

First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 25-0214.02 Shelby Ross x4510

HOUSE BILL 25-1204

HOUSE SPONSORSHIP

Duran and Joseph,

SENATE SPONSORSHIP

(None),

House Committees
Health & Human Services

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE CODIFICATION OF THE FEDERAL "INDIAN CHILD
102 WELFARE ACT OF 1978" AS THE "COLORADO INDIAN CHILD
103 WELFARE ACT".

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill codifies the federal "Indian Child Welfare Act of 1978" into state law as the "Colorado Indian Child Welfare Act" (CO-ICWA) and provides additional protections for Indian children and children known to be Indian children under state law.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **repeal** 19-1-126 as
3 follows:

4 **19-1-126. Compliance with the federal "Indian Child Welfare**
5 **Act of 1978"**. ~~(1) In each case filed pursuant to this title 19 that~~
6 ~~constitutes a child custody proceeding, as defined in the federal "Indian~~
7 ~~Child Welfare Act of 1978", 25 U.S.C. sec. 1901 et seq., and therefore to~~
8 ~~which the terms of the federal "Indian Child Welfare Act of 1978", 25~~
9 ~~U.S.C. sec. 1901 et seq., apply, the court and each party to the proceeding~~
10 ~~shall comply with the federal implementing regulations, and any~~
11 ~~modifications thereof, of the federal "Indian Child Welfare Act of 1978",~~
12 ~~25 U.S.C. sec. 1901 et seq., located in 25 CFR 23, which outline the~~
13 ~~minimum federal standards governing the implementation of the "Indian~~
14 ~~Child Welfare Act of 1978" to ensure the statute is applied in Colorado~~
15 ~~consistent with the act's express language, congress's intent in enacting~~
16 ~~the statute, and to promote the stability and security of Indian children,~~
17 ~~tribes, and families. In each child-custody proceeding filed pursuant to~~
18 ~~this title 19 to which the terms of the federal "Indian Child Welfare Act~~
19 ~~of 1978", 25 U.S.C. sec. 1901 et seq., apply:~~

20 ~~(a) (I) The court shall make inquiries to determine whether the~~
21 ~~child who is the subject of the proceeding is an Indian child, and, if so,~~
22 ~~shall determine the identity of the Indian child's tribe. In determining the~~
23 ~~Indian child's tribe:~~

24 ~~(A) The court shall ask each participant in an emergency or~~
25 ~~voluntary or involuntary child-custody proceeding whether the participant~~
26 ~~knows or has reason to know that the child is an Indian child. The inquiry~~

1 is to be made at the commencement of the proceeding, and all responses
2 must be on the record. The court shall instruct the participants to inform
3 the court if any participant subsequently receives information that
4 provides reason to know the child is an Indian child.

5 (B) Any party to the proceeding shall disclose any information
6 indicating that the child is an Indian child or provide an identification
7 card indicating membership in a tribe to the petitioning and filing parties
8 and the court in a timely manner. The court shall order the party to
9 provide the information no later than seven business days after the date
10 of the hearing or prior to the next hearing on the matter, whichever occurs
11 first. The information should be filed with the court and provided to the
12 county department of human or social services and each party no later
13 than seven business days after the date of the hearing.

14 (H) The court, upon conducting the inquiry described in
15 subsection (1)(a)(I) of this section, has reason to know that a child is an
16 Indian child if:

17 (A) Any participant in the child-custody proceeding, officer of the
18 court involved in the child-custody proceeding, Indian tribe, Indian
19 organization, or agency informs the court that the child is an Indian child;

20 (B) Any participant in the child-custody proceeding, officer of the
21 court involved in the child-custody proceeding, Indian tribe, Indian
22 organization, or agency informs the court that it has discovered
23 information indicating that the child is an Indian child;

24 (C) The child who is the subject of the child-custody proceeding
25 gives the court reason to know he or she is an Indian child;

26 (D) The court is informed that the domicile or residence of the
27 child, the child's parent, or the child's Indian custodian is on a reservation

1 ~~or in an Alaska native village;~~

2 ~~(E) The court is informed that the child is or has been a ward of~~
3 ~~a tribal court, as defined in 25 U.S.C. sec. 1903; or~~

4 ~~(F) The court is informed that the child or the child's parent~~
5 ~~possesses an identification card indicating membership in an Indian tribe.~~

6 ~~(b) If the court knows or has reason to know, as defined in~~
7 ~~subsection (1)(a)(II) of this section, that the child who is the subject of the~~
8 ~~proceeding is an Indian child, the petitioning or filing party shall send~~
9 ~~notice by registered or certified mail, return receipt requested, to the~~
10 ~~parent or parents, the Indian custodian or Indian custodians of the child~~
11 ~~and to the tribal agent of the Indian child's tribe as designated in 25 CFR~~
12 ~~23, or, if there is no designated tribal agent, the petitioning or filing party~~
13 ~~shall contact the tribe to be directed to the appropriate office or~~
14 ~~individual. In providing notice, the court and each party shall comply with~~
15 ~~25 CFR 23.111.~~

16 ~~(c) The petitioning or filing party shall disclose in the complaint,~~
17 ~~petition, or other commencing pleading filed with the court that the child~~
18 ~~who is the subject of the proceeding is an Indian child and the identity of~~
19 ~~the Indian child's tribe or what efforts the petitioning or filing party has~~
20 ~~made in determining whether the child is an Indian child. If the child who~~
21 ~~is the subject of the proceeding is determined to be an Indian child, the~~
22 ~~petitioning or filing party shall further identify what reasonable efforts~~
23 ~~have been made to send notice to the persons identified in subsection~~
24 ~~(1)(b) of this section. The postal receipts indicating that notice was~~
25 ~~properly sent by the petitioning or filing party to the parent or Indian~~
26 ~~custodian of the Indian child and to the Indian child's tribe must be~~
27 ~~attached to the complaint, petition, or other commencing pleading filed~~

1 with the court; except that, if notification has not been perfected at the
2 time the initial complaint, petition, or other commencing pleading is filed
3 with the court or if the postal receipts have not been received back from
4 the post office, the petitioning or filing party shall file the postal receipts
5 with the court. Any responses sent by the tribal agents to the petitioning
6 or filing party, the county department of human or social services, or the
7 court must be distributed to the parties and deposited with the court.

8 (2) If there is reason to know the child is an Indian child but the
9 court does not have sufficient evidence to determine that the child is or
10 is not an Indian child, the court shall:

11 (a) Confirm, by way of a report, declaration, or testimony included
12 in the record, that the petitioning or filing party used due diligence to
13 identify and work with all of the tribes of which there is reason to know
14 the child may be a member, or eligible for membership, to verify whether
15 the child is in fact a member, or a biological parent is a member and the
16 child is eligible for membership; and

17 (b) Treat the child as an Indian child, unless and until it is
18 determined on the record that the child does not meet the definition of an
19 Indian child.

20 (3) If the court receives information that the child may have
21 Indian heritage but does not have sufficient information to determine that
22 there is reason to know that the child is an Indian child pursuant to
23 subsection (1)(a)(II) of this section, the court shall direct the petitioning
24 or filing party to exercise due diligence in gathering additional
25 information that would assist the court in determining whether there is
26 reason to know that the child is an Indian child. The court shall direct the
27 petitioning or filing party to make a record of the effort taken to

1 ~~determine whether or not there is reason to know that the child is an~~
2 ~~Indian child.~~

3 ~~(4) The requirements of the federal "Indian Child Welfare Act of~~
4 ~~1978", 25 U.S.C. sec. 1901 et seq., in effect as of February 9, 2003, and~~
5 ~~the related regulations located at 25 CFR 23, in effect as of February 9,~~
6 ~~2023, are incorporated into and adopted as state law.~~

7 **SECTION 2.** In Colorado Revised Statutes, **add** article 1.2 to title
8 19 as follows:

9 **ARTICLE 1.2**

10 **Colorado Indian Child Welfare Act**

11 **19-1.2-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 1.2 IS
12 THE "COLORADO INDIAN CHILD WELFARE ACT".

13 **19-1.2-102. Legislative declaration.** (1) THE GENERAL
14 ASSEMBLY FINDS AND DECLARES THAT:

15 (a) HISTORICALLY, AN ALARMINGLY HIGH PERCENTAGE OF INDIAN
16 FAMILIES WERE DISRUPTED BY THE REMOVAL, OFTEN UNWARRANTED, OF
17 THEIR CHILDREN BY NON-TRIBAL PUBLIC AND PRIVATE AGENCIES, AND
18 THAT A DISTURBINGLY HIGH PERCENTAGE OF THOSE INDIAN CHILDREN
19 WERE PLACED IN NON-INDIAN FOSTER AND ADOPTIVE HOMES AND
20 INSTITUTIONS;

21 (b) AS A RESULT OF THESE ACTIONS, THOUSANDS OF INDIAN
22 FAMILIES, TRIBAL NATIONS, AND ENTIRE CULTURES WERE DEVASTATED;

23 (c) THE STATES, IN EXERCISING THEIR RECOGNIZED JURISDICTION
24 OVER INDIAN CHILD CUSTODY PROCEEDINGS THROUGH ADMINISTRATIVE
25 AND JUDICIAL BODIES, HISTORICALLY FAILED TO RECOGNIZE THE
26 ESSENTIAL TRIBAL RELATIONS OF INDIAN PEOPLE AND THE CULTURAL AND
27 SOCIAL STANDARDS PREVAILING IN INDIAN COMMUNITIES AND CULTURES;

1 (d) IN RESPONSE TO THESE CIRCUMSTANCES, THE UNITED STATES
2 CONGRESS PASSED THE FEDERAL "INDIAN CHILD WELFARE ACT OF 1978",
3 25 U.S.C. SEC. 1901 ET SEQ., KNOWN AS "ICWA", TO PROTECT THE BEST
4 INTERESTS OF INDIAN CHILDREN AND TO PROMOTE THE STABILITY AND
5 SECURITY OF INDIAN TRIBES AND FAMILIES BY ESTABLISHING MINIMUM
6 FEDERAL STANDARDS FOR THE REMOVAL OF INDIAN CHILDREN FROM THEIR
7 FAMILIES AND FOR THE PLACEMENT OF THOSE INDIAN CHILDREN IN FOSTER
8 OR ADOPTIVE HOMES THAT WOULD REFLECT THE UNIQUE VALUES OF
9 INDIAN CULTURE. THE ACT PROVIDES ASSISTANCE TO INDIAN TRIBES IN
10 THE OPERATION OF CHILD AND FAMILY SERVICE PROGRAMS.

11 (e) ICWA HAS BEEN THE SUBJECT OF TARGETED ATTACKS IN THE
12 FEDERAL COURTS, INCLUDING MOST RECENTLY IN *HAALAND V. BRACKEEN*,
13 599 U.S. 255 (2023), IN WHICH THE UNITED STATES SUPREME COURT
14 UPHELD ICWA IN ITS ENTIRETY. EVEN WITH *HAALAND V. BRACKEEN*
15 UPHOLDING ICWA, THE LAW REMAINS SUBJECT TO CHALLENGE.

16 (f) THE COLORADO GENERAL ASSEMBLY CAN COMBAT
17 CHALLENGES TO ICWA BY UPHOLDING ICWA'S RECOGNIZED "GOLD
18 STANDARD" IN CHILD WELFARE PROTECTION;

19 (g) AS OF 2025, SEVENTEEN STATES HAVE PASSED COMPREHENSIVE
20 STATE ICWA LAWS WHILE COLORADO HAS ADOPTED PARTS OF THE
21 FEDERAL LAW AND, MOST RECENTLY IN SENATE BILL 23-211, ADOPTED
22 AND INCORPORATED ICWA AND ITS REGULATIONS BY REFERENCE AS
23 COLORADO LAW;

24 (h) A CRITICAL ELEMENT OF ICWA IS THE REQUIREMENT TO
25 NOTIFY AN INDIAN CHILD'S TRIBE WHEN A STATE COURT PROCEEDING IS
26 COMMENCED THAT COULD RESULT IN THE PLACEMENT OF THE INDIAN
27 CHILD OUT OF THE INDIAN CHILD'S HOME. THE PURPOSE OF THE NOTICE IS

1 TO PROVIDE THE INDIAN CHILD'S TRIBE THE OPPORTUNITY TO TRANSFER
2 THE CASE TO A TRIBAL COURT OR OTHERWISE PARTICIPATE IN THE STATE
3 COURT PROCEEDING.

4 (i) TO ACHIEVE THESE GOALS, IT IS CRUCIAL TO DETERMINE,
5 CONSISTENTLY AND FAITHFULLY, WHETHER A CHILD WHO IS THE SUBJECT
6 OF THESE TYPES OF STATE COURT PROCEEDINGS IS AN INDIAN CHILD AND
7 TO ENSURE THAT, IF SO, APPROPRIATE AND TIMELY NOTICE IS PROVIDED,
8 PARTICULARLY NOTICE TO THE RELEVANT TRIBES WHEN THE COUNTY
9 DEPARTMENT OF HUMAN OR SOCIAL SERVICES RECEIVES INFORMATION
10 THAT A CHILD MAY BE AN INDIAN CHILD;

11 (j) THE STATE OF COLORADO HAS PREVIOUSLY RECOGNIZED THAT
12 INDIAN TRIBES HAVE A COMPELLING INTEREST IN PROMOTING AND
13 MAINTAINING THEIR INTEGRITY AND CULTURE BY ENTERING INTO FEDERAL
14 "INDIAN CHILD WELFARE ACT OF 1978" AGREEMENTS WITH THE
15 SOUTHERN UTE INDIAN TRIBE AND THE UTE MOUNTAIN UTE INDIAN
16 TRIBE. THE AGREEMENTS, AMONG OTHER THINGS, PLACE STRINGENT
17 NOTICE REQUIREMENTS ON THE STATE IN PROCEEDINGS INVOLVING INDIAN
18 CHILDREN AND PROVIDE FOR THE DELAY OF PROCEEDINGS UNTIL THE
19 REQUIRED NOTICE HAS BEEN PROVIDED TO THE TRIBE IN QUESTION. THE
20 STATE OF COLORADO FURTHER RECOGNIZES THAT THE DEPARTMENT OF
21 HUMAN SERVICES MAY ALSO ENTER INTO A TRIBAL-STATE AGREEMENT
22 WITH TRIBES OUTSIDE OF COLORADO THAT HAVE SIGNIFICANT NUMBERS
23 OF MEMBER INDIAN CHILDREN OR MEMBERSHIP-ELIGIBLE INDIAN
24 CHILDREN RESIDING IN COLORADO.

25 (k) COLORADO IS COMMITTED TO THE CONSISTENT APPLICATION OF
26 AND COMPLIANCE WITH THE FEDERAL ICWA THROUGHOUT THE STATE TO
27 ENSURE THAT PROPER NOTICE IS PROVIDED AND PROCEDURES ARE

1 FOLLOWED AS SPECIFIED BY ICWA WHEN STATE COURT ACTIONS INVOLVE
2 INDIAN CHILDREN; AND

3 (1) NOTHING IS MORE VITAL TO THE CONTINUED EXISTENCE AND
4 INTEGRITY OF INDIAN TRIBES THAN THEIR CHILDREN.

5 (2) THEREFORE, THE GENERAL ASSEMBLY DETERMINES AND
6 DECLARES THAT:

7 (a) IT IS APPROPRIATE AND IN THE BEST INTERESTS OF THE INDIAN
8 FAMILIES WHO ARE INTENDED TO BE PROTECTED BY THE TERMS OF THE
9 FEDERAL "INDIAN CHILD WELFARE ACT OF 1978" AND THE INDIAN
10 CHILDREN REPRESENTED THEREBY THAT:

11 (I) THE FEDERAL "INDIAN CHILD WELFARE ACT OF 1978"
12 AGREEMENTS ENTERED INTO BETWEEN THE STATE OF COLORADO AND THE
13 SOUTHERN UTE INDIAN TRIBE AND THE UTE MOUNTAIN UTE INDIAN
14 TRIBE ARE REAFFIRMED; AND

15 (II) A COMPREHENSIVE COLORADO "INDIAN CHILD WELFARE ACT"
16 IS ENACTED TO ENSURE CONSISTENT AND RELIABLE COMPLIANCE WITH THE
17 FEDERAL ICWA FOR THE PROTECTION OF INDIAN CHILDREN WITHIN
18 COLORADO AND TO ENSURE THAT INDIAN CHILDREN IN THIS STATE ARE
19 PROTECTED AS STATED SHOULD THE FEDERAL LAW BE APPEALED,
20 MODIFIED, OR OTHERWISE ANNULLED;

21 (b) THE STATE OF COLORADO RECOGNIZES ALL FEDERALLY
22 RECOGNIZED INDIAN TRIBES AS HAVING THE INHERENT AUTHORITY TO
23 DETERMINE THEIR OWN JURISDICTION FOR ANY AND ALL INDIAN CHILD
24 CUSTODY OR CHILD PLACEMENT PROCEEDINGS, REGARDLESS OF WHETHER
25 THE TRIBE'S MEMBERS ARE ON OR OFF THE RESERVATION AND REGARDLESS
26 OF THE PROCEDURAL POSTURE OF THE PROCEEDING;

27 (c) THE STATE OF COLORADO HAS LONG RECOGNIZED THE

1 IMPORTANCE OF INDIAN CHILDREN TO THEIR TRIBES, NOT ONLY AS
2 MEMBERS OF TRIBAL FAMILIES AND COMMUNITIES BUT ALSO AS THE
3 TRIBE'S GREATEST RESOURCE AS FUTURE MEMBERS AND LEADERS OF THE
4 TRIBE. THE VITALITY OF INDIAN CHILDREN IN COLORADO IS ESSENTIAL TO
5 THE HEALTH AND WELFARE OF BOTH THE STATE AND TRIBES, AND IS
6 ESSENTIAL TO THE FUTURE WELFARE AND CONTINUED EXISTENCE OF THE
7 TRIBES.

