state.

Sec. 59. NRS 3.223 is hereby amended to read as follows:

3.223 1. Except ~~[if the child involved is subject to the jurisdiction of an Indian tribe pursuant to the Indian Child Welfare Act of 1978, 25 U.S.C. §§ 1901 et seq.,]~~ *as otherwise provided in section 26 of this act*, in each judicial district in which it is established, the family court has original, exclusive jurisdiction in any proceeding:

(a) Brought pursuant to title 5 of NRS or chapter 31A, 123, 125, 125A, 125B, 125C, 126, 127, 128, 129, 130, 159A, 425 or 432B of NRS, except to the extent that a specific statute authorizes the use of



1 any other judicial or administrative procedure to facilitate the
2 collection of an obligation for support.

3 (b) Brought pursuant to NRS 442.255 and 442.2555 to request
4 the court to issue an order authorizing an abortion.

5 (c) For judicial approval of the marriage of a minor.

6 (d) Otherwise within the jurisdiction of the juvenile court.

7 (e) To establish the date of birth, place of birth or parentage of a
8 minor.

9 (f) To change the name of a minor.

10 (g) For a judicial declaration of the sanity of a minor.

11 (h) To approve the withholding or withdrawal of life-sustaining
12 procedures from a person as authorized by law.

13 (i) Brought pursuant to NRS 433A.200 to 433A.330, inclusive,
14 for an involuntary court-ordered admission to a mental health
15 facility.

16 (j) Brought pursuant to NRS 433A.335 to 433A.345, inclusive,
17 to require a person to receive assisted outpatient treatment.

18 (k) Brought pursuant to NRS 441A.505 to 441A.720, inclusive,
19 for an involuntary court-ordered isolation or quarantine.

20 2. The family court, where established and, except as otherwise
21 provided in paragraph (m) of subsection 1 of NRS 4.370, the justice
22 court have concurrent jurisdiction over actions for the issuance of a
23 temporary or extended order for protection against domestic
24 violence.

25 3. The family court, where established, and the district court
26 have concurrent jurisdiction over any action for damages brought
27 pursuant to NRS 41.134 by a person who suffered injury as the
28 proximate result of an act that constitutes domestic violence.

29 **Sec. 60.** NRS 7.285 is hereby amended to read as follows:

30 7.285 1. ~~[A]~~ *Except as otherwise provided in section 34 of*
31 *this act, a* person shall not practice law in this state if the person:

32 (a) Is not an active member of the State Bar of Nevada or
33 otherwise authorized to practice law in this state pursuant to the
34 rules of the Supreme Court; or

35 (b) Is suspended or has been disbarred from membership in the
36 State Bar of Nevada pursuant to the rules of the Supreme Court.

37 2. A person who violates any provision of subsection 1 is
38 guilty of:

39 (a) For a first offense within the immediately preceding 7 years,
40 a misdemeanor.

41 (b) For a second offense within the immediately preceding 7
42 years, a gross misdemeanor.

43 (c) For a third and any subsequent offense within the
44 immediately preceding 7 years, a category E felony and shall be
45 punished as provided in NRS 193.130.



3. The State Bar of Nevada may bring a civil action to secure an injunction and any other appropriate relief against a person who violates this section.

Sec. 61. NRS 62A.160 is hereby amended to read as follows:

62A.160 “Indian child” has the meaning ascribed to it in ~~U.S.C. § 1903.]~~ *section 9 of this act.*

Sec. 62. NRS 62D.210 is hereby amended to read as follows:

62D.210 1. If a proceeding conducted pursuant to the provisions of this title involves the placement of an Indian child into foster care, the juvenile court shall ~~;~~

~~—(a) Cause the Indian child’s tribe to be notified in writing in the manner provided in the Indian Child Welfare Act. If the Indian child is eligible for membership in more than one tribe, each tribe must be notified.~~

~~—(b) Transfer the proceedings to the Indian child’s tribe in accordance with the Indian Child Welfare Act or, if a tribe declines or is unable to exercise jurisdiction, exercise jurisdiction as provided in the Indian Child Welfare Act.]~~ *require that notice of the proceeding and any other notice required pursuant to this chapter be provided in accordance with section 31 of this act.*

2. If the juvenile court determines that the parent of an Indian child for whom foster care is sought is indigent, the juvenile court, as provided in the Indian Child Welfare Act:

(a) Shall appoint an attorney to represent the parent;

(b) May appoint an attorney to represent the Indian child; and

(c) May apply to the Secretary of the Interior for the payment of the fees and expenses of such an attorney.

Sec. 63. (Deleted by amendment.)