8 (d) IT IS THE POLICY OF THE STATE TO COOPERATE FULLY WITH
9 INDIAN TRIBES AND TRIBAL CITIZENS TO ENSURE THAT THE INTENT AND
10 PROVISIONS OF THE FEDERAL ICWA ARE ENFORCED; AND

11 (e) ADVANCING ICWA IS CONSISTENT WITH THE "COLORADO
12 CHILDREN'S CODE" AND WITH ARTICLE II OF THE STATE CONSTITUTION.

13 (3) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT THE
14 PURPOSE OF THIS ARTICLE 1.2 IS TO CODIFY THE FEDERAL "INDIAN CHILD
15 WELFARE ACT OF 1978" INTO STATE LAW AND TO PROVIDE ADDITIONAL
16 PROTECTIONS FOR INDIAN CHILDREN PURSUANT TO STATE LAW.

17 **19-1.2-103. Definitions.** AS USED IN THIS ARTICLE 1.2, UNLESS
18 THE CONTEXT OTHERWISE REQUIRES:

19 (1) "ACTIVE EFFORTS" MEANS EFFORTS THAT ARE AFFIRMATIVE,
20 ACTIVE, THOROUGH, TIMELY, AND INTENDED TO MAINTAIN OR REUNITE AN
21 INDIAN CHILD WITH THE INDIAN CHILD'S FAMILY BY PROVIDING REMEDIAL
22 SERVICES AND REHABILITATIVE PROGRAMS. "ACTIVE EFFORTS" REQUIRE
23 MORE THAN A REFERRAL TO A SERVICE AND MUST BE CONDUCTED IN
24 PARTNERSHIP WITH THE INDIAN CHILD, THE INDIAN CHILD'S PARENT OR
25 INDIAN CUSTODIAN, EXTENDED FAMILY MEMBERS, AND THE TRIBE.

26 (2) (a) "CHILD CUSTODY PROCEEDING" MEANS A CHILD CUSTODY
27 PROCEEDING WITHIN THE COURT'S JURISDICTION AND INCLUDES:

1 (I) FOSTER CARE PLACEMENTS, INCLUDING ANY ACTION REMOVING
2 AN INDIAN CHILD FROM THE INDIAN CHILD'S PARENT OR INDIAN
3 CUSTODIAN FOR TEMPORARY PLACEMENT IN A FOSTER HOME OR
4 INSTITUTION, OR THE HOME OF A GUARDIAN OR CONSERVATOR WHEN THE
5 INDIAN PARENT OR INDIAN CUSTODIAN CANNOT HAVE THE INDIAN CHILD
6 RETURNED UPON DEMAND BUT PARENTAL RIGHTS HAVE NOT BEEN
7 TERMINATED, INCLUDING, BUT NOT LIMITED TO, A HEARING HELD
8 PURSUANT TO SECTION 19-3-405, 19-3-507, 19-3-508, OR 19-3-702;

9 (II) TERMINATION OF PARENTAL RIGHTS, INCLUDING ANY ACTION
10 RESULTING IN THE TERMINATION OF THE PARENT-CHILD RELATIONSHIP;

11 (III) PRE-ADOPTIVE PLACEMENT, INCLUDING THE TEMPORARY
12 PLACEMENT OF AN INDIAN CHILD IN A FOSTER HOME OR INSTITUTION
13 AFTER THE TERMINATION OF PARENTAL RIGHTS BUT PRIOR TO OR IN LIEU
14 OF ADOPTIVE PLACEMENT;

15 (IV) ADOPTIVE PLACEMENT, INCLUDING THE PERMANENT
16 PLACEMENT OF AN INDIAN CHILD FOR ADOPTION AND ANY ACTION
17 RESULTING IN A FINAL DECREE OF ADOPTION;

18 (V) A PARENTAGE DETERMINATION; AND

19 (VI) GUARDIANSHIP OR ALLOCATION OF PARENTAL
20 RESPONSIBILITIES TO A NONPARENT, INCLUDING AN ACTION TAKEN IN A
21 PROBATE OR DOMESTIC RELATIONS CASE REMOVING AN INDIAN CHILD
22 FROM THE INDIAN CHILD'S PARENT OR INDIAN CUSTODIAN FOR TEMPORARY
23 PLACEMENT IN THE HOME OF A GUARDIAN, CONSERVATOR, OR NONPARENT
24 WHEN THE INDIAN CHILD'S PARENT OR INDIAN CUSTODIAN CANNOT HAVE
25 THE INDIAN CHILD RETURNED UPON DEMAND BUT PARENTAL RIGHTS HAVE
26 NOT BEEN TERMINATED.

27 (b) AN ACTION THAT MAY CULMINATE IN ONE OF THE OUTCOMES

1 DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION IS A SEPARATE CHILD
2 CUSTODY PROCEEDING FROM AN ACTION THAT MAY CULMINATE IN A
3 DIFFERENT ONE OF THE OUTCOMES. THERE MAY BE SEVERAL CHILD
4 CUSTODY PROCEEDINGS INVOLVING AN INDIAN CHILD, AND WITHIN EACH
5 CHILD CUSTODY PROCEEDING, THERE MAY BE SEVERAL SEPARATE
6 HEARINGS.

7 (c) "CHILD CUSTODY PROCEEDING" DOES NOT INCLUDE:

8 (I) A PROCEEDING FOR THE CUSTODY OR SUPPORT OF, OR
9 PARENTING TIME WITH, AN INDIAN CHILD THAT IS SOLELY BETWEEN TWO
10 PARENTS;

11 (II) AN EMERGENCY PROCEEDING AS DESCRIBED IN SECTION
12 19-1.2-110; OR

13 (III) A DELINQUENCY PROCEEDING OTHER THAN THOSE BASED
14 SOLELY ON A STATUS OFFENSE.

15 (3) "COURT" MEANS A DISTRICT COURT, JUVENILE COURT, OR
16 PROBATE COURT THAT IS PRESIDING OVER A CHILD CUSTODY PROCEEDING.

17 (4) "CUSTODY" OR "CONTINUED CUSTODY" MEANS HAVING LEGAL
18 OR PHYSICAL CUSTODY, OR BOTH, OF AN INDIAN CHILD PURSUANT TO
19 APPLICABLE TRIBAL LAW, TRIBAL CUSTOM, OR STATE LAW. AN INDIVIDUAL
20 HAS CUSTODY OF AN INDIAN CHILD IF THE INDIVIDUAL IS THE INDIAN
21 CHILD'S PARENT, IF THE INDIVIDUAL HAS PHYSICAL CUSTODY THROUGH AN
22 ARRANGEMENT WITH THE INDIAN CHILD'S PARENT OUTSIDE OF THE
23 INVOLVEMENT OF A CHILD WELFARE OR CHILD PLACEMENT AGENCY, OR IF
24 THE INDIVIDUAL HAS LEGAL CUSTODY OF THE INDIAN CHILD PURSUANT TO
25 APPLICABLE TRIBAL LAW, TRIBAL CUSTOM, OR STATE LAW. AN INDIAN
26 CHILD'S PARENT, AS DETERMINED PURSUANT TO SECTION 19-1.2-105, IS
27 DEEMED TO HAVE CUSTODY OR CONTINUED CUSTODY WHEN THE PARENT

1 ALREADY HAS OR HAD CUSTODY AT ANY POINT IN THE PAST.

2 (5) (a) "DOMICILE" MEANS THE PLACE AN INDIVIDUAL REGARDS AS
3 HOME, WHERE THE INDIVIDUAL INTENDS TO REMAIN, OR TO WHICH, IF
4 ABSENT, THE INDIVIDUAL INTENDS TO RETURN.

5 (b) AN INDIAN CHILD'S DOMICILE, IN ORDER OF PRIORITY, IS THE
6 DOMICILE OF:

7 (I) THE INDIAN CHILD'S PARENTS OR, IF THE INDIAN CHILD'S
8 PARENTS DO NOT HAVE THE SAME DOMICILE, THE INDIAN CHILD'S PARENT
9 WHO HAS PHYSICAL CUSTODY OF THE INDIAN CHILD;

10 (II) THE INDIAN CHILD'S INDIAN CUSTODIAN; OR

11 (III) THE INDIAN CHILD'S GUARDIAN.

12 (6) "DUE DILIGENCE" MEANS THE EARNEST ENDEAVOR OF THE
13 COURT AND THE PETITIONING OR FILING PARTY TO INVESTIGATE THE BASIS
14 FOR A PARTY'S OR OTHER INDIVIDUAL'S ASSERTION THAT A CHILD MAY BE
15 AN INDIAN CHILD, AS DESCRIBED IN SECTION 19-1.2-108.

16 (7) "EMERGENCY PROCEEDING" MEANS ANY COURT ACTION THAT
17 INVOLVES THE EMERGENCY REMOVAL OR EMERGENCY PLACEMENT OF AN
18 INDIAN CHILD, INCLUDING REMOVAL PURSUANT TO SECTION 19-1.2-110,
19 19-1.2-124, 19-3-405, 14-10-129 (4), OR 15-14-204 (5) WITH OR WITHOUT
20 A PROTECTIVE CUSTODY ORDER, OR A TEMPORARY SHELTER CARE
21 PROCEEDING PURSUANT TO SECTION 19-3-401 OR 19-3-403.

22 (8) (a) "EXTENDED FAMILY MEMBER" HAS THE SAME MEANING AS
23 GIVEN IN THE TRIBAL LAW OR TRIBAL CUSTOM OF THE INDIAN CHILD'S
24 TRIBE.

25 (b) IF THE MEANING OF "EXTENDED FAMILY MEMBER" CANNOT BE
26 DETERMINED PURSUANT TO SUBSECTION (8)(a) OF THIS SECTION,
27 "EXTENDED FAMILY MEMBER" MEANS AN INDIVIDUAL WHO HAS ATTAINED

1 EIGHTEEN YEARS OF AGE AND WHO IS THE INDIAN CHILD'S GRANDPARENT,
2 AUNT, UNCLE, BROTHER, SISTER, BROTHER-IN-LAW, SISTER-IN-LAW, NIECE,
3 NEPHEW, FIRST OR SECOND COUSIN, GODPARENT, STEPPARENT, OR
4 STEPGRANDPARENT, OR AS DETERMINED BY THE INDIAN CHILD'S TRIBE
5 MEMBER. EVEN FOLLOWING TERMINATION OF A MARRIAGE, A GODPARENT,
6 STEPPARENT, OR STEPGRANDPARENT IS CONSIDERED AN "EXTENDED
7 FAMILY MEMBER".

8 (9) "INDIAN" MEANS AN INDIVIDUAL WHO IS A MEMBER OF AN
9 INDIAN TRIBE OR WHO IS AN ALASKA NATIVE AND A MEMBER OF A
10 REGIONAL CORPORATION, AS DEFINED IN THE "ALASKA NATIVE CLAIMS
11 SETTLEMENT ACT", 43 U.S.C. SEC. 1606.

12 (10) "INDIAN CHILD" MEANS AN UNMARRIED INDIVIDUAL WHO HAS
13 NOT ATTAINED EIGHTEEN YEARS OF AGE AND:

14 (a) IS A MEMBER OR CITIZEN OF AN INDIAN TRIBE; OR

15 (b) IS ELIGIBLE FOR MEMBERSHIP OR CITIZENSHIP IN AN INDIAN
16 TRIBE AS DETERMINED BY THAT INDIAN TRIBE IN WRITING OR ORALLY ON
17 THE RECORD AND IS THE BIOLOGICAL CHILD OF A MEMBER OF AN INDIAN
18 TRIBE.

19 (11) "INDIAN CHILD WELFARE ACT OF 1978" OR "ICWA" MEANS
20 THE FEDERAL LAW FOUND AT 25 U.S.C. SEC. 1901 ET SEQ. AND ITS
21 IMPLEMENTING REGULATIONS.

22 (12) "INDIAN CUSTODIAN" MEANS AN INDIAN, OTHER THAN THE
23 INDIAN CHILD'S PARENT, WHO HAS BEEN GRANTED LEGAL CUSTODY OR
24 GUARDIANSHIP OF THE INDIAN CHILD PURSUANT TO TRIBAL LAW, TRIBAL
25 CUSTOM, OR STATE LAW, OR TO WHOM TEMPORARY PHYSICAL CARE,
26 CUSTODY, AND CONTROL HAS BEEN TRANSFERRED BY THE INDIAN CHILD'S
27 PARENT OUTSIDE THE INVOLVEMENT OF A CHILD WELFARE OR CHILD

1 PLACEMENT AGENCY.

2 (13) "INDIAN ORGANIZATION" MEANS A GROUP, ASSOCIATION,
3 PARTNERSHIP, CORPORATION, OR OTHER LEGAL ENTITY OWNED OR
4 CONTROLLED BY INDIANS OR WITH A MAJORITY OF INDIAN MEMBERS.

5 (14) "INDIAN TRIBE" OR "TRIBE" MEANS AN INDIAN TRIBE, CLAN,
6 BAND, NATION, OR OTHER ORGANIZED GROUP OR COMMUNITY OF INDIANS
7 FEDERALLY RECOGNIZED AS ELIGIBLE FOR THE SERVICES PROVIDED TO
8 INDIANS BY THE UNITED STATES SECRETARY OF THE INTERIOR BECAUSE
9 OF THEIR STATUS AS INDIANS, INCLUDING ANY ALASKA NATIVE VILLAGE
10 AS DEFINED IN THE FEDERAL "ALASKA NATIVE CLAIMS SETTLEMENT
11 ACT", 43 U.S.C. SEC. 1602 (c).

12 (15) "MEMBER" OR "MEMBERSHIP" MEANS A DETERMINATION BY
13 AN INDIAN TRIBE THROUGH ITS TRIBAL LAW OR TRIBAL CUSTOM THAT AN
14 INDIVIDUAL IS A MEMBER OR CITIZEN OF THAT INDIAN TRIBE.

15 (16) "PARENT" MEANS:

16 (a) A BIOLOGICAL PARENT OF AN INDIAN CHILD, EXCEPT FOR AN
17 UNWED FATHER WHOSE PARENTAGE HAS NOT BEEN ACKNOWLEDGED OR
18 ESTABLISHED PURSUANT TO SECTION 19-1.2-105, THE "UNIFORM
19 PARENTAGE ACT", ARTICLE 4 OF THIS TITLE 19, OR TRIBAL LAW;

20 (b) AN INDIVIDUAL WHO HAS LAWFULLY ADOPTED AN INDIAN
21 CHILD, INCLUDING AN ADOPTION MADE PURSUANT TO TRIBAL LAW OR
22 TRIBAL CUSTOM; OR

23 (c) A PARENT WHOSE PARENTAGE HAS BEEN ACKNOWLEDGED OR
24 ESTABLISHED PURSUANT TO SECTION 19-1.2-105, THE "UNIFORM
25 PARENTAGE ACT", ARTICLE 4 OF THIS TITLE 19, OR TRIBAL LAW.

26 (17) "PARTY" OR "PARTIES" MEANS A PARTY TO A CHILD CUSTODY
27 PROCEEDING.

1 (18) "REASON TO KNOW" MEANS THAT A COURT OR A PETITIONING
2 OR FILING PARTY HAS REASON TO KNOW THAT A CHILD IS AN INDIAN
3 CHILD, AS DESCRIBED IN SECTION 19-1.2-108.

4 (19) "RESERVATION" MEANS:

5 (a) INDIAN COUNTRY, AS DEFINED IN 18 U.S.C. SEC. 1151, AND
6 ANY LANDS NOT COVERED PURSUANT TO THAT SECTION AND TITLE THAT
7 ARE HELD BY THE UNITED STATES IN TRUST FOR THE BENEFIT OF AN
8 INDIAN TRIBE OR INDIVIDUAL OR HELD BY AN INDIAN TRIBE OR INDIVIDUAL
9 SUBJECT TO A RESTRICTION BY THE UNITED STATES AGAINST ALIENATION;
10 OR

11 (b) FOR THE SOUTHERN UTE INDIAN RESERVATION, THOSE LANDS
12 INCLUDE ANY LANDS CONFIRMED PURSUANT TO PUB.L. 98-290 AND ANY
13 OTHER LAND SUBSEQUENTLY PLACED IN TRUST BY THE UNITED STATES
14 FOR THE SOUTHERN UTE INDIAN TRIBE'S BENEFIT.

15 (20) "TERMINATION OF PARENTAL RIGHTS" INCLUDES THE
16 TERMINATION OF PARENTAL RIGHTS PURSUANT TO SECTION 19-3-604 OR
17 THE TERMINATION OF PARENTAL RIGHTS RESULTING FROM AN ADOPTION
18 PROCEEDING PURSUANT TO SECTION 19-5-101, 19-5-105.5, OR 19-5-105.7.

19 (21) "TRIBAL COURT" MEANS A COURT WITH JURISDICTION OVER
20 INDIAN CHILD CUSTODY PROCEEDINGS THAT IS EITHER A COURT OF INDIAN
21 OFFENSES, A COURT ESTABLISHED AND OPERATED UNDER THE LAW OR
22 CUSTOM OF AN INDIAN TRIBE, OR ANY OTHER ADMINISTRATIVE BODY OF
23 A TRIBE THAT IS VESTED WITH AUTHORITY OVER INDIAN CHILD CUSTODY
24 PROCEEDINGS.

25 (22) "TRIBAL CUSTOMARY ADOPTION" MEANS THE ADOPTION OF
26 AN INDIAN CHILD BY AND THROUGH TRIBAL LAW OR TRIBAL CUSTOM OF
27 THE INDIAN CHILD'S TRIBE AND THAT MAY BE EFFECTED WITHOUT THE

1 TERMINATION OF PARENTAL RIGHTS.

2 **19-1.2-104. Applicability - incorporation of federal law.**

3 (1) UNLESS EXPLICITLY STATED OTHERWISE IN THIS ARTICLE 1.2, ALL
4 PROVISIONS OF THIS ARTICLE 1.2 APPLY TO ALL CHILD CUSTODY
5 PROCEEDINGS; ANY MATTER BROUGHT PURSUANT TO THE "UNIFORM
6 DISSOLUTION OF MARRIAGE ACT", ARTICLE 10 OF TITLE 14; THE
7 "COLORADO PROBATE CODE", ARTICLES 10 TO 17 OF TITLE 15; ALL OTHER
8 PRIVATE MATTERS THAT MEET THE DEFINITION OF A CHILD CUSTODY
9 PROCEEDING; AND THE "COLORADO CHILDREN'S CODE", THIS TITLE 19.

10 (2) IN A CASE FILED PURSUANT TO THIS ARTICLE 1.2 THAT
11 CONSTITUTES A CHILD CUSTODY PROCEEDING, THE COURT AND EACH
12 PARTY TO THE PROCEEDING SHALL ALSO COMPLY WITH THE FEDERAL
13 IMPLEMENTING REGULATIONS OF THE FEDERAL "INDIAN CHILD WELFARE
14 ACT OF 1978" THAT OUTLINE THE MINIMUM FEDERAL STANDARDS
15 GOVERNING ICWA'S IMPLEMENTATION TO ENSURE THAT ICWA IS APPLIED
16 IN COLORADO CONSISTENT WITH THE ICWA'S EXPRESS LANGUAGE,
17 CONGRESS'S INTENT IN ENACTING ICWA, AND TO PROMOTE THE STABILITY
18 AND SECURITY OF INDIAN CHILDREN, TRIBES, AND FAMILIES.

19 (3) ALL PROVISIONS OF THE FEDERAL "INDIAN CHILD WELFARE
20 ACT OF 1978" ARE INCORPORATED INTO THIS ARTICLE 1.2, EVEN IF NOT
21 SPECIFICALLY REFERENCED. THIS ARTICLE 1.2 MAY PROVIDE ADDITIONAL
22 PROTECTIONS BEYOND THOSE REQUIRED BY THE FEDERAL ICWA, IN
23 WHICH CASE THE PROVISIONS OF THIS ARTICLE 1.2 APPLY.

24 **19-1.2-105. Parentage of an Indian child - acknowledged or**
25 **established - applicability of article.** (1) PARENTAGE OF AN INDIAN
26 CHILD IS ACKNOWLEDGED OR ESTABLISHED FOR PURPOSES OF THIS
27 ARTICLE 1.2 IF THE INDIVIDUAL'S PARENTAGE HAS BEEN:

- 1 (a) ESTABLISHED PURSUANT TO ARTICLE 4 OF THIS TITLE 19;
- 2 (b) ESTABLISHED PURSUANT TO TRIBAL LAW; OR
- 3 (c) RECOGNIZED IN ACCORDANCE WITH TRIBAL CUSTOM.

4 (2) (a) FOR PURPOSES OF DETERMINING THE BIOLOGICAL PARENT
5 OF AN INDIAN CHILD, A COURT MAY ORDER GENETIC TESTS PURSUANT TO
6 SECTION 19-4-112 OR 13-25-126.

7 (b) IF AN INDIVIDUAL FAILS TO COMPLY WITH THE COURT'S ORDER
8 FOR GENETIC TESTS WITHIN A REASONABLE AMOUNT OF TIME, THE COURT
9 MAY ISSUE A SUBPOENA PURSUANT TO SECTION 19-4-112 OR ISSUE AN
10 ORDER TO COMPEL THE INDIVIDUAL TO APPEAR FOR GENETIC TESTS.

11 (c) IF THE GENETIC TESTS ORDERED PURSUANT TO THIS
12 SUBSECTION (2) DO NOT CONFIRM THAT AN INDIVIDUAL IS THE BIOLOGICAL
13 PARENT OF THE CHILD AS PROVIDED IN SECTION 19-4-105 (1)(f), OR IF THE
14 INDIVIDUAL HAS REFUSED TO CONSENT TO THE GENETIC TESTS, THE
15 INDIVIDUAL IS NOT ESTABLISHED AS THE CHILD'S BIOLOGICAL PARENT.

16 (3) THIS ARTICLE 1.2 APPLIES IN ITS ENTIRETY IF AN INDIVIDUAL IS
17 DETERMINED TO BE A PARENT OF AN INDIAN CHILD.

18 **19-1.2-106. Best interests of an Indian child - factors to**
19 **consider.** (1) IN A CHILD CUSTODY PROCEEDING INVOLVING AN INDIAN
20 CHILD, WHEN MAKING A DETERMINATION REGARDING THE BEST INTERESTS
21 OF THE INDIAN CHILD, THE COURT SHALL, IN CONSULTATION WITH THE
22 INDIAN CHILD'S TRIBE AND TRIBAL COMMUNITY, CONSIDER THE
23 FOLLOWING:

24 (a) THE INDIAN CHILD'S MENTAL, PHYSICAL, AND EMOTIONAL
25 NEEDS, INCLUDING THE INDIAN CHILD'S PREFERENCES;

26 (b) THE PREVENTION OF UNNECESSARY OUT-OF-HOME PLACEMENT
27 OF THE INDIAN CHILD;

1 (c) THE PRIORITIZATION OF PLACEMENT OF THE INDIAN CHILD IN
2 ACCORDANCE WITH THE PLACEMENT PREFERENCES SET FORTH IN SECTION
3 19-1.2-120;

4 (d) THE VALUE TO THE INDIAN CHILD OF ESTABLISHING,
5 DEVELOPING, OR MAINTAINING A POLITICAL, CULTURAL, SOCIAL, AND
6 SPIRITUAL RELATIONSHIP WITH THE INDIAN CHILD'S TRIBE AND TRIBAL
7 COMMUNITY; AND

8 (e) THE IMPORTANCE TO THE INDIAN CHILD OF THE INDIAN TRIBE'S
9 OR TRIBAL COMMUNITY'S ABILITY TO MAINTAIN THE TRIBE'S OR TRIBAL
10 COMMUNITY'S EXISTENCE AND INTEGRITY FOR THE STABILITY AND
11 SECURITY OF INDIAN CHILDREN AND FAMILIES.

12 **19-1.2-107. Enrollment of an Indian child with a tribe.**

13 (1) UNLESS AN INDIAN CHILD'S PARENT OBJECTS, THE PETITIONING OR
14 FILING PARTY OR THE INDIAN TRIBE SHALL ASSIST IN ENROLLING AN
15 INDIAN CHILD WHO IS IN THE COURT'S JURISDICTION IN A TRIBE WITH
16 WHICH THE CHILD IS ELIGIBLE FOR ENROLLMENT. IF THE INDIAN CHILD IS
17 ELIGIBLE TO BE ENROLLED IN MORE THAN ONE TRIBE, THE COURT SHALL
18 DETERMINE MEMBERSHIP PURSUANT TO SECTION 19-1.2-108.

19 (2) IN ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION, WHEN
20 THE PETITIONING OR FILING PARTY, INCLUDING A COUNTY DEPARTMENT OR
21 A CHILD PLACEMENT AGENCY, HAS REASON TO KNOW THAT THE CHILD IS
22 AN INDIAN CHILD, THE PETITIONING OR FILING PARTY SHALL, AT A
23 MINIMUM, CONTACT IN WRITING OR ORALLY ON THE RECORD THE
24 RELEVANT TRIBE OR TRIBES WITH WHICH THE CHILD MAY BE ELIGIBLE FOR
25 ENROLLMENT TO DETERMINE IF THE CHILD IS IN FACT ELIGIBLE FOR
26 ENROLLMENT. THE NOTIFICATION TO THE RELEVANT TRIBE OR TRIBES MAY
27 BE DONE IN CONJUNCTION WITH THE NOTICE REQUIREMENTS SET FORTH IN

1 SECTION 19-1.2-108 (1)(b).

2 (3) IN A CHILD CUSTODY PROCEEDING, WHEN THE PETITIONING OR
3 FILING PARTY HAS REASON TO KNOW THAT THE CHILD IS AN INDIAN CHILD
4 AND THAT THE INDIAN CHILD IS ELIGIBLE FOR ENROLLMENT IN A TRIBE,
5 SUCH AS IF A PARENT CLAIMS TRIBAL AFFILIATION, THE PETITIONING OR
6 FILING PARTY SHALL NOTIFY THE INDIAN CHILD AND THE INDIAN CHILD'S
7 PARENT OF THE PARENT'S RIGHT TO OBJECT TO THE PETITIONING OR FILING
8 PARTY'S ASSISTANCE PURSUANT TO SUBSECTION (1) OF THIS SECTION.

9 **19-1.2-108. Initial disclosures - inquiry and determination -**
10 **form of inquiry - due diligence - Indian child's tribe - written**
11 **findings. (1) Initial disclosures.** THE PETITIONING OR FILING PARTY
12 SHALL DISCLOSE IN THE COMPLAINT, PETITION, OR OTHER COMMENCING
13 PLEADING FILED WITH THE COURT THAT THE CHILD WHO IS THE SUBJECT OF
14 THE CHILD CUSTODY PROCEEDING IS AN INDIAN CHILD AND THE IDENTITY
15 OF THE INDIAN CHILD'S TRIBE OR TRIBES, OR EFFORTS THE PETITIONING OR
16 FILING PARTY HAS MADE IN DETERMINING WHETHER THE CHILD IS AN
17 INDIAN CHILD, INCLUDING, BUT NOT LIMITED TO:

18 (a) IF THE PETITIONING OR FILING PARTY INDICATES IN THE
19 COMPLAINT, PETITION, OR OTHER COMMENCING PLEADING THAT THE CHILD
20 WHO IS THE SUBJECT OF THE CHILD CUSTODY PROCEEDING IS AN INDIAN
21 CHILD, THE PETITIONING OR FILING PARTY SHALL FURTHER IDENTIFY WHAT
22 REASONABLE EFFORTS HAVE BEEN MADE TO SEND NOTICE TO THE
23 INDIVIDUALS IDENTIFIED IN SUBSECTION (3)(d) OF THIS SECTION;

24 (b) THE POSTAL RECEIPTS OR COPIES OF POSTAL RECEIPTS FROM
25 THE NOTICE SENT PURSUANT TO SUBSECTION (3)(d) OF THIS SECTION
26 INDICATING THAT THE NOTICE WAS PROPERLY SENT BY THE PETITIONING
27 OR FILING PARTY TO THE INDIAN CHILD'S PARENT OR INDIAN CUSTODIAN

1 AND TO THE INDIAN CHILD'S TRIBE OR TRIBES. THE POSTAL RECEIPTS MUST
2 BE ATTACHED TO THE COMPLAINT, PETITION, OR OTHER COMMENCING
3 PLEADING FILED WITH THE COURT; EXCEPT THAT, IF NOTIFICATION HAS
4 NOT BEEN PERFECTED AT THE TIME THE INITIAL COMPLAINT, PETITION, OR
5 OTHER COMMENCING PLEADING IS FILED WITH THE COURT, OR IF THE
6 POSTAL RECEIPTS HAVE NOT BEEN RECEIVED BACK FROM THE POST OFFICE,
7 THE PETITIONING OR FILING PARTY SHALL FILE THE POSTAL RECEIPTS WITH
8 THE COURT UPON RECEIPT OF THE POSTAL RECEIPTS.

9 (c) ANY RESPONSES SENT BY A TRIBAL AGENT TO THE PETITIONING
10 OR FILING PARTY, A COUNTY DEPARTMENT, OR THE COURT, WHICH
11 RESPONSES MUST BE DISTRIBUTED TO THE PARTIES AND FILED WITH THE
12 COURT.

13 (2) **Indian child inquiry and determination.** AT THE
14 COMMENCEMENT OF EACH CHILD CUSTODY PROCEEDING, THE COURT
15 SHALL MAKE INQUIRIES TO DETERMINE WHETHER THE CHILD WHO IS THE
16 SUBJECT OF THE PROCEEDING IS AN INDIAN CHILD. IN DETERMINING
17 WHETHER THE CHILD IS AN INDIAN CHILD:

18 (a) THE COURT SHALL ASK EACH PARTICIPANT IN AN EMERGENCY,
19 VOLUNTARY, OR INVOLUNTARY CHILD CUSTODY PROCEEDING WHETHER
20 THE PARTICIPANT KNOWS OR HAS REASON TO KNOW THAT THE CHILD IS AN
21 INDIAN CHILD OR WHETHER THE PARTICIPANT HAS INFORMATION THAT IS
22 RELEVANT TO DETERMINING WHETHER THE CHILD IS AN INDIAN CHILD.
23 ANY RESPONSE TO THE INQUIRY MUST BE MADE ON THE RECORD. THE
24 COURT SHALL INSTRUCT THE PARTICIPANTS TO INFORM THE COURT IF A
25 PARTICIPANT SUBSEQUENTLY RECEIVES INFORMATION THAT PROVIDES
26 REASON TO KNOW THE CHILD IS AN INDIAN CHILD.

27 (b) NO LATER THAN THE FIRST APPEARANCE AFTER AN EXPEDITED

1 HEARING HELD PURSUANT TO SECTION 19-3-217 OR 19-3-403, EACH PARTY
2 TO THE CHILD CUSTODY PROCEEDING SHALL DISCLOSE TO THE COURT AND
3 THE PETITIONING AND FILING PARTIES INFORMATION INDICATING THAT THE
4 CHILD IS AN INDIAN CHILD, INCLUDING, BUT NOT LIMITED TO, PROVIDING
5 AN IDENTIFICATION CARD INDICATING THE CHILD'S MEMBERSHIP IN A
6 TRIBE. THE COURT SHALL ORDER THE PARTIES TO PROVIDE INFORMATION
7 LEARNED THEREAFTER TO THE COURT AND ALL PARTIES NO LATER THAN
8 SEVEN DAYS AFTER RECEIVING THE RELEVANT INFORMATION OR PRIOR TO
9 THE NEXT HEARING ON THE MATTER, WHICHEVER OCCURS FIRST.

10 (3) **Form of inquiry.** (a) AT THE COMMENCEMENT OF THE CHILD
11 CUSTODY PROCEEDING, THE PETITIONING OR FILING PARTY SHALL MAKE A
12 RECORD, EITHER IN WRITING OR ORALLY IN OPEN COURT ON THE RECORD,
13 OF THE PARTY'S GOOD FAITH EFFORTS TO DETERMINE WHETHER THE CHILD
14 IS AN INDIAN CHILD, INCLUDING, AT A MINIMUM, INQUIRIES MADE BY
15 CONSULTING WITH:

16 (I) THE CHILD, DIRECTLY OR THROUGH THE CHILD'S
17 REPRESENTATIVE;

18 (II) THE CHILD'S PARENT OR PARENTS;

19 (III) AN INDIVIDUAL HAVING CUSTODY OF THE CHILD OR WITH
20 WHOM THE CHILD RESIDES;

21 (IV) THE CHILD'S EXTENDED FAMILY MEMBERS;

22 (V) ANY OTHER INDIVIDUAL WHO MAY REASONABLY BE EXPECTED
23 TO HAVE INFORMATION REGARDING THE CHILD'S MEMBERSHIP OR
24 ELIGIBILITY FOR MEMBERSHIP IN AN INDIAN TRIBE; AND

25 (VI) AN INDIAN TRIBE WHEN INFORMATION FROM INQUIRIES MADE
26 PURSUANT TO SUBSECTIONS (3)(a)(I) TO (3)(a)(V) OF THIS SECTION
27 INDICATE THAT THERE IS A REASONABLE LIKELIHOOD THAT THE INDIAN

1 TRIBE MAY PROVIDE ADDITIONAL INFORMATION REGARDING WHETHER THE
2 CHILD IS A MEMBER OF THAT TRIBE OR WHETHER THE CHILD MAY BE
3 ELIGIBLE FOR MEMBERSHIP IN THAT TRIBE.