Sec. 64. NRS 432B.067 is hereby amended to read as follows:

432B.067 “Indian child” has the meaning ascribed to it in ~~U.S.C. § 1903.]~~ *section 9 of this act.*

Sec. 65. NRS 432B.190 is hereby amended to read as follows:

432B.190 The Division of Child and Family Services shall, in consultation with each agency which provides child welfare services, adopt:

1. Regulations establishing reasonable and uniform standards for:

(a) Child welfare services provided in this State;

(b) Programs for the prevention of abuse or neglect of a child and the achievement of the permanent placement of a child;

(c) The development of local councils involving public and private organizations;

(d) Reports of abuse or neglect, records of these reports and the response to these reports;



(e) Carrying out the provisions of NRS 432B.260, including, without limitation, the qualifications of persons with whom agencies which provide child welfare services enter into agreements to provide services to children and families;

(f) The management and assessment of reported cases of abuse or neglect;

(g) The protection of the legal rights of parents and children;

(h) Emergency shelter for a child;

(i) The prevention, identification and correction of abuse or neglect of a child in residential institutions;

(j) Developing and distributing to persons who are responsible for a child's welfare a pamphlet that is written in language which is easy to understand, is available in English and in any other language the Division determines is appropriate based on the demographic characteristics of this State and sets forth:

(1) Contact information regarding persons and governmental entities which provide assistance to persons who are responsible for the welfare of children, including, without limitation, persons and entities which provide assistance to persons who are being investigated for allegedly abusing or neglecting a child;

(2) The procedures for taking a child for placement in protective custody; and

(3) The state and federal legal rights of:

(I) A person who is responsible for a child's welfare and who is the subject of an investigation of alleged abuse or neglect of a child, including, without limitation, the legal rights of such a person at the time an agency which provides child welfare services makes initial contact with the person in the course of the investigation and at the time the agency takes the child for placement in protective custody, and the legal right of such a person to be informed of any allegation of abuse or neglect of a child which is made against the person at the initial time of contact with the person by the agency; and

(II) Persons who are parties to a proceeding held pursuant to NRS 432B.410 to 432B.590, inclusive, during all stages of the proceeding; and

(k) Making the necessary inquiries required pursuant to NRS 432B.397 to determine whether a child is an Indian child.

2. Regulations, which are applicable to any person who is authorized to place a child in protective custody without the consent of the person responsible for the child's welfare, setting forth reasonable and uniform standards for establishing whether immediate action is necessary to protect the child from injury, abuse or neglect for the purposes of determining whether to place the child into protective custody pursuant to NRS 432B.390. Such standards



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1 must consider the potential harm to the child in remaining in his or
2 her home, including, without limitation:

3 (a) Circumstances in which a threat of harm suggests that a child
4 is in imminent danger of serious harm.

5 (b) The conditions or behaviors of the child's family which
6 threaten the safety of the child who is unable to protect himself or
7 herself and who is dependent on others for protection, including,
8 without limitation, conditions or behaviors that are beyond the
9 control of the caregiver of the child and create an imminent threat of
10 serious harm to the child.

11 ➤ The Division of Child and Family Services shall ensure that the
12 appropriate persons or entities to whom the regulations adopted
13 pursuant to this subsection apply are provided with a copy of such
14 regulations. As used in this subsection, "serious harm" includes the
15 threat or evidence of serious physical injury, sexual abuse,
16 significant pain or mental suffering, extreme fear or terror, extreme
17 impairment or disability, death, substantial impairment or risk of
18 substantial impairment to the child's mental or physical health or
19 development.

20 3. Regulations establishing procedures for:

21 (a) Expeditiously locating any missing child who has been
22 placed in the custody of an agency which provides child welfare
23 services;

24 (b) Determining the primary factors that contributed to a child
25 who has been placed in the custody of an agency which provides
26 child welfare services running away or otherwise being absent from
27 foster care, and to the extent possible and appropriate, responding to
28 those factors in current and subsequent placements; and

29 (c) Determining the experiences of a child who has been placed
30 in the custody of an agency which provides child welfare services
31 during any period the child was missing, including, without
32 limitation, determining whether the child may be a victim of sexual
33 abuse or sexual exploitation.

34 4. Such other regulations as are necessary for ~~the~~ :

35 (a) *The* administration of NRS 432B.010 to 432B.606,
36 inclusive.

37 (b) *The implementation of sections 2 to 38, inclusive, of this*
38 *act and sections 42 to 50, inclusive, of this act.*

39 **Sec. 66.** (Deleted by amendment.)

40 **Sec. 67.** NRS 432B.397 is hereby amended to read as follows:

41 432B.397 1. The agency which provides child welfare
42 services for a child that is taken into custody pursuant to this chapter
43 shall make all necessary inquiries *in accordance with subsection 1*
44 *of section 30 of this act* to determine whether *there is reason to*



1 *know that* the child is an Indian child. The agency shall report that
2 determination to the court.