4 (b) THE COURT, UPON REVIEWING THE RECORD OF INQUIRIES MADE
5 PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION, HAS REASON TO KNOW
6 THAT A CHILD IS AN INDIAN CHILD IF:

7 (I) A PARTICIPANT IN THE CHILD CUSTODY PROCEEDING, AN
8 OFFICER OF THE COURT INVOLVED IN THE CHILD CUSTODY PROCEEDING, AN
9 INDIAN TRIBE, AN INDIAN ORGANIZATION, OR AN AGENCY INFORMS THE
10 COURT THAT THE CHILD IS AN INDIAN CHILD;

11 (II) A PARTICIPANT IN THE CHILD CUSTODY PROCEEDING, AN
12 OFFICER OF THE COURT INVOLVED IN THE CHILD CUSTODY PROCEEDING, AN
13 INDIAN TRIBE, AN INDIAN ORGANIZATION, OR AN AGENCY INFORMS THE
14 COURT THAT IT HAS DISCOVERED INFORMATION INDICATING THAT THE
15 CHILD IS AN INDIAN CHILD;

16 (III) THE CHILD WHO IS THE SUBJECT OF THE CHILD CUSTODY
17 PROCEEDING GIVES THE COURT REASON TO KNOW THAT THE CHILD IS AN
18 INDIAN CHILD;

19 (IV) THE COURT IS INFORMED THAT THE DOMICILE OR RESIDENCE
20 OF THE CHILD, THE CHILD'S PARENT, OR THE CHILD'S INDIAN CUSTODIAN IS
21 OR WAS ON A RESERVATION OF A FEDERALLY RECOGNIZED INDIAN TRIBE
22 OR IN AN ALASKA NATIVE VILLAGE;

23 (V) THE COURT IS INFORMED THAT THE CHILD IS OR HAS BEEN A
24 WARD OF A TRIBAL COURT, AS DEFINED IN 25 U.S.C. SEC. 1903;

25 (VI) THE COURT IS INFORMED THAT THE CHILD OR THE CHILD'S
26 PARENT POSSESSES AN IDENTIFICATION CARD OR OTHER SUFFICIENT
27 DOCUMENTATION INDICATING MEMBERSHIP IN AN INDIAN TRIBE;

1 (VII) THE COURT IS INFORMED THAT THE PARENT OR CHILD
2 RECEIVED HEALTH SERVICES FROM AN INDIAN HEALTH SERVICE OR TRIBAL
3 HEALTH FACILITY;

4 (VIII) THE COURT OR THE PETITIONING OR FILING PARTY RECEIVES
5 ANY OTHER REASONABLY CREDIBLE INFORMATION, REGARDLESS OF
6 ADMISSIBILITY, THAT A PARENT OR THE CHILD HAS AN IDENTIFIABLE
7 CONNECTION WITH A SPECIFIC FEDERALLY RECOGNIZED TRIBE OR TRIBES
8 BEYOND A GENERALIZED ASSERTION OF HERITAGE;

9 (IX) THE COURT IS INFORMED THAT THERE ARE SCHOOL RECORDS
10 INDICATING THAT THE CHILD IS AN ENROLLED MEMBER OF AN INDIAN
11 TRIBE; OR

12 (X) AFTER PERFORMING DUE DILIGENCE PURSUANT TO SUBSECTION
13 (4) OF THIS SECTION, INFORMATION IS PRESENTED TO THE COURT THAT
14 SUBSECTIONS (3)(b)(I) TO (3)(b)(IX) OF THIS SECTION APPLY OR THAT THE
15 CHILD IS AN INDIAN CHILD.

16 (c) THE COURT SHALL MAKE SPECIFIC FINDINGS, EITHER IN WRITING
17 OR ORALLY ON THE RECORD, REGARDING ITS REASON TO KNOW THAT THE
18 CHILD IS AN INDIAN CHILD.

19 (d) IF THE COURT KNOWS, OR HAS REASON TO KNOW AS DESCRIBED
20 IN SUBSECTION (3)(b) OF THIS SECTION, THAT THE CHILD WHO IS THE
21 SUBJECT OF THE CHILD CUSTODY PROCEEDING IS AN INDIAN CHILD, THE
22 PETITIONING OR FILING PARTY SHALL SEND NOTICE BY REGISTERED OR
23 CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE PARENT OF THE
24 CHILD, THE CHILD'S INDIAN CUSTODIAN, AND THE TRIBAL AGENT OF THE
25 INDIAN CHILD'S TRIBE OR TRIBES, OR, IF THERE IS NOT A DESIGNATED
26 TRIBAL AGENT, THE PETITIONING OR FILING PARTY SHALL CONTACT THE
27 INDIAN TRIBE FOR DIRECTION TO THE APPROPRIATE OFFICE OR INDIVIDUAL.

1 IN PROVIDING THE NOTICE, THE COURT AND EACH PARTY SHALL COMPLY
2 WITH THE FEDERAL ICWA AND THIS ARTICLE 1.2.

3 (4) (a) **Due diligence.** IF THE COURT RECEIVES INFORMATION THAT
4 THE CHILD MAY HAVE INDIAN HERITAGE BUT THE COURT LACKS
5 SUFFICIENT INFORMATION TO DETERMINE THAT THERE IS REASON TO KNOW
6 THAT THE CHILD IS AN INDIAN CHILD PURSUANT TO SUBSECTION (3) OF
7 THIS SECTION, THE COURT SHALL DIRECT THE PETITIONING OR FILING
8 PARTY TO EXERCISE DUE DILIGENCE IN GATHERING ADDITIONAL
9 INFORMATION PURSUANT TO SUBSECTION (4)(b) OF THIS SECTION, ENSURE
10 THAT THE DUE DILIGENCE REQUIREMENTS ARE FOLLOWED, AND ENSURE
11 THAT ALL INFORMATION KNOWN TO THE PARTIES IS DISCLOSED IN WRITING
12 OR ORALLY ON THE RECORD. THE COURT SHALL DIRECT THE PETITIONING
13 OR FILING PARTY TO MAKE A RECORD, EITHER IN WRITING OR ORALLY ON
14 THE RECORD, OF THE DUE DILIGENCE EFFORTS TAKEN TO DETERMINE
15 WHETHER THERE IS REASON TO KNOW THAT THE CHILD IS AN INDIAN
16 CHILD.

17 (b) IN PERFORMING DUE DILIGENCE, THE PETITIONING OR FILING
18 PARTY SHALL, AT A MINIMUM:

19 (I) ASK EACH PARTY, INCLUDING THE CHILD DIRECTLY OR
20 THROUGH THE CHILD'S REPRESENTATIVE, WHAT INFORMATION THE PARTY
21 HAS REGARDING THE CHILD'S INDIAN HERITAGE, IF ANY;

22 (II) ASK OR EARNESTLY ATTEMPT TO ASK EACH PARENT WHAT
23 INFORMATION THE PARENT HAS REGARDING THE CHILD'S INDIAN
24 HERITAGE, IF ANY; WHERE AND HOW THE PARENT RECEIVED THE
25 INFORMATION; AND WHAT, IF ANY, OTHER INFORMATION SOURCES THE
26 PARENT BELIEVES MAY HAVE ADDITIONAL INFORMATION REGARDING THE
27 CHILD'S INDIAN HERITAGE, IF ANY, INCLUDING OTHER RELATIVES AND

1 THEIR CONTACT INFORMATION, IF KNOWN OR REASONABLY OBTAINED;

2 (III) CONDUCT SEARCHES FOR FAMILY AND DOCUMENT-IDENTIFIED
3 FAMILY RELATIVES OR KIN WHO MAY HAVE INFORMATION REGARDING THE
4 CHILD'S INDIAN HERITAGE, IF ANY;

5 (IV) ASK OR ATTEMPT TO ASK IDENTIFIED FAMILY RELATIVES OR
6 KIN FOR INFORMATION THE RELATIVES OR KIN HAVE REGARDING THE
7 CHILD'S INDIAN HERITAGE, IF ANY, AND WHERE AND HOW THE RELATIVES
8 OR KIN RECEIVED THAT INFORMATION;

9 (V) REVIEW COURT AND AGENCY RECORDS IDENTIFIED BY THE
10 PARENTS AND PROVIDED TO THE PETITIONER OR FILING PARTY, OR TO
11 WHICH THE PETITIONER OR FILING PARTY HAS PREVIOUSLY BEEN GRANTED
12 ACCESS THROUGH THE STATE AUTOMATED CHILD WELFARE SYSTEM OR
13 THE ICON SYSTEM AT THE STATE JUDICIAL DEPARTMENT, FOR ALL CHILD
14 CUSTODY PROCEEDINGS RELATED TO THE CHILD AND PARENTS FOR
15 INFORMATION REGARDING THE CHILD'S INDIAN HERITAGE, IF ANY;

16 (VI) CONTACT THE TRIBAL REPRESENTATIVE OR REPRESENTATIVES
17 BY EMAIL, PHONE CALL, LETTER, OR ANY OTHER MEANS AGREED TO BY THE
18 PARTIES REGARDING WHETHER THE CHILD MAY BE ELIGIBLE FOR TRIBAL
19 MEMBERSHIP WHEN INFORMED THAT A PARENT, CHILD, OR SPECIFIC
20 EXTENDED FAMILY MEMBER HAS A POTENTIAL CONNECTION WITH A
21 FEDERALLY RECOGNIZED TRIBE OR TRIBES; AND

22 (VII) IF A KNOWN CONNECTION HAS NOT BEEN IDENTIFIED
23 PURSUANT TO THIS SUBSECTION (4)(b) BUT THE COURT OR PETITIONING OR
24 FILING PARTY RECEIVES A REASONABLY CREDIBLE ASSERTION OF THE
25 CHILD'S INDIAN HERITAGE WITHOUT IDENTIFICATION OF A SPECIFIC TRIBE
26 OR TRIBES BUT NARROWED TO A REGION OF THE UNITED STATES, ASK ALL
27 RELEVANT TRIBES IN THAT IDENTIFIED REGION OR THE RELEVANT BUREAU

1 OF INDIAN AFFAIRS OFFICE IF THE RELEVANT TRIBES OR BUREAU HAVE
2 INFORMATION RELEVANT TO THE DETERMINATION THAT THE CHILD IS AN
3 INDIAN CHILD.

4 (5) (a) **Indian child's tribe.** IF THE CHILD IS AN INDIAN CHILD, THE
5 INDIAN CHILD'S TRIBE IS:

6 (I) THE TRIBE OF WHICH THE INDIAN CHILD IS A MEMBER OR
7 ELIGIBLE FOR MEMBERSHIP IF THE INDIAN CHILD IS A MEMBER OF OR IS
8 ELIGIBLE FOR MEMBERSHIP IN ONLY ONE TRIBE;

9 (II) THE TRIBE OF WHICH THE INDIAN CHILD IS A MEMBER IF THE
10 INDIAN CHILD IS A MEMBER OF ONE TRIBE BUT IS ELIGIBLE FOR
11 MEMBERSHIP IN ONE OR MORE OTHER TRIBES; OR

12 (III) IF THE INDIAN CHILD IS A MEMBER OF MORE THAN ONE TRIBE
13 OR IF THE INDIAN CHILD IS NOT A MEMBER OF ANY TRIBE BUT IS ELIGIBLE
14 FOR MEMBERSHIP IN MORE THAN ONE TRIBE:

15 (A) THE TRIBE DESIGNATED BY AN AGREEMENT BETWEEN THE
16 TRIBES OF WHICH THE INDIAN CHILD IS A MEMBER OR IN WHICH THE INDIAN
17 CHILD IS ELIGIBLE FOR MEMBERSHIP; OR

18 (B) IF THE TRIBES ARE UNABLE TO AGREE ON THE DESIGNATION OF
19 THE INDIAN CHILD'S TRIBE, THE TRIBE DESIGNATED BY THE COURT.

20 (b) WHEN DESIGNATING AN INDIAN CHILD'S TRIBE PURSUANT TO
21 SUBSECTION (5)(a)(III)(A) OF THIS SECTION, THE COURT SHALL, AFTER A
22 HEARING, DESIGNATE THE TRIBE WITH WHICH THE INDIAN CHILD HAS THE
23 MORE SIGNIFICANT CONTACTS, TAKING INTO CONSIDERATION:

24 (I) THE PREFERENCE OF THE INDIAN CHILD'S PARENT;

25 (II) THE DURATION OF THE INDIAN CHILD'S RESIDENCY AT THEIR
26 CURRENT OR PRIOR DOMICILE OR RESIDENCE ON OR NEAR THE
27 RESERVATION OF EACH TRIBE;

1 (III) THE TRIBAL MEMBERSHIP OF THE INDIAN CHILD'S PARENT OR
2 INDIAN CUSTODIAN;

3 (IV) THE INTERESTS ASSERTED BY EACH TRIBE;

4 (V) WHETHER A TRIBE HAS PREVIOUSLY ADJUDICATED A CASE
5 INVOLVING THE INDIAN CHILD; AND

6 (VI) THE SELF-IDENTIFICATION OF THE INDIAN CHILD IF THE COURT
7 DETERMINES THAT THE INDIAN CHILD IS OF SUFFICIENT AGE AND CAPACITY
8 TO MEANINGFULLY SELF-IDENTIFY.

9 (6) **Written findings.** THE COURT SHALL MAKE WRITTEN FINDINGS
10 DETERMINING WHETHER THE PETITIONING OR FILING PARTY:

11 (a) SATISFIED ITS INQUIRY AND DUE DILIGENCE REQUIREMENTS
12 CONCERNING WHETHER THE CHILD IS AN INDIAN CHILD OR WHETHER
13 THERE IS REASON TO KNOW THAT THE CHILD IS AN INDIAN CHILD;

14 (b) VERIFIED WHETHER THE CHILD IS IN FACT A MEMBER OF A
15 TRIBE, OR A BIOLOGICAL PARENT OF THE CHILD IS A MEMBER OF A TRIBE,
16 AND THE CHILD IS ELIGIBLE FOR MEMBERSHIP;

17 (c) DOCUMENTED ALL CONTACT WITH:

18 (I) THE RESPECTIVE TRIBE OR TRIBES. THIS CONTACT MUST
19 INCLUDE AT LEAST TWO CONTACTS OR GOOD FAITH ATTEMPTS TO
20 CONTACT THE TRIBE OR TRIBES WITHIN SEVENTY DAYS AFTER THE
21 FINDING, UNLESS THE TRIBE OR TRIBES PROVIDED WRITTEN
22 DOCUMENTATION INDICATING MEMBERSHIP, ELIGIBILITY, OR INELIGIBILITY
23 OF THE CHILD.

24 (II) THE BUREAU OF INDIAN AFFAIRS TO SEEK ASSISTANCE WITH
25 CONTACTING THE TRIBE OR TRIBES, IF GOOD FAITH ATTEMPTS TO CONTACT
26 THE TRIBE OR TRIBES HAVE BEEN UNSUCCESSFUL; AND

27 (d) TREATED THE CHILD AS AN INDIAN CHILD, UNLESS AND UNTIL

1 IT IS DETERMINED ON THE RECORD THAT THE CHILD DOES NOT MEET THE
2 DEFINITION OF AN INDIAN CHILD.

3 **19-1.2-109. Formal notice - language, accessibility, and content**
4 **requirements.** (1) NOTICES REQUIRED BY THIS ARTICLE 1.2 MUST BE
5 PROVIDED IN CLEAR, ACCESSIBLE, AND UNDERSTANDABLE LANGUAGE AND
6 INCLUDE THE FOLLOWING INFORMATION:

7 (a) THE INDIAN CHILD'S NAME, DATE OF BIRTH, AND PLACE OF
8 BIRTH;

9 (b) TO THE EXTENT KNOWN, ALL NAMES, INCLUDING MAIDEN,
10 MARRIED, AND FORMER NAMES OR ALIASES OF THE INDIAN CHILD'S
11 PARENTS, THE PARENTS' BIRTHPLACES, AND THE PARENTS' TRIBAL
12 ENROLLMENT INFORMATION;

13 (c) TO THE EXTENT KNOWN, THE NAMES, DATES OF BIRTH, PLACES
14 OF BIRTH, AND TRIBAL ENROLLMENT INFORMATION OF OTHER DIRECT
15 LINEAL ANCESTORS OF THE INDIAN CHILD;

16 (d) THE NAME OF EACH INDIAN TRIBE OF WHICH THE INDIAN CHILD
17 IS A MEMBER OR IN WHICH THE INDIAN CHILD MAY BE ELIGIBLE FOR
18 MEMBERSHIP;

19 (e) TO THE EXTENT KNOWN, INFORMATION REGARDING THE INDIAN
20 CHILD'S DIRECT LINEAL ANCESTORS, AN ANCESTRAL CHART FOR EACH
21 BIOLOGICAL PARENT, AND THE INDIAN CHILD'S TRIBAL AFFILIATION AND
22 BLOOD QUANTUM;

23 (f) A COPY OF THE PETITION OR MOTION INITIATING THE
24 PROCEEDING AND, IF A HEARING HAS BEEN SCHEDULED, INFORMATION ON
25 THE DATE, TIME, AND LOCATION OF THE HEARING;

26 (g) THE NAME OF THE PETITIONING OR FILING PARTY AND THE
27 NAME AND ADDRESS OF THE PARTY'S ATTORNEY;

1 (h) A STATEMENT THAT THE INDIAN CHILD'S PARENT OR INDIAN
2 CUSTODIAN HAS THE RIGHT TO PARTICIPATE IN THE PROCEEDING
3 PURSUANT TO SECTION 19-1.2-113;

4 (i) A STATEMENT THAT THE INDIAN CHILD'S TRIBE HAS THE RIGHT
5 TO INTERVENE OR PARTICIPATE IN THE PROCEEDING AS A PARTY OR IN AN
6 ADVISORY CAPACITY PURSUANT TO SECTION 19-1.2-113;

7 (j) A STATEMENT THAT IF THE COURT DETERMINES THAT THE
8 INDIAN CHILD'S PARENT OR INDIAN CUSTODIAN IS UNABLE TO AFFORD
9 COUNSEL, THE PARENT OR INDIAN CUSTODIAN HAS THE RIGHT TO
10 COURT-APPOINTED COUNSEL;

11 (k) A STATEMENT THAT THE INDIAN CHILD'S PARENT, INDIAN
12 CUSTODIAN, OR TRIBE HAS THE RIGHT, UPON REQUEST, TO UP TO TWENTY
13 ADDITIONAL DAYS TO PREPARE FOR THE PROCEEDING;

14 (l) A STATEMENT THAT THE INDIAN CHILD'S PARENT, INDIAN
15 CUSTODIAN, OR TRIBE HAS THE RIGHT TO PETITION THE COURT TO
16 TRANSFER THE CHILD CUSTODY PROCEEDING TO THE TRIBAL COURT;

17 (m) A STATEMENT DESCRIBING THE POTENTIAL LEGAL
18 CONSEQUENCES OF THE PROCEEDING ON FUTURE PARENTAL AND
19 CUSTODIAL RIGHTS OF THE INDIAN CHILD'S PARENT OR INDIAN CUSTODIAN;

20 (n) THE MAILING ADDRESS AND TELEPHONE NUMBERS OF THE
21 COURT AND CONTACT INFORMATION FOR ALL PARTIES TO THE PROCEEDING
22 AND THE INDIVIDUALS NOTIFIED PURSUANT TO THIS SECTION; AND

23 (o) A STATEMENT THAT THE INFORMATION CONTAINED IN THE
24 NOTICE IS CONFIDENTIAL AND MUST NOT BE SHARED WITH ANY INDIVIDUAL
25 WHO DOES NOT NEED THE INFORMATION TO EXERCISE RIGHTS PURSUANT
26 TO THIS ARTICLE 1.2.