3 2. An agency which provides child welfare services pursuant to
4 this chapter shall provide training for its personnel regarding the
5 requirements of the Indian Child Welfare Act ~~[]~~, *sections 2 to 38,*
6 *inclusive, of this act and sections 42 to 50, inclusive, of this act.*

7 **Sec. 68.** NRS 432B.410 is hereby amended to read as follows:
8 432B.410 1. Except ~~[if the child involved is subject to the~~
9 ~~jurisdiction of an Indian tribe pursuant to the Indian Child Welfare~~
10 ~~Act.] as otherwise provided in section 26 of this act,~~ the court has
11 exclusive original jurisdiction in proceedings concerning any child
12 domiciled, living or found within the county who is a child in need
13 of protection or may be a child in need of protection.

14 2. Action taken by the court because of the abuse or neglect of
15 a child does not preclude the prosecution and conviction of any
16 person for violation of NRS 200.508 based on the same facts.

17 **Sec. 69.** NRS 432B.425 is hereby amended to read as follows:
18 432B.425 If proceedings pursuant to this chapter involve the
19 protection of an Indian child, the court shall ~~[]~~:

20 ~~—1. Cause the Indian child's tribe to be notified in writing at the~~
21 ~~beginning of the proceedings in the manner provided in the Indian~~
22 ~~Child Welfare Act. If the Indian child is eligible for membership in~~
23 ~~more than one tribe, each tribe must be notified.~~

24 ~~—2. Transfer the proceedings to the Indian child's tribe in~~
25 ~~accordance with the Indian Child Welfare Act.~~

26 ~~—3. If a tribe declines or is unable to exercise jurisdiction,~~
27 ~~exercise its jurisdiction as provided in the Indian Child Welfare~~
28 ~~Act.] require that notice of the proceedings and any other notice~~
29 ~~required by this chapter be provided in accordance with section 31~~
30 ~~of this act.~~

31 **Sec. 70.** NRS 432B.5902 is hereby amended to read as
32 follows:

33 432B.5902 1. After a motion for the termination of parental
34 rights is filed pursuant to NRS 432B.5901, unless a party to be
35 served voluntarily appears and consents to the hearing, and except
36 as otherwise provided in subsection 3, a copy of the motion and
37 notice of the hearing must be served, either together or separately,
38 upon all parties to the proceeding by personal service or, if the
39 whereabouts of the person are unknown, obtaining an order from the
40 court that service may be made by publication in accordance with
41 the procedure set forth in subsections 1, 4 and 5 of NRS 128.070
42 and subsection 2.

43 2. If a court orders that service be made by publication
44 pursuant to subsection 1 and the person to be served by publication
45 has a last known address, personal service must also be attempted



1 before service of the notice is deemed to be complete. The court
2 order must direct the publication to be made in a newspaper
3 designated by the court at least once every week for a period of 4
4 weeks. If personal service is also attempted, service of the notice
5 shall be deemed to be complete at the expiration of such a period.
6 The provisions of this subsection and subsection 1 must not be
7 construed to preclude personal service and service by publication
8 from being attempted simultaneously.

9 3. Service shall be deemed to be complete if a party to be
10 served appears in court for a hearing held pursuant to this chapter
11 and the court provides the party with a copy of the motion, notifies
12 the party of the date of the hearing on the motion and records such
13 service.

14 4. Except as otherwise provided in subsection 5, a copy of the
15 motion and notice of the hearing on the motion must be sent by
16 certified mail to:

17 (a) The attorneys and any guardians ad litem for the child and
18 the parent of the child who is the subject of the motion;

19 (b) If ~~[applicable, each Indian tribe of]~~ the child who is ~~[the]~~
20 subject ~~[of]~~ to the ~~[motion, in accordance with NRS 128.023;]~~
21 *motion is known to be an Indian child, the child's Indian tribe;*
22 and

23 (c) Any known relative of the child who is the subject of the
24 motion within the fifth degree of consanguinity who is residing in
25 this State.

26 5. If an attorney has consented to electronic service, a copy of
27 the motion and notice of the hearing on the motion may be sent to
28 the attorney electronically instead of by certified mail.

29 6. The court shall ensure that any prospective adoptive parent
30 of the child who is the subject of the motion is provided with a copy
31 of the notice of the hearing on the motion. Except as otherwise
32 provided in NRS 432B.5904 or another provision of law, the name
33 and address of the prospective adoptive parent must be kept
34 confidential.

35 7. Any party to the proceeding may file a written response to
36 the motion.

37 **Sec. 71.** The provisions of subsection 3 of section 25 of this
38 act apply to tribal-state agreements entered into or renewed on or
39 after January 1, 2024.

40 **Sec. 72.** Not later than September 15, 2024, and each even-
41 numbered year thereafter, the Division of Child and Family Services
42 of the Department of Health and Human Services and the Court
43 Administrator shall report to the Chairs of the Senate and Assembly
44 Standing Committees on Judiciary regarding, as applicable:



1 1. The number of Indian children involved in dependency
2 proceedings during the prior 2-year period.

3 2. The average duration Indian children were in protective
4 custody.

5 3. The ratio of Indian children to non-Indian children in
6 protective custody.

7 4. Which tribes the Indian children in protective custody were
8 members of or of which they were eligible for membership.

9 5. The number of Indian children in foster care who are in each
10 of the placement preference categories described in section 37 of
11 this act and the number of those placements that have Indian parents
12 in the home.

13 6. The number of Indian children placed in adoptive homes in
14 each of the placement preference categories described in section 37
15 of this act and the number of those placements that have Indian
16 parents in the home.

17 7. The number of available placements and common barriers to
18 recruitment and retention of appropriate placements.

19 8. The number of times the court found that good cause existed
20 to deviate from the statutory placement preferences under section 37
21 of this act, when making a finding regarding the placement of a
22 child in a dependency proceeding.

23 9. The number of cases that were transferred to tribal court
24 under section 28 of this act.

25 10. The number of times the court found good cause to decline
26 to transfer jurisdiction of a dependency proceeding to tribal court
27 upon request and the most common reasons the court found good
28 cause to decline a transfer petition.

29 11. The efforts the Division and the Court Administrator have
30 taken to ensure compliance with the provisions of sections 2 to 38,
31 inclusive, of this act and sections 42 to 50, inclusive, of this act in
32 dependency proceedings.

33 12. The number of ICWA compliance reports in which an
34 agency which provides child welfare services reported the
35 petitioner's documentation was insufficient for the court to make a
36 finding regarding whether the petitioner complied with the inquiry
37 requirements under subsection 1 of section 30 of this act and notice
38 requirements under subsection 2 of section 31 of this act. As used in
39 this subsection:

40 (a) "Agency which provides child welfare services" has the
41 meaning ascribed to it in NRS 432B.030.

42 (b) "ICWA compliance report" has the meaning ascribed to it in
43 section 49 of this act.

44 **Sec. 73.** Not later than March 15, 2025, the Division of Child
45 and Family Services of the Department of Health and Human



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Services shall submit a report to the Chairs of the Senate and Assembly Standing Committees on Judiciary describing the Division’s implementation of tribal customary adoption as described in section 50 of this act as an alternative permanency option for wards who are Indian children and the Division’s recommendation for proposed legislation to improve the tribal customary adoption process.

Sec. 74. 1. A court shall give full faith and credit to the public acts, records and judicial proceedings of an Indian tribe applicable to an Indian child in a child custody proceeding.

2. As used in this section, “child custody proceeding” has the meaning ascribed to it in section 4 of this act.

Sec. 75. 1. If any provision of sections 2 to 38, inclusive, of this act or sections 42 to 50, inclusive, of this act is found to provide a lower standard of protection to the rights of an Indian child or the Indian child’s parent, Indian custodian or tribe than that provided in the Indian Child Welfare Act:

(a) The higher standard of protection in the Indian Child Welfare Act controls; and

(b) It shall not serve to render inoperative any remaining provisions of sections 2 to 38, inclusive, of this act and sections 42 to 50, inclusive, of this act that may be held to provide a higher standard of protection than that provided in the Indian Child Welfare Act.

2. As used in this section, “Indian Child Welfare Act” means the federal Indian Child Welfare Act, 25 U.S.C. §§ 1901 et seq., and any related regulations.

Sec. 76. The Court Administrator may adopt any rules necessary to implement the provisions of sections 2 to 38, inclusive, of this act and sections 42 to 50, inclusive, of this act.

Sec. 77. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 78. NRS 62D.200, 127.013, 127.017, 128.027, 432B.451 and 432B.465 are hereby repealed.

Sec. 79. This act becomes effective:

1. Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On January 1, 2024, for all other purposes.



LEADLINES OF REPEALED SECTIONS

62D.200 Full faith and credit given to proceedings of Indian tribe.

127.013 Transfer of proceedings to Indian tribe.

127.017 Extent to which court must give full faith and credit to judicial proceedings of Indian tribe.

128.027 Extent to which court must give full faith and credit to judicial proceedings of Indian tribe.

432B.451 Qualified expert witness required in proceeding to place Indian child in foster care.

432B.465 Full faith and credit to judicial proceedings of Indian tribe.