27 (2) IF THE INDIAN CHILD'S PARENT OR INDIAN CUSTODIAN HAS

1 LIMITED ENGLISH PROFICIENCY AND MAY NOT UNDERSTAND THE
2 CONTENTS OF THE NOTICE PROVIDED PURSUANT TO THIS SECTION, THE
3 COURT SHALL PROVIDE LANGUAGE ACCESS SERVICES AS REQUIRED BY
4 TITLE VI OF THE FEDERAL "CIVIL RIGHTS ACT OF 1964", 42 U.S.C. SEC.
5 2000e ET SEQ., AND OTHER APPLICABLE FEDERAL AND STATE LAWS. IF THE
6 COURT IS UNABLE TO SECURE TRANSLATION OR INTERPRETATION SUPPORT,
7 THE COURT SHALL CONTACT OR DIRECT A PARTY TO CONTACT THE INDIAN
8 CHILD'S TRIBE OR THE LOCAL OFFICE OF THE FEDERAL BUREAU OF INDIAN
9 AFFAIRS FOR ASSISTANCE IDENTIFYING A QUALIFIED TRANSLATOR OR
10 INTERPRETER.

11 (3) (a) A HEARING THAT REQUIRES NOTICE PURSUANT TO THIS
12 SECTION MUST NOT BE HELD UNTIL AT LEAST TEN DAYS AFTER THE LATEST
13 RECEIPT OF THE NOTICE BY THE INDIAN CHILD'S PARENT, INDIAN
14 CUSTODIAN, TRIBE, OR, IF APPLICABLE, THE FEDERAL BUREAU OF INDIAN
15 AFFAIRS. UPON REQUEST, THE COURT SHALL GRANT THE INDIAN CHILD'S
16 PARENT, INDIAN CUSTODIAN, OR TRIBE UP TO TWENTY-ONE ADDITIONAL
17 DAYS AFTER THE DATE UPON WHICH NOTICE WAS RECEIVED BY THE INDIAN
18 CHILD'S PARENT, INDIAN CUSTODIAN, OR TRIBE TO PREPARE FOR
19 PARTICIPATION IN THE HEARING.

20 (b) THIS SUBSECTION (3) DOES NOT PREVENT A COURT, DURING AN
21 EMERGENCY PROCEEDING BEFORE THE EXPIRATION OF THE WAITING
22 PERIOD DESCRIBED IN SUBSECTION (3)(a) OF THIS SECTION, FROM
23 REVIEWING THE REMOVAL OF AN INDIAN CHILD FROM THE INDIAN CHILD'S
24 PARENT OR INDIAN CUSTODIAN TO DETERMINE WHETHER THE REMOVAL OR
25 PLACEMENT IS NO LONGER NECESSARY TO PREVENT IMMINENT PHYSICAL
26 HARM OR DANGER TO THE INDIAN CHILD.

27 **19-1.2-110. Emergency proceeding - emergency removal -**

1 **termination of emergency - duration.** (1) IF AN INDIVIDUAL OR AGENCY
2 TAKES A CHILD INTO PROTECTIVE CUSTODY, THE INDIVIDUAL OR AGENCY
3 SHALL, AT THE COMMENCEMENT OF THE EMERGENCY PROCEEDING, MAKE
4 A GOOD FAITH EFFORT TO:

5 (a) DETERMINE WHETHER THE INDIVIDUAL OR AGENCY HAS
6 REASON TO KNOW THAT THE CHILD IS AN INDIAN CHILD PURSUANT TO
7 SECTION 19-1.2-108 (3); AND

8 (b) CONTACT BY TELEPHONE, EMAIL, FACSIMILE, OR OTHER MEANS
9 OF IMMEDIATE COMMUNICATION ANY TRIBE OF WHICH THE CHILD IS OR
10 MAY BE A MEMBER OR ELIGIBLE FOR MEMBERSHIP TO DETERMINE THE
11 CHILD'S TRIBAL AFFILIATION. NOTIFICATION MUST INCLUDE THE BASIS FOR
12 THE CHILD'S REMOVAL; THE TIME, DATE, AND PLACE OF THE INITIAL
13 HEARING; AND A STATEMENT THAT THE TRIBE HAS THE RIGHT TO
14 PARTICIPATE IN THE PROCEEDING AS A PARTY OR IN AN ADVISORY
15 CAPACITY PURSUANT TO SECTION 19-1.2-113.

16 (2) AN EMERGENCY REMOVAL OR PLACEMENT OF AN INDIAN CHILD
17 PURSUANT TO THIS SECTION TERMINATES IMMEDIATELY WHEN THE
18 REMOVAL OR PLACEMENT IS NO LONGER NECESSARY TO PREVENT
19 IMMINENT PHYSICAL HARM OR DANGER TO THE INDIAN CHILD. IN SUCH A
20 REMOVAL OR PLACEMENT, THE COURT SHALL:

21 (a) MAKE A FINDING ON THE RECORD THAT THE EMERGENCY
22 REMOVAL OR PLACEMENT IS NECESSARY TO PREVENT IMMINENT PHYSICAL
23 HARM OR DANGER TO THE INDIAN CHILD;

24 (b) PROMPTLY HOLD A HEARING ON WHETHER THE EMERGENCY
25 REMOVAL OR PLACEMENT CONTINUES TO BE NECESSARY WHEN NEW
26 INFORMATION INDICATES THAT THE EMERGENCY SITUATION HAS ENDED;

27 (c) AT ANY COURT HEARING DURING THE EMERGENCY

1 PROCEEDING, DETERMINE WHETHER THE EMERGENCY REMOVAL OR
2 PLACEMENT IS NO LONGER NECESSARY TO PREVENT IMMINENT PHYSICAL
3 HARM OR DANGER TO THE INDIAN CHILD; AND

4 (d) IMMEDIATELY TERMINATE, OR ENSURE THAT THE INDIVIDUAL
5 OR AGENCY THAT TOOK THE CHILD INTO PROTECTIVE CUSTODY
6 IMMEDIATELY TERMINATES, THE EMERGENCY PROCEEDING ONCE THE
7 COURT OR AGENCY POSSESSES SUFFICIENT EVIDENCE TO DETERMINE THAT
8 THE EMERGENCY REMOVAL OR PLACEMENT IS NO LONGER NECESSARY TO
9 PREVENT IMMINENT PHYSICAL HARM OR DANGER TO THE INDIAN CHILD.

10 (3) A PETITION FOR A COURT ORDER AUTHORIZING THE
11 EMERGENCY REMOVAL OR CONTINUED EMERGENCY PLACEMENT OF AN
12 INDIAN CHILD, AND ITS ACCOMPANYING DOCUMENTS, MUST CONTAIN A
13 STATEMENT OF THE RISK OF IMMINENT PHYSICAL HARM OR DANGER TO THE
14 INDIAN CHILD AND ANY EVIDENCE THAT THE EMERGENCY REMOVAL OR
15 PLACEMENT CONTINUES TO BE NECESSARY TO PREVENT THE IMMINENT
16 PHYSICAL HARM OR DANGER TO THE INDIAN CHILD. THE PETITION, AND ITS
17 ACCOMPANYING DOCUMENTS, MUST ALSO CONTAIN THE FOLLOWING
18 INFORMATION:

19 (a) THE NAME, AGE, AND LAST-KNOWN ADDRESS OF THE INDIAN
20 CHILD;

21 (b) THE NAME AND LAST-KNOWN ADDRESS OF THE INDIAN CHILD'S
22 PARENTS OR INDIAN CUSTODIAN, IF ANY;

23 (c) THE STEPS TAKEN TO PROVIDE NOTICE TO THE INDIAN CHILD'S
24 PARENTS, CUSTODIAN, AND TRIBE ABOUT THE EMERGENCY PROCEEDING;

25 (d) IF THE INDIAN CHILD'S PARENTS OR INDIAN CUSTODIAN IS
26 UNKNOWN, A DETAILED EXPLANATION OF WHAT EFFORTS HAVE BEEN
27 MADE TO LOCATE AND CONTACT THEM, INCLUDING CONTACT WITH THE

1 APPROPRIATE FEDERAL BUREAU OF INDIAN AFFAIRS REGIONAL DIRECTOR;

2 (e) THE RESIDENCE AND DOMICILE OF THE INDIAN CHILD;

3 (f) IF EITHER THE RESIDENCE OR DOMICILE OF THE INDIAN CHILD
4 IS BELIEVED TO BE ON A RESERVATION OR IN AN ALASKA NATIVE VILLAGE,
5 THE NAME OF THE TRIBE AFFILIATED WITH THAT RESERVATION OR
6 VILLAGE;

7 (g) THE TRIBAL AFFILIATION OF THE INDIAN CHILD AND THE
8 CHILD'S PARENTS OR INDIAN CUSTODIAN;

9 (h) A SPECIFIC AND DETAILED ACCOUNT OF THE CIRCUMSTANCES
10 THAT LED THE INDIVIDUAL OR AGENCY RESPONSIBLE FOR THE EMERGENCY
11 REMOVAL OF THE INDIAN CHILD TO TAKE THAT ACTION;

12 (i) IF THE INDIAN CHILD IS BELIEVED TO RESIDE OR BE DOMICILED
13 ON A RESERVATION WHERE THE TRIBE EXERCISES EXCLUSIVE JURISDICTION
14 OVER CHILD CUSTODY MATTERS, A STATEMENT OF EFFORTS MADE TO
15 CONTACT THE TRIBE AND TRANSFER THE INDIAN CHILD TO THE TRIBE'S
16 JURISDICTION; AND

17 (j) A STATEMENT OF THE EFFORTS THAT HAVE BEEN TAKEN TO
18 ASSIST THE INDIAN CHILD'S PARENTS OR INDIAN CUSTODIAN SO THAT THE
19 INDIAN CHILD MAY BE SAFELY RETURNED TO THE CUSTODY OF THE
20 PARENTS OR INDIAN CUSTODIAN.

21 (4) AN EMERGENCY PROCEEDING REGARDING AN INDIAN CHILD
22 MUST NOT BE CONTINUED FOR MORE THAN THIRTY DAYS, UNLESS THE
23 COURT DETERMINES THAT RESTORING THE INDIAN CHILD TO THE PARENT
24 OR INDIAN CUSTODIAN WOULD SUBJECT THE INDIAN CHILD TO IMMINENT
25 PHYSICAL HARM OR DANGER, AND:

26 (a) THE COURT HAS APPROVED A MOTION TO TRANSFER THE CASE
27 TO A TRIBAL COURT BUT HAS NOT BEEN ABLE TO TRANSFER THE

1 PROCEEDING TO THE JURISDICTION OF THE APPROPRIATE INDIAN TRIBE; OR

2 (b) IT HAS NOT BEEN POSSIBLE TO INITIATE A CHILD CUSTODY
3 PROCEEDING.

4 **19-1.2-111. Active efforts - when required - characteristics.**

5 (1) IF THERE IS REASON TO KNOW THAT A CHILD WHO IS THE SUBJECT OF
6 A CHILD CUSTODY PROCEEDING IS AN INDIAN CHILD, ACTIVE EFFORTS ARE
7 REQUIRED AND THE COURT SHALL MAKE AN INITIAL DETERMINATION
8 WHETHER ACTIVE EFFORTS HAVE BEEN MADE TO PREVENT REMOVAL OF
9 THE INDIAN CHILD FROM THE FAMILY. IF THE INDIAN CHILD HAS BEEN
10 REMOVED FROM THE FAMILY, THE COURT SHALL DETERMINE WHETHER
11 ACTIVE EFFORTS HAVE BEEN MADE TO REUNITE THE FAMILY.

12 (2) ACTIVE EFFORTS REQUIRE A HIGHER STANDARD OF CONDUCT
13 THAN REASONABLE EFFORTS.

14 (3) ACTIVE EFFORTS MUST:

15 (a) BE DOCUMENTED IN DETAIL IN WRITING OR ORALLY ON THE
16 RECORD;

17 (b) IF THE INDIAN CHILD IS ALLEGED TO BE WITHIN THE
18 JURISDICTION OF THE COURT PURSUANT TO SECTION 19-1.2-116, INCLUDE
19 ACTIVELY ASSISTING THE INDIAN CHILD'S PARENT OR PARENTS OR INDIAN
20 CUSTODIAN THROUGH THE STEPS OF A CASE PLAN AND ACCESSING OR
21 DEVELOPING THE RESOURCES NECESSARY TO SATISFY THE CASE PLAN;

22 (c) INCLUDE PROVIDING ASSISTANCE IN A MANNER CONSISTENT
23 WITH THE PREVAILING SOCIAL AND CULTURAL STANDARDS AND WAY OF
24 LIFE OF THE INDIAN CHILD'S TRIBE;

25 (d) BE CONDUCTED IN PARTNERSHIP WITH THE INDIAN CHILD AND
26 THE INDIAN CHILD'S PARENTS, EXTENDED FAMILY MEMBERS, INDIAN
27 CUSTODIAN, AND TRIBE; AND

1 (e) BE TAILORED TO THE FACTS AND CIRCUMSTANCES OF THE CASE.

2 (4) ACTIVE EFFORTS MAY INCLUDE, AS APPLICABLE, THE
3 FOLLOWING:

4 (a) CONDUCTING A COMPREHENSIVE ASSESSMENT OF THE
5 CIRCUMSTANCES OF THE INDIAN CHILD'S FAMILY, WITH A FOCUS ON
6 REUNIFICATION AS THE PRIMARY AND MOST DESIRABLE GOAL;

7 (b) IDENTIFYING APPROPRIATE SERVICES AND HELPING THE INDIAN
8 CHILD'S PARENTS OVERCOME BARRIERS TO REUNIFICATION, INCLUDING
9 ACTIVELY ASSISTING THE INDIAN CHILD'S PARENTS WITH OBTAINING THE
10 IDENTIFIED SERVICES;

11 (c) IDENTIFYING, NOTIFYING, AND INVITING REPRESENTATIVES OF
12 THE INDIAN CHILD'S TRIBE TO PARTICIPATE IN PROVIDING SUPPORT AND
13 SERVICES TO THE INDIAN CHILD'S FAMILY AND IN FAMILY TEAM MEETINGS,
14 PERMANENCY PLANNING, RESOLUTION OF PLACEMENT ISSUES, REVIEWS,
15 OR OTHER CASE-MANAGEMENT-RELATED MEETINGS;

16 (d) CONDUCTING OR CAUSING TO BE CONDUCTED A DILIGENT
17 SEARCH FOR THE INDIAN CHILD'S EXTENDED FAMILY MEMBERS AND
18 CONTACTING AND CONSULTING WITH THE INDIAN CHILD'S EXTENDED
19 FAMILY MEMBERS AND ADULT RELATIVES TO PROVIDE FAMILY STRUCTURE
20 AND SUPPORT FOR THE INDIAN CHILD AND THE INDIAN CHILD'S PARENTS;

21 (e) OFFERING AND EMPLOYING CULTURALLY APPROPRIATE FAMILY
22 PRESERVATION STRATEGIES AND FACILITATING THE USE OF REMEDIAL AND
23 REHABILITATIVE SERVICES PROVIDED BY THE INDIAN CHILD'S TRIBE;

24 (f) TAKING STEPS TO KEEP THE INDIAN CHILD AND THE INDIAN
25 CHILD'S SIBLINGS TOGETHER, WHENEVER POSSIBLE;

26 (g) SUPPORTING REGULAR FAMILY TIME WITH THE INDIAN CHILD'S
27 PARENTS OR INDIAN CUSTODIAN IN THE MOST NATURAL SETTING POSSIBLE,

1 AS WELL AS TRIAL HOME VISITS DURING A PERIOD OF REMOVAL,
2 CONSISTENT WITH THE NEED TO ENSURE THE HEALTH, SAFETY, AND
3 WELFARE OF THE INDIAN CHILD;

4 (h) IDENTIFYING AND MAKING APPROPRIATE REFERRALS TO
5 COMMUNITY RESOURCES, INCLUDING HOUSING, FINANCIAL ASSISTANCE,
6 EMPLOYMENT TRAINING, TRANSPORTATION, MENTAL HEALTH CARE,
7 HEALTH CARE, SUBSTANCE ABUSE PREVENTION AND TREATMENT,
8 PARENTING TRAINING, TRANSPORTATION, PEER SUPPORT SERVICES
9 NECESSARY TO MAINTAIN THE CHILD IN THE HOME OR TO REHABILITATE
10 THE FAMILY SO THAT THE CHILD CAN SAFELY RETURN HOME, AND
11 ACTIVELY ASSISTING THE INDIAN CHILD'S PARENTS OR, WHEN
12 APPROPRIATE, THE INDIAN CHILD'S FAMILY, IN UTILIZING AND ACCESSING
13 SUCH RESOURCES;

14 (i) MONITORING PROGRESS AND PARTICIPATION OF THE INDIAN
15 CHILD'S PARENTS, INDIAN CUSTODIAN, OR EXTENDED FAMILY MEMBERS IN
16 THE SERVICES DESCRIBED IN SUBSECTIONS (4)(b), (4)(c), (4)(e), AND (4)(h)
17 OF THIS SECTION;

18 (j) CONSIDERING ALTERNATIVE WAYS TO ADDRESS THE NEEDS OF
19 THE INDIAN CHILD'S PARENTS, INDIAN CUSTODIAN, AND, WHEN
20 APPROPRIATE, THE INDIAN CHILD'S FAMILY IF THE SERVICES DESCRIBED IN
21 THIS SECTION ARE UNAVAILABLE OR THE OPTIMUM SERVICES DO NOT EXIST
22 OR ARE NOT AVAILABLE;

23 (k) PROVIDING POST-REUNIFICATION SERVICES AND MONITORING
24 WHILE THE INDIAN CHILD REMAINS IN THE COURT'S JURISDICTION;

25 (l) CONTACTING THE INDIAN CHILD'S TRIBE TO DETERMINE WHAT,
26 IF ANY, TRIBAL RESOURCES ARE AVAILABLE; AND

27 (m) ANY OTHER EFFORTS THAT ARE APPROPRIATE TO THE INDIAN

1 CHILD'S CIRCUMSTANCES.

2 (5) IN A CHILD CUSTODY PROCEEDING BROUGHT PURSUANT TO
3 ARTICLE 3 OF THIS TITLE 19, IF THE COURT FINDS THAT A COUNTY
4 DEPARTMENT DID NOT PROVIDE ACTIVE EFFORTS TO MAKE IT POSSIBLE FOR
5 THE INDIAN CHILD TO SAFELY RETURN HOME, AT A PERMANENCY HEARING
6 THE COURT SHALL NOT CHANGE THE PERMANENCY PLAN TO SOMETHING
7 OTHER THAN TO REUNITE THE FAMILY.

8 (6) UNLESS STIPULATED BY THE PARTIES AND NOT OBJECTED TO BY
9 THE INDIAN CHILD'S TRIBE, IN ANY PROCEEDING BROUGHT PURSUANT TO
10 ARTICLE 3 OF THIS TITLE 19, IF THE COURT FINDS THAT A COUNTY
11 DEPARTMENT DID NOT PROVIDE ACTIVE EFFORTS TO MAKE IT POSSIBLE FOR
12 THE INDIAN CHILD TO SAFELY RETURN HOME, THE COURT SHALL NOT SET
13 A DATE FOR A PERMANENT ORDERS HEARING, INCLUDING, BUT NOT
14 LIMITED TO, GUARDIANSHIP, ALLOCATION OF PARENTAL RESPONSIBILITIES,
15 OR TERMINATION OF PARENTAL RIGHTS, UNTIL THE COUNTY DEPARTMENT
16 PROVIDES ACTIVE EFFORTS FOR THE NUMBER OF DAYS THAT ACTIVE
17 EFFORTS WERE NOT PREVIOUSLY PROVIDED.

18 **19-1.2-112. Right to counsel - appointment of counsel - access**
19 **to records.** (1) IF THERE IS REASON TO KNOW THAT A CHILD WHO IS THE
20 SUBJECT OF A CHILD CUSTODY PROCEEDING IS AN INDIAN CHILD:

21 (a) THE COURT SHALL APPOINT COUNSEL TO REPRESENT THE
22 INDIAN CHILD IN ACCORDANCE WITH APPLICABLE LAW; AND

23 (b) THE COURT SHALL APPOINT COUNSEL TO REPRESENT THE
24 INDIAN CHILD'S PARENT OR INDIAN CUSTODIAN PURSUANT TO SECTION
25 19-3-202 IF THE PARENT OR INDIAN CUSTODIAN IS A RESPONDENT IN A
26 DEPENDENCY AND NEGLECT ACTION BROUGHT PURSUANT TO ARTICLE 3 OF
27 THIS TITLE 19. IN ANY REMOVAL, PLACEMENT, OR TERMINATION OF

1 PARENTAL RIGHTS PROCEEDING, OUTSIDE OF A DEPENDENCY AND NEGLECT
2 PROCEEDING, IN WHICH THE COURT DETERMINES THAT AN INDIAN CHILD'S
3 PARENT OR INDIAN CUSTODIAN IS INDIGENT, THE COURT SHALL APPOINT
4 COUNSEL TO THE INDIAN CHILD'S PARENT OR INDIAN CUSTODIAN THROUGH
5 THE OFFICE OF THE STATE COURT ADMINISTRATOR.

6 **19-1.2-113. Right to intervene and appear.**

7 (1) NOTWITHSTANDING THIS ARTICLE 1.2 TO THE CONTRARY, A TRIBE, OR
8 INDIAN CUSTODIAN WHO IS NOT OTHERWISE A PARTY TO A CHILD CUSTODY
9 PROCEEDING BROUGHT PURSUANT TO THIS ARTICLE 1.2, HAS THE RIGHT TO
10 INTERVENE AT ANY POINT IN A CHILD CUSTODY PROCEEDING AND A TRIBE
11 MAY BE REPRESENTED BY ANY AUTHORIZED INDIVIDUAL, REGARDLESS OF
12 WHETHER THE INDIVIDUAL IS LICENSED TO PRACTICE LAW.

13 (2) AN ATTORNEY WHO IS NOT BARRED FROM PRACTICING LAW IN
14 COLORADO MAY APPEAR IN ANY CHILD CUSTODY PROCEEDING INVOLVING
15 AN INDIAN CHILD WITHOUT ASSOCIATING WITH LOCAL COUNSEL OR
16 WITHOUT PAYING A FEE TO APPEAR PRO HAC VICE IF THE ATTORNEY
17 ESTABLISHES TO THE SATISFACTION OF THE COLORADO STATE BAR THAT:

18 (a) THE ATTORNEY WILL APPEAR IN A COURT IN COLORADO FOR
19 THE LIMITED PURPOSE OF PARTICIPATING IN A CHILD CUSTODY
20 PROCEEDING PURSUANT TO THIS ARTICLE 1.2;

21 (b) THE ATTORNEY REPRESENTS AN INDIAN CHILD'S PARENT,
22 INDIAN CUSTODIAN, OR TRIBE; AND

23 (c) THE INDIAN CHILD'S TRIBE HAS AFFIRMED THE INDIAN CHILD'S
24 MEMBERSHIP OR ELIGIBILITY FOR MEMBERSHIP PURSUANT TO TRIBAL LAW.

25 (3) NOTWITHSTANDING THIS ARTICLE 1.2 TO THE CONTRARY,
26 PURSUANT TO SUBSECTION (1) OF THIS SECTION, AN INDIAN CUSTODIAN OR
27 TRIBE MAY NOTIFY THE COURT, IN WRITING OR ORALLY ON THE RECORD,

1 THAT THE INDIAN CUSTODIAN OR TRIBE WITHDRAWS AS A PARTY TO THE
2 PROCEEDING.

3 **19-1.2-114. Right to examine documents - compliance**
4 **regarding an Indian child.** (1) IF THERE IS REASON TO KNOW THAT A
5 CHILD WHO IS THE SUBJECT OF A CHILD CUSTODY PROCEEDING IS AN
6 INDIAN CHILD, EACH PARTY HAS THE RIGHT TO TIMELY EXAMINE ALL
7 REPORTS OR OTHER DOCUMENTS AS OUTLINED IN THE APPLICABLE RULES
8 OF DISCOVERY UNLESS PRECLUDED PURSUANT TO STATE OR FEDERAL LAW.

9 (2) REGARDLESS OF WHETHER A TRIBE IS A PARTY IN ANY CHILD
10 CUSTODY PROCEEDING INVOLVING AN INDIAN CHILD, THE INDIAN CHILD'S
11 TRIBE MUST HAVE ACCESS TO ALL REPORTS OR OTHER DOCUMENTS
12 REGARDING THE INDIAN CHILD. ANY REPORTS OR OTHER DOCUMENTS
13 REGARDING THE INDIAN CHILD MUST BE PROVIDED, UPON REQUEST, TO THE
14 TRIBE FREE OF COST.

15 **19-1.2-115. Qualified expert witnesses.** (1) IN A CHILD CUSTODY
16 PROCEEDING THAT REQUIRES THE TESTIMONY OF A QUALIFIED EXPERT
17 WITNESS, THE PETITIONING OR FILING PARTY SHALL SEEK A QUALIFIED
18 EXPERT WITNESS FROM THE INDIAN CHILD'S TRIBE AND MAY, WHEN
19 APPROPRIATE, CONTACT THE FEDERAL BUREAU OF INDIAN AFFAIRS AND
20 REQUEST THAT THE TRIBE OR BUREAU IDENTIFY ONE OR MORE
21 INDIVIDUALS WHO MEET THE CRITERIA DESCRIBED IN SUBSECTION (3) OR
22 (4) OF THIS SECTION AND MAKE A RECORD OF THAT CONTACT EITHER IN
23 WRITING OR ORALLY ON THE RECORD.

24 (2) AT A HEARING PURSUANT TO SECTION 19-1.2-123 OR
25 19-1.2-125, IF THE COURT HAS FOUND THAT THERE IS REASON TO KNOW
26 THAT A CHILD IS AN INDIAN CHILD, AT LEAST ONE EXPERT WITNESS MUST
27 BE QUALIFIED TO TESTIFY REGARDING:

1 (a) WHETHER THE CONTINUED CUSTODY OF THE INDIAN CHILD BY
2 THE INDIAN CHILD'S PARENT OR INDIAN CUSTODIAN IS LIKELY TO RESULT
3 IN SERIOUS EMOTIONAL OR PHYSICAL DAMAGE TO THE INDIAN CHILD; AND

4 (b) THE PREVAILING SOCIAL AND CULTURAL STANDARDS AND
5 CHILD-REARING PRACTICES OF THE INDIAN CHILD'S TRIBE.

6 (3) FOR THE PURPOSES OF THIS SECTION, A QUALIFIED EXPERT
7 WITNESS IS NOT REQUIRED TO HAVE KNOWLEDGE OF SOCIAL AND
8 CULTURAL STANDARDS OF THE INDIAN CHILD'S TRIBE ONLY IF SUCH
9 KNOWLEDGE IS PLAINLY IRRELEVANT TO THE PARTICULAR
10 CIRCUMSTANCES AT ISSUE IN THE PROCEEDING. THE INDIAN CHILD'S TRIBE
11 MAY DESIGNATE AN INDIVIDUAL AS BEING QUALIFIED TO TESTIFY TO THE
12 PREVAILING SOCIAL AND CULTURAL STANDARDS OF THE INDIAN CHILD'S
13 TRIBE.

14 (4) IF THE INDIAN CHILD'S TRIBE HAS NOT IDENTIFIED A QUALIFIED
15 EXPERT WITNESS, THE FOLLOWING INDIVIDUALS, IN ORDER OF PRIORITY,
16 MAY TESTIFY AS A QUALIFIED EXPERT WITNESS:

17 (a) A MEMBER OF THE INDIAN CHILD'S TRIBE OR ANOTHER
18 INDIVIDUAL WHO IS RECOGNIZED BY THE TRIBE AS KNOWLEDGEABLE
19 ABOUT TRIBAL CUSTOMS REGARDING FAMILY ORGANIZATION AND
20 CHILD-REARING PRACTICES;

21 (b) AN INDIVIDUAL WHO HAS SUBSTANTIAL EXPERIENCE IN THE
22 DELIVERY OF CHILD AND FAMILY SERVICES TO INDIANS AND EXTENSIVE
23 KNOWLEDGE OF PREVAILING SOCIAL AND CULTURAL STANDARDS AND
24 CHILD-REARING PRACTICES IN THE INDIAN CHILD'S TRIBE; OR

25 (c) AN INDIVIDUAL WHO HAS SUBSTANTIAL EXPERIENCE IN THE
26 DELIVERY OF CHILD AND FAMILY SERVICES TO INDIANS AND EXTENSIVE
27 KNOWLEDGE OF PREVAILING SOCIAL AND CULTURAL STANDARDS AND

1 CHILD-REARING PRACTICES IN INDIAN TRIBES WITH CULTURAL
2 SIMILARITIES TO THE INDIAN CHILD'S TRIBE.

3 (5) AN INDIAN CHILD'S TRIBE MUST BE PROVIDED THE
4 OPPORTUNITY TO QUESTION THE QUALIFIED EXPERT WITNESS IN ALL
5 HEARINGS INVOLVING THE INDIAN CHILD, REGARDLESS OF WHETHER THE
6 INDIAN CHILD'S TRIBE HAS INTERVENED PURSUANT TO SECTION
7 19-1.2-113.

8 (6) FOR THE PURPOSES OF THIS SECTION, A PETITIONING OR FILING
9 PARTY OR AN EMPLOYEE OF THE PETITIONING OR FILING PARTY MAY NOT
10 SERVE AS A QUALIFIED EXPERT WITNESS.

11 **19-1.2-116. Jurisdiction.** (1) EXCEPT AS OTHERWISE PROVIDED
12 IN THIS SECTION, THE COURT'S JURISDICTION PURSUANT TO THIS ARTICLE
13 1.2 IN A CASE INVOLVING AN INDIAN CHILD IS CONCURRENT WITH THE
14 INDIAN CHILD'S TRIBE.

15 (2) THE INDIAN CHILD'S TRIBE HAS EXCLUSIVE JURISDICTION IN A
16 CASE INVOLVING AN INDIAN CHILD IF:

17 (a) THE INDIAN CHILD IS A WARD OF A TRIBAL COURT OF THE
18 TRIBE; OR

19 (b) THE INDIAN CHILD RESIDES OR IS DOMICILED ON THE TRIBE'S
20 RESERVATION.

21 (3) NOTWITHSTANDING SUBSECTION (2) OF THIS SECTION, THE
22 COURT HAS TEMPORARY EMERGENCY JURISDICTION OVER AN INDIAN
23 CHILD WHO IS TAKEN INTO PROTECTIVE CUSTODY PURSUANT TO SECTION
24 19-1.2-110 OR 19-3-201, OR PART 4 OF ARTICLE 3 OF THIS TITLE 19.

25 **19-1.2-117. Determination of domicile and residence - tribal**
26 **court jurisdiction.** (1) IN A CHILD CUSTODY PROCEEDING INVOLVING AN
27 INDIAN CHILD, THE COURT SHALL DETERMINE AND ISSUE AN ORDER

1 REGARDING THE INDIAN CHILD'S DOMICILE OR RESIDENCE AND WHETHER
2 THE INDIAN CHILD IS UNDER A TRIBAL COURT'S JURISDICTION.

3 (2) THE PETITIONING OR FILING PARTY SHALL COORDINATE WITH
4 THE INDIAN CHILD'S TRIBE AS NECESSARY TO ASSIST THE COURT IN
5 MAKING A DETERMINATION PURSUANT TO THIS SECTION. IF IT IS UNCLEAR
6 WHICH TRIBE IS THE INDIAN CHILD'S TRIBE, THE PETITIONING OR FILING
7 PARTY SHALL COORDINATE WITH EACH TRIBE WITH WHICH THERE IS
8 REASON TO KNOW THAT THE INDIAN CHILD MAY BE A MEMBER OR ELIGIBLE
9 FOR MEMBERSHIP TO ASSIST THE COURT IN MAKING THE DETERMINATION.

10 **19-1.2-118. Motion to transfer to tribal court - objection.**

11 (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (5) OF THIS SECTION,
12 THE COURT SHALL TRANSFER A CHILD CUSTODY PROCEEDING BROUGHT
13 PURSUANT TO THIS ARTICLE 1.2 THAT INVOLVES AN INDIAN CHILD IF, AT
14 ANY TIME DURING THE PROCEEDING, THE INDIAN CHILD'S PARENT, INDIAN
15 CUSTODIAN, OR TRIBE PETITIONS THE COURT TO TRANSFER THE
16 PROCEEDING TO THE TRIBAL COURT, UNLESS GOOD CAUSE IS SHOWN TO
17 DENY THE TRANSFER.

18 (2) UPON RECEIPT OF A TRANSFER MOTION, THE COURT SHALL
19 CONTACT THE INDIAN CHILD'S TRIBE AND REQUEST A TIMELY RESPONSE
20 REGARDING WHETHER THE TRIBE INTENDS TO DECLINE THE TRANSFER.

21 (3) (a) IF A PARTY OBJECTS IN WRITING TO THE TRANSFER MOTION,
22 THE COURT SHALL SET A HEARING ON THE OBJECTIONS TO THE MOTION. IN
23 DETERMINING WHETHER THERE IS GOOD CAUSE TO DENY TRANSFER OF
24 JURISDICTION TO A TRIBAL COURT, THE COURT SHALL ENGAGE IN A
25 FACT-SPECIFIC INQUIRY, DETERMINED ON A CASE-BY-CASE BASIS AS SET
26 FORTH IN SUBSECTION (4) OF THIS SECTION.

27 (b) AT THE HEARING, THE OBJECTING PARTY HAS THE BURDEN OF

1 PROOF OF ESTABLISHING BY CLEAR AND CONVINCING EVIDENCE THAT
2 GOOD CAUSE EXISTS TO DENY THE TRANSFER.

3 (c) IF THE INDIAN CHILD'S TRIBE CONTESTS THE ASSERTION THAT
4 GOOD CAUSE EXISTS TO DENY THE TRANSFER, THE COURT SHALL GIVE THE
5 TRIBE'S ARGUMENT SUBSTANTIAL WEIGHT.

6 (d) WHEN MAKING A DETERMINATION WHETHER GOOD CAUSE
7 EXISTS TO DENY THE TRANSFER MOTION, THE COURT MUST NOT CONSIDER:

8 (I) WHETHER THE PROCEEDING IS AT AN ADVANCED STAGE;

9 (II) WHETHER THERE HAS BEEN A PRIOR PROCEEDING INVOLVING
10 THE INDIAN CHILD IN WHICH A TRANSFER MOTION WAS NOT FILED;

11 (III) WHETHER THE TRANSFER COULD AFFECT THE PLACEMENT OF
12 THE INDIAN CHILD;

13 (IV) THE INDIAN CHILD'S CULTURAL CONNECTIONS WITH THE
14 TRIBE OR THE TRIBE'S RESERVATION;

15 (V) THE SOCIOECONOMIC CONDITIONS OF THE INDIAN CHILD'S
16 TRIBE OR ANY NEGATIVE PERCEPTION OF THE TRIBE'S OR THE FEDERAL
17 BUREAU OF INDIAN AFFAIRS'S SOCIAL SERVICES OR JUDICIAL SYSTEMS; OR

18 (VI) WHETHER THE TRANSFER SERVES THE BEST INTERESTS OF THE
19 INDIAN CHILD.

20 (4) ABSENT EXTRAORDINARY CIRCUMSTANCES, GOOD CAUSE TO
21 DENY TRANSFER TO A TRIBAL COURT MUST BE BASED ON ONE OR BOTH OF
22 THE FOLLOWING FACTORS:

23 (a) THE INDIAN CHILD'S TRIBE DOES NOT HAVE A TRIBAL COURT OR
24 ANY OTHER ADMINISTRATIVE BODY THAT IS VESTED WITH AUTHORITY
25 OVER CHILD CUSTODY PROCEEDINGS TO WHICH THE CASE CAN BE
26 TRANSFERRED, AND NO OTHER TRIBAL COURT HAS BEEN DESIGNATED BY
27 THE INDIAN CHILD'S TRIBE TO HEAR CHILD CUSTODY PROCEEDINGS; OR

1 (b) THE EVIDENCE NECESSARY TO DECIDE THE CASE COULD NOT BE
2 ADEQUATELY PRESENTED IN THE TRIBAL COURT WITHOUT UNDUE
3 HARDSHIP TO THE PARTIES OR THE WITNESSES, AND THE TRIBAL COURT IS
4 UNABLE TO MITIGATE THE HARDSHIP BY ANY MEANS PERMITTED IN THE
5 TRIBAL COURT'S RULES. WITHOUT EVIDENCE OF UNDUE HARDSHIP, TRAVEL
6 DISTANCE ALONE IS NOT A BASIS FOR DENYING A TRANSFER MOTION.

7 (5) (a) THE COURT SHALL DENY THE TRANSFER MOTION IF:

8 (I) THE TRIBE DECLINES THE TRANSFER IN WRITING OR ORALLY ON
9 THE RECORD;

10 (II) ONE OF THE INDIAN CHILD'S PARENTS OBJECTS TO THE
11 TRANSFER; OR

12 (III) AFTER A HEARING, THE COURT FINDS BY CLEAR AND
13 CONVINCING EVIDENCE THAT GOOD CAUSE EXISTS TO DENY THE TRANSFER.

14 (b) NOTWITHSTANDING SUBSECTION (5)(a)(II) OF THIS SECTION,
15 THE OBJECTION OF THE INDIAN CHILD'S PARENT DOES NOT PRECLUDE THE
16 TRANSFER IF:

17 (I) THE OBJECTING PARENT DIES OR THE OBJECTING PARENT'S
18 PARENTAL RIGHTS ARE TERMINATED AND HAVE NOT BEEN RESTORED; AND

19 (II) THE INDIAN CHILD'S REMAINING PARENT, INDIAN CUSTODIAN,
20 OR TRIBE FILES A NEW TRANSFER MOTION SUBSEQUENT TO THE DEATH OR
21 TERMINATION OF PARENTAL RIGHTS OF THE OBJECTING PARENT.

22 (6) IF THE COURT DENIES A TRANSFER MOTION PURSUANT TO THIS
23 SECTION, THE COURT SHALL DOCUMENT THE BASIS FOR THE DENIAL IN A
24 WRITTEN ORDER.

25 **19-1.2-119. Requirements if transfer to tribal court granted.**

26 (1) UPON GRANTING A MOTION TO TRANSFER PURSUANT TO SECTION
27 19-1.2-118, THE COURT SHALL EXPEDITIOUSLY:

1 (a) NOTIFY THE TRIBAL COURT OF THE PENDING DISMISSAL OF THE
2 CHILD CUSTODY PROCEEDING;

3 (b) TRANSFER ALL INFORMATION REGARDING THE PROCEEDING,
4 INCLUDING PLEADINGS AND COURT RECORDS, TO THE TRIBAL COURT; AND

5 (c) IF THE INDIAN CHILD IS ALLEGED TO BE WITHIN THE
6 JURISDICTION OF THE COURT PURSUANT TO SECTION 19-1.2-116, DIRECT
7 THE PETITIONING OR FILING PARTY TO:

8 (I) COORDINATE WITH THE TRIBAL COURT AND THE INDIAN CHILD'S
9 TRIBE TO ENSURE THAT THE TRANSFER OF THE PROCEEDING AND THE
10 TRANSFER OF CUSTODY OF THE INDIAN CHILD IS ACCOMPLISHED WITH
11 MINIMAL DISRUPTION OF SERVICES TO THE INDIAN CHILD AND THE INDIAN
12 CHILD'S FAMILY; AND

13 (II) EXPEDITIOUSLY PROVIDE AT NO COST TO THE APPROPRIATE
14 TRIBAL AGENCY:

15 (A) ALL RECORDS AND ORIGINAL DOCUMENTS IN THE PETITIONING
16 OR FILING PARTY'S POSSESSION THAT ARE RELATED TO THE INDIAN CHILD,
17 INCLUDING A BIRTH CERTIFICATE, SOCIAL SECURITY CARD, CERTIFICATE OF
18 INDIAN BIRTH, AND OTHER SIMILAR DOCUMENTS;

19 (B) DOCUMENTATION RELATED TO THE INDIAN CHILD'S ELIGIBILITY
20 FOR STATE AND FEDERAL ASSISTANCE; AND

21 (C) THE ENTIRE CASE RECORD FOR THE INDIAN CHILD THAT THE
22 PETITIONING OR FILING PARTY POSSESSES.

23 (2) THE COURT SHALL DISMISS THE PROCEEDING WITH PREJUDICE
24 UPON CONFIRMATION FROM THE TRIBAL COURT THAT THE TRIBAL COURT
25 RECEIVED THE REQUIRED TRANSFERRED INFORMATION.

26 **19-1.2-120. Placement preferences - cultural compact -**
27 **confidentiality.** (1) IF THE PARENTAL RIGHTS OF AN INDIAN CHILD'S

1 PARENTS HAVE NOT BEEN TERMINATED AND THE INDIAN CHILD IS IN NEED
2 OF PLACEMENT OR CONTINUATION IN SUBSTITUTE CARE, THE INDIAN CHILD
3 MUST BE PLACED IN THE LEAST RESTRICTIVE SETTING THAT:

4 (a) MOST CLOSELY APPROXIMATES A FAMILY, TAKING INTO
5 CONSIDERATION SIBLING ATTACHMENT;

6 (b) ALLOWS THE INDIAN CHILD'S SPECIAL NEEDS, IF ANY, TO BE
7 MET;

8 (c) SUBJECT TO SUBSECTION (1)(d)(II)(C) OF THIS SECTION, IS IN
9 REASONABLE PROXIMITY TO THE INDIAN CHILD'S HOME, EXTENDED
10 FAMILY, OR SIBLINGS; AND

11 (d) (I) EXCEPT AS PROVIDED IN SUBSECTION (3) OF THIS SECTION,
12 IS IN ACCORDANCE WITH THE ORDER OF PREFERENCE ESTABLISHED BY THE
13 INDIAN CHILD'S TRIBE; OR

14 (II) IF THE INDIAN CHILD'S TRIBE HAS NOT ESTABLISHED
15 PLACEMENT PREFERENCES, IS IN ACCORDANCE WITH THE FOLLOWING
16 ORDER OF PREFERENCE:

17 (A) THE CHILD'S NONCUSTODIAL PARENT;

18 (B) A MEMBER OF THE INDIAN CHILD'S EXTENDED FAMILY;

19 (C) A FOSTER HOME LICENSED, APPROVED, OR SPECIFIED BY THE
20 INDIAN CHILD'S TRIBE;

21 (D) ANOTHER MEMBER OF THE INDIAN CHILD'S TRIBE;

22 (E) ANOTHER INDIAN FAMILY WITH WHOM THE INDIAN CHILD HAS
23 A RELATIONSHIP;

24 (F) AN INDIAN FAMILY FROM A TRIBE THAT IS CULTURALLY
25 SIMILAR OR LINGUISTICALLY CONNECTED TO THE INDIAN CHILD'S TRIBE;

26 (G) A FOSTER HOME LICENSED OR APPROVED BY A LICENSING
27 AUTHORITY IN THIS STATE AND IN WHICH ONE OR MORE OF THE LICENSED

1 OR APPROVED FOSTER PARENTS IS AN INDIAN; OR

2 (H) AN INSTITUTION FOR CHILDREN THAT HAS A PROGRAM
3 SUITABLE TO MEET THE INDIAN CHILD'S NEEDS AND IS APPROVED BY AN
4 INDIAN TRIBE OR OPERATED BY AN INDIAN ORGANIZATION.

5 (2) IF THE PARENTAL RIGHTS OF THE INDIAN CHILD'S PARENTS
6 HAVE BEEN TERMINATED OR IF AN INDIAN CHILD IS IN NEED OF
7 GUARDIANSHIP PURSUANT TO PART 2 OF ARTICLE 14 OF TITLE 15 OR
8 ADOPTIVE PLACEMENT, EXCEPT AS PROVIDED FOR IN SUBSECTION (3) OF
9 THIS SECTION, THE INDIAN CHILD MUST BE PLACED:

10 (a) IN ACCORDANCE WITH THE ORDER OF PREFERENCE
11 ESTABLISHED BY THE INDIAN CHILD'S TRIBE; OR

12 (b) IF THE INDIAN CHILD'S TRIBE HAS NOT ESTABLISHED
13 PLACEMENT PREFERENCES, ACCORDING TO THE FOLLOWING ORDER OF
14 PREFERENCE:

15 (I) WITH A MEMBER OF THE INDIAN CHILD'S EXTENDED FAMILY;

16 (II) WITH OTHER MEMBERS OF THE INDIAN CHILD'S TRIBE;

17 (III) WITH A MEMBER OR CITIZEN OF AN INDIAN TRIBE IN WHICH
18 THE INDIAN CHILD IS ELIGIBLE FOR MEMBERSHIP OR CITIZENSHIP BUT THAT
19 IS NOT THE INDIAN CHILD'S TRIBE;

20 (IV) WITH ANOTHER INDIAN FAMILY WITH WHOM THE INDIAN
21 CHILD HAS A RELATIONSHIP;

22 (V) WITH AN INDIAN FAMILY FROM A TRIBE THAT IS CULTURALLY
23 SIMILAR OR LINGUISTICALLY CONNECTED TO THE INDIAN CHILD'S TRIBE;

24 OR

25 (VI) WITH ANOTHER INDIAN FAMILY.

26 (3) (a) A PARTY MAY FILE A MOTION WITH THE COURT REQUESTING
27 AUTHORITY TO PLACE THE INDIAN CHILD CONTRARY TO THE PLACEMENT

1 PREFERENCES SET FORTH IN SUBSECTION (1) OR (2) OF THIS SECTION. THE
2 MOTION MUST DETAIL THE REASONS THE PARTY ASSERTS THAT GOOD
3 CAUSE EXISTS FOR PLACEMENT CONTRARY TO THE PLACEMENT
4 PREFERENCES SET FORTH IN SUBSECTION (1) OR (2) OF THIS SECTION.

5 (b) UPON THE FILING OF AN OBJECTION TO A MOTION FILED
6 PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION, THE COURT SHALL SET
7 THE TIME FOR A HEARING ON THE OBJECTIONS.

8 (c) IF THE COURT DETERMINES THAT THE MOVING PARTY HAS
9 ESTABLISHED ITS BURDEN BY CLEAR AND CONVINCING EVIDENCE THAT
10 THERE IS GOOD CAUSE TO DEPART FROM THE PLACEMENT PREFERENCES
11 SET FORTH IN SUBSECTION (1) OR (2) OF THIS SECTION, THE COURT MAY
12 AUTHORIZE AN ALTERNATIVE PLACEMENT.

13 (d) THE COURT'S DETERMINATION PURSUANT TO SUBSECTION
14 (3)(c) OF THIS SECTION:

15 (I) MUST BE IN WRITING AND BASED ON ONE OR MORE OF THE
16 FOLLOWING FACTORS:

17 (A) THE PREFERENCES OF THE INDIAN CHILD, IF THE INDIAN CHILD
18 IS OF SUFFICIENT AGE AND CAPACITY TO UNDERSTAND THE DECISION THAT
19 IS BEING MADE;

20 (B) THE PRESENCE OF A SIBLING ATTACHMENT THAT CANNOT BE
21 MAINTAINED THROUGH A PLACEMENT CONSISTENT WITH THE PLACEMENT
22 PREFERENCES SET FORTH IN SUBSECTION (1) OR (2) OF THIS SECTION;

23 (C) ANY EXTRAORDINARY PHYSICAL, MENTAL, OR EMOTIONAL
24 NEEDS OF THE INDIAN CHILD THAT REQUIRE SPECIALIZED TREATMENT
25 SERVICES IF, DESPITE ACTIVE EFFORTS, THOSE SERVICES ARE UNAVAILABLE
26 IN THE COMMUNITY WHERE FAMILIES WHO MEET THE PLACEMENT
27 PREFERENCES SET FORTH IN SUBSECTION (1) OR (2) OF THIS SECTION

1 RESIDE;

2 (D) A FINDING BASED ON THE TESTIMONY OF THE CHILD
3 PLACEMENT AGENCY OR THE PETITIONING OR FILING PARTY THAT A
4 DILIGENT SEARCH HAS BEEN CONDUCTED AND THAT A PLACEMENT
5 MEETING THE PLACEMENT PREFERENCES SET FORTH IN SUBSECTION (1) OR
6 (2) OF THIS SECTION IS UNAVAILABLE, AS DETERMINED BY THE PREVAILING
7 SOCIAL AND CULTURAL STANDARDS OF THE INDIAN COMMUNITY IN WHICH
8 THE INDIAN CHILD'S PARENT OR EXTENDED FAMILY RESIDES OR MAINTAINS
9 SOCIAL AND CULTURAL TIES; OR

10 (E) THE PLACEMENT REQUEST OF THE INDIAN CHILD'S PARENT,
11 AFTER THE INDIAN CHILD'S PARENT HAS REVIEWED THE PLACEMENT
12 OPTIONS, IF ANY COMPLY WITH THE PLACEMENT PREFERENCES SET FORTH
13 IN SUBSECTION (1) OR (2) OF THIS SECTION;

14 (II) MUST ALLOW THE COURT TO RETAIN DISCRETION TO FIND THAT
15 GOOD CAUSE DOES NOT EXIST EVEN IF ONE OR MORE OF THE FACTORS IN
16 THIS SUBSECTION (3) ARE PRESENT;

17 (III) MUST, IN APPLYING THE PLACEMENT PREFERENCES SET FORTH
18 IN SUBSECTION (1) OR (2) OF THIS SECTION, GIVE WEIGHT TO THE INDIAN
19 CHILD'S PARENT'S REQUEST FOR ANONYMITY IF THE PLACEMENT IS AN
20 ADOPTIVE PLACEMENT TO WHICH THE INDIAN CHILD'S PARENT HAS
21 CONSENTED; AND

22 (IV) MAY NOT BE BASED:

23 (A) ON THE SOCIOECONOMIC CONDITIONS OF THE INDIAN CHILD'S
24 TRIBE;

25 (B) ON ANY PERCEPTION OF THE TRIBE'S OR FEDERAL BUREAU OF
26 INDIAN AFFAIRS' SOCIAL SERVICES OR JUDICIAL SYSTEMS;

27 (C) ON THE DISTANCE BETWEEN A PLACEMENT THAT MEETS THE

1 PLACEMENT PREFERENCES SET FORTH IN SUBSECTION (1) OR (2) OF THIS
2 SECTION THAT IS LOCATED ON OR NEAR A RESERVATION AND THE INDIAN
3 CHILD'S PARENT, EXCEPT IF THE PLACEMENT WOULD UNDERMINE
4 REUNIFICATION EFFORTS; OR

5 (D) SOLELY ON THE ORDINARY BONDING OR ATTACHMENT
6 BETWEEN THE INDIAN CHILD AND A NON-PREFERRED PLACEMENT ARISING
7 FROM TIME SPENT IN THE NON-PREFERRED PLACEMENT.

8 (4) THE COURT, ON THE COURT'S OWN MOTION OR THE MOTION OF
9 ANY PARTY, SHALL MAKE A DETERMINATION PURSUANT TO THIS SECTION
10 REGARDING THE INDIAN CHILD'S PLACEMENT IF THE COURT OR THE
11 MOVING PARTY HAS REASON TO KNOW THAT THE INDIAN CHILD WAS
12 PLACED CONTRARY TO THE PLACEMENT PREFERENCES SET FORTH IN
13 SUBSECTION (1) OR (2) OF THIS SECTION WITHOUT GOOD CAUSE. A MOTION
14 MADE PURSUANT TO THIS SUBSECTION (4) MAY BE MADE IN WRITING OR
15 ORALLY ON THE RECORD.

16 (5) TO ENSURE THAT THIS ARTICLE 1.2 IS FULLY IMPLEMENTED AND
17 THAT ALL INDIAN CHILDREN HAVE THE OPPORTUNITY TO MAINTAIN
18 STRONG CONNECTIONS TO THEIR CULTURE, IF THE HOUSEHOLD INTO WHICH
19 AN INDIAN CHILD IS PLACED FOR ADOPTION OR GUARDIANSHIP DOES NOT
20 INCLUDE A PARENT WHO IS A MEMBER OF THE INDIAN CHILD'S TRIBE, THE
21 COURT SHALL REQUIRE THE PARTIES TO THE ADOPTION TO ENTER A
22 CULTURAL COMPACT AT THE DISCRETION OF THE INDIAN CHILD'S TRIBE, OR
23 OTHERWISE DEVELOP A PLAN THAT DOCUMENTS THE PARTIES' AGREEMENT
24 REGARDING HOW THE INDIAN CHILD WILL CONTINUE TO ACTIVELY
25 PARTICIPATE IN THE INDIAN CHILD'S CULTURAL LEARNING AND ACTIVITIES,
26 AND ENGAGEMENT WITH FAMILY MEMBERS. EACH CULTURAL COMPACT OR
27 PLAN MUST BE SPECIFIC TO THE INDIAN CHILD; MUST CONSIDER THE

1 INDIAN CHILD'S MENTAL, PHYSICAL, AND EMOTIONAL NEEDS, INCLUDING
2 THE INDIAN CHILD'S PREFERENCES; AND MUST TAKE INTO ACCOUNT THE
3 INDIAN CHILD'S UNDERSTANDING AS THE INDIAN CHILD GROWS AND
4 MATURES. THE CULTURAL COMPACT OR PLAN IS CONSIDERED A
5 POST-ADOPTION CONTACT AGREEMENT IN ACCORDANCE WITH SECTION
6 19-5-208 (4.5) AND ENFORCEABLE IN ACCORDANCE WITH SECTION
7 19-5-217.

8 (6) A CONFIDENTIALITY REQUIREMENT, IF ANY, DOES NOT RELIEVE
9 THE COURT OR ANY PETITIONERS IN AN ADOPTION PROCEEDING FROM THE
10 DUTY TO COMPLY WITH THE PLACEMENT PREFERENCES SET FORTH IN THIS
11 SECTION IF THE CHILD IS AN INDIAN CHILD.

12 **19-1.2-121. Order to vacate judgment.** (1) A PETITION TO
13 VACATE AN ORDER OR A JUDGMENT INVOLVING AN INDIAN CHILD
14 REGARDING JURISDICTION IN ACCORDANCE WITH SECTIONS 19-1.2-116
15 AND 19-1.2-118, PLACEMENT, GUARDIANSHIP, OR THE TERMINATION OF
16 PARENTAL RIGHTS MAY BE FILED IN A PENDING CHILD CUSTODY
17 PROCEEDING INVOLVING THE INDIAN CHILD OR, IF A CHILD CUSTODY
18 PROCEEDING IS NOT PENDING, IN ANY STATE OR LOCAL COURT OF
19 COMPETENT JURISDICTION BY:

20 (a) THE INDIAN CHILD WHO WAS ALLEGED TO BE WITHIN THE
21 COURT'S JURISDICTION PURSUANT TO SECTION 19-1.2-116;

22 (b) THE INDIAN CHILD'S PARENT OR INDIAN CUSTODIAN FROM
23 WHOSE CUSTODY THE INDIAN CHILD WAS REMOVED OR WHOSE PARENTAL
24 RIGHTS WERE TERMINATED; OR

25 (c) THE INDIAN CHILD'S TRIBE.

26 (2) (a) THE COURT SHALL VACATE AN ORDER OR JUDGMENT
27 INVOLVING AN INDIAN CHILD REGARDING JURISDICTION IN ACCORDANCE

1 WITH SECTIONS 19-1.2-116 AND 19-1.2-118, PLACEMENT, GUARDIANSHIP,
2 OR THE TERMINATION OF PARENTAL RIGHTS IF THE COURT DETERMINES
3 THAT ANY PROVISION OF THIS ARTICLE 1.2 HAS BEEN VIOLATED.

4 (b) IF THE VACATED ORDER OR JUDGMENT RESULTED IN THE
5 REMOVAL OR PLACEMENT OF THE INDIAN CHILD, THE COURT SHALL ORDER
6 THE CHILD RETURNED TO THE INDIAN CHILD'S PARENT OR INDIAN
7 CUSTODIAN AS SOON AS POSSIBLE, AND THE COURT'S ORDER MUST INCLUDE
8 A TRANSITION PLAN FOR THE PHYSICAL CUSTODY OF THE CHILD, UNLESS
9 THE COURT DETERMINES THAT A HEARING IS TO BE HELD WITHIN
10 TWENTY-EIGHT DAYS IN ACCORDANCE WITH 25 U.S.C. SEC. 1912 (e) AND
11 SECTION 19-1.2-123 TO DETERMINE IF THE RETURN OF THE INDIAN CHILD
12 IS APPROPRIATE. THE TRANSITION PLAN MAY INCLUDE PROTECTIVE
13 CUSTODY PURSUANT TO SECTION 19-3-405.

14 (c) IF THE VACATED ORDER OR JUDGMENT TERMINATED PARENTAL
15 RIGHTS, THE COURT SHALL ORDER THE PREVIOUSLY TERMINATED
16 PARENTAL RIGHTS TO BE RESTORED.

17 (d) IF THE STATE OR ANY OTHER PARTY AFFIRMATIVELY ASKS THE
18 COURT TO RECONSIDER THE ISSUES UNDER THE VACATED ORDER OR
19 JUDGMENT, THE COURT'S FINDINGS OR DETERMINATIONS MUST BE
20 READJUDICATED BY THE COURT THAT IS RECONSIDERING WHETHER THERE
21 HAS BEEN ABUSE OR NEGLECT SUFFICIENT TO ALLOW THE INDIAN CHILD TO
22 BE REMOVED PURSUANT TO THIS ARTICLE 1.2.

23 **19-1.2-122. Determination of whether an Indian child has been**
24 **improperly removed or retained - remedy.** (1) THE COURT, ON THE
25 COURT'S OWN MOTION OR ON THE MOTION OF ANY PARTY, SHALL
26 EXPEDITIOUSLY DETERMINE WHETHER AN INDIAN CHILD WHO IS ASSERTED
27 TO BE WITHIN THE COURT'S JURISDICTION PURSUANT TO SECTION

1 19-1.2-116 HAS BEEN IMPROPERLY REMOVED OR IMPROPERLY RETAINED
2 FOLLOWING A VISIT OR TEMPORARY RELINQUISHMENT OF CUSTODY. A
3 MOTION PURSUANT TO THIS SECTION MAY BE MADE ORALLY OR IN
4 WRITING.

5 (2) IF THE COURT FINDS THAT THE INDIAN CHILD HAS BEEN
6 IMPROPERLY REMOVED OR IMPROPERLY RETAINED, THE COURT SHALL
7 ORDER THE PETITIONING OR FILING PARTY TO IMMEDIATELY RETURN THE
8 INDIAN CHILD TO THE INDIAN CHILD'S PARENT OR INDIAN CUSTODIAN AND
9 DISMISS THE PROCEEDING, UNLESS THE COURT DETERMINES THAT DOING
10 SO WOULD SUBJECT THE INDIAN CHILD TO SUBSTANTIAL AND IMMEDIATE
11 DANGER OR A THREAT OF SUBSTANTIAL AND IMMEDIATE DANGER. IN SUCH
12 A CASE, THE COURT SHALL HOLD A HEARING WITHIN TWENTY-EIGHT DAYS
13 IN ACCORDANCE WITH 25 U.S.C. SEC. 1912 (e) AND SECTION 19-1.2-123
14 TO DETERMINE IF THE RETURN OF THE INDIAN CHILD IS APPROPRIATE.

15 **19-1.2-123. Foster care placement.** (1) FOR A COURT TO ORDER
16 FOSTER CARE PLACEMENT IN A CHILD CUSTODY PROCEEDING INVOLVING
17 AN INDIAN CHILD:

18 (a) THE COURT MUST FIND BY CLEAR AND CONVINCING EVIDENCE,
19 INCLUDING THE TESTIMONY OF ONE OR MORE QUALIFIED EXPERT
20 WITNESSES, THAT THE INDIAN CHILD'S CONTINUED CUSTODY BY THE
21 INDIAN CHILD'S PARENT OR INDIAN CUSTODIAN IS LIKELY TO RESULT IN
22 SERIOUS EMOTIONAL OR PHYSICAL DAMAGE TO THE INDIAN CHILD; AND

23 (b) THE COURT MUST DETERMINE THAT THE EVIDENCE REQUIRED
24 BY SUBSECTION (1)(a) OF THIS SECTION SHOWS A CAUSAL RELATIONSHIP
25 BETWEEN THE PARTICULAR CONDITIONS IN THE INDIAN CHILD'S DOMICILE
26 OR RESIDENCE AND THE LIKELIHOOD THAT THE CONTINUED CUSTODY OF
27 THE INDIAN CHILD IN THAT DOMICILE OR RESIDENCE WILL RESULT IN

1 SERIOUS EMOTIONAL OR PHYSICAL DAMAGE TO THE INDIAN CHILD WHO IS
2 THE SUBJECT OF THE CHILD CUSTODY PROCEEDING.

3 (2) WITHOUT A CAUSAL RELATIONSHIP SHOWN PURSUANT TO
4 SUBSECTION (1)(b) OF THIS SECTION, IF THE EVIDENCE SHOWS ONLY THE
5 EXISTENCE OF COMMUNITY OR FAMILY POVERTY, ISOLATION, SINGLE
6 PARENTHOOD, CUSTODIAN AGE, CROWDED OR INADEQUATE HOUSING,
7 SUBSTANCE ABUSE, OR NONCONFORMING SOCIAL BEHAVIOR, SUCH
8 EVIDENCE DOES NOT BY ITSELF CONSTITUTE THE CLEAR AND CONVINCING
9 EVIDENCE REQUIRED FOR A FINDING THAT CONTINUED CUSTODY IS LIKELY
10 TO RESULT IN SERIOUS EMOTIONAL OR PHYSICAL DAMAGE TO THE INDIAN
11 CHILD.

12 **19-1.2-124. Tribal customary adoption.** (1) IF THE INDIAN
13 CHILD'S PARENT, INDIAN CUSTODIAN, OR TRIBE PROVIDES NOTICE TO THE
14 COURT AND THE PARTIES IN WRITING OR ORALLY ON THE RECORD THAT
15 THE INDIAN CHILD'S PARENT, INDIAN CUSTODIAN, OR TRIBE IS PURSUING
16 A TRIBAL CUSTOMARY ADOPTION AS A RESOLUTION TO THE CHILD
17 CUSTODY PROCEEDING, THE INDIAN CHILD'S PARENT, INDIAN CUSTODIAN,
18 OR TRIBE MUST SECURE A MOTION TO TRANSFER THE CASE TO TRIBAL
19 COURT PURSUANT TO SECTION 19-1.2-118 WITHIN SIXTY-THREE DAYS
20 AFTER RECEIVING THE NOTICE. IF THE INDIAN CHILD'S PARENT, INDIAN
21 CUSTODIAN, OR TRIBE DOES NOT SECURE A MOTION TO TRANSFER THE
22 CASE WITHIN SIXTY-THREE DAYS, THE COURT MAY CONSIDER OTHER
23 PERMANENCY OR PLACEMENT OPTIONS PURSUANT TO THIS ARTICLE 1.2 AS
24 A RESOLUTION TO THE CHILD CUSTODY PROCEEDING. FAILURE TO SECURE
25 THE MOTION TO TRANSFER THE CASE WITHIN SIXTY-THREE DAYS DOES NOT
26 PREVENT THE INDIAN CHILD'S PARENT, INDIAN CUSTODIAN, OR TRIBE FROM
27 FILING A MOTION TO TRANSFER THE CASE TO A TRIBAL COURT AT A LATER

1 DATE.

2 (2) UPON THE REQUEST OF THE INDIAN CHILD'S TRIBE OR ANOTHER
3 PARTY TO THE CASE IN WHICH THE TRIBAL CUSTOMARY ADOPTION WAS
4 ISSUED, THE COURT SHALL CERTIFY A TRIBAL CUSTOMARY ADOPTION
5 ORDER AND TREAT THE ORDER IN ACCORDANCE WITH THE FULL FAITH AND
6 CREDIT PROVISIONS SET FORTH IN SECTION 19-1.2-131.

7 **19-1.2-125. Termination of parental rights - tribal customary**
8 **adoption exemption.** (1) UPON THE FILING OF A MOTION TO TERMINATE
9 THE PARENT-CHILD LEGAL RELATIONSHIP, THE COURT SHALL MAKE A
10 FINDING, SUBJECT TO THE PROCEDURES DESCRIBED IN SECTION 19-1.2-108
11 (3), REGARDING WHETHER THERE IS REASON TO KNOW THAT THE CHILD IS
12 AN INDIAN CHILD.

13 (2) (a) IF THERE IS A FINDING THAT THERE IS REASON TO KNOW
14 THAT THE CHILD IS AN INDIAN CHILD, IN ADDITION TO THE STATUTORY
15 CRITERIA OUTLINED IN SECTION 19-3-604 AND PART 1 OF ARTICLE 5 OF
16 THIS TITLE 19, THE COURT SHALL MAKE FINDINGS, SUPPORTED BY
17 EVIDENCE BEYOND A REASONABLE DOUBT, INCLUDING THE TESTIMONY OF
18 ONE OR MORE QUALIFIED EXPERT WITNESSES, THAT THE PARENTS'
19 CONTINUED CUSTODY OF THE INDIAN CHILD IS LIKELY TO RESULT IN
20 SERIOUS EMOTIONAL OR PHYSICAL DAMAGE TO THE CHILD.

21 (b) THE COURT MAY NOT ENTER AN ORDER TERMINATING
22 PARENTAL RIGHTS OF AN INDIAN CHILD UNLESS:

23 (I) THE COURT HAS OFFERED THE PARTIES THE OPPORTUNITY TO
24 PARTICIPATE IN MEDIATION;

25 (II) ACTIVE EFFORTS TO REUNITE THE INDIAN FAMILY DID NOT
26 ELIMINATE THE NECESSITY FOR TERMINATION BASED ON SERIOUS
27 EMOTIONAL OR PHYSICAL DAMAGE TO THE INDIAN CHILD; AND

1 (III) THE COURT HAS CONSIDERED AND ELIMINATED ANY LESS
2 DRASTIC ALTERNATIVES TO TERMINATION, INCLUDING, BUT NOT LIMITED
3 TO, ALLOCATION OF PARENTAL RESPONSIBILITIES, GUARDIANSHIP, AND
4 TRIBAL CUSTOMARY ADOPTION.

5 (3) THE EVIDENCE REQUIRED PURSUANT TO THIS SECTION MUST
6 SHOW A CAUSAL RELATIONSHIP BETWEEN THE PARTICULAR CONDITIONS IN
7 THE INDIAN CHILD'S HOME AND THE LIKELIHOOD THAT CONTINUED
8 CUSTODY OF THE INDIAN CHILD BY THE INDIAN CHILD'S PARENT OR
9 PARENTS WILL RESULT IN SERIOUS EMOTIONAL OR PHYSICAL DAMAGE TO
10 THE PARTICULAR INDIAN CHILD WHO IS THE SUBJECT OF THE CHILD
11 CUSTODY PROCEEDING. EVIDENCE THAT SHOWS THE EXISTENCE OF
12 COMMUNITY OR FAMILY POVERTY, ISOLATION, SINGLE PARENTHOOD,
13 CUSTODIAN AGE, CROWDED OR INADEQUATE HOUSING, SUBSTANCE ABUSE,
14 OR NONCONFORMING SOCIAL BEHAVIOR DOES NOT, BY ITSELF, ESTABLISH
15 A CAUSAL RELATIONSHIP AS REQUIRED BY THIS SECTION.

16 (4) A PETITIONING OR FILING PARTY FILING A MOTION TO
17 TERMINATE PARENTAL RIGHTS OF AN INDIAN CHILD SHALL DOCUMENT IN
18 THE MOTION WHAT EFFORTS HAVE BEEN MADE TO EXPLORE TRIBAL
19 CUSTOMARY ADOPTION PURSUANT TO SECTION 19-1.2-124.

20 (5) IF REQUESTED BY THE TRIBE, THE TERMINATION ORDER MUST
21 INCLUDE A PROVISION THAT THE PETITIONING OR FILING PARTY MAINTAIN
22 CONNECTIONS BETWEEN THE INDIAN CHILD AND THE INDIAN CHILD'S
23 TRIBE.

24 (6) THE RIGHTS OF ONE PARENT MAY BE TERMINATED WITHOUT
25 AFFECTING THE RIGHTS OF THE OTHER PARENT.

26 **19-1.2-126. Voluntary consent - foster care placement,**
27 **relinquishment of parental rights, or adoption - requirements - when**

1 **not valid.** (1) WHEN A PARENT OR INDIAN CUSTODIAN VOLUNTARILY
2 CONSENTS TO A FOSTER CARE, PRE-ADOPTIVE OR ADOPTIVE PLACEMENT,
3 OR TO TERMINATE PARENTAL RIGHTS, THE CONSENT IS NOT VALID UNLESS
4 EXECUTED IN WRITING AND RECORDED BEFORE A JUDGE OF A COURT OF
5 COMPETENT JURISDICTION AND ACCOMPANIED BY THE JUDGE'S
6 CERTIFICATE THAT THE TERMS AND CONSEQUENCES OF THE CONSENT
7 WERE FULLY EXPLAINED IN DETAIL AND FULLY UNDERSTOOD BY THE
8 PARENT OR INDIAN CUSTODIAN. THE COURT SHALL ALSO CERTIFY THAT
9 EITHER THE PARENT OR INDIAN CUSTODIAN FULLY UNDERSTOOD THE
10 EXPLANATION IN ENGLISH OR THAT IT WAS INTERPRETED INTO A
11 LANGUAGE THAT THE PARENT OR INDIAN CUSTODIAN UNDERSTOOD. ANY
12 CONSENT GIVEN PRIOR TO, OR WITHIN TEN DAYS AFTER, BIRTH OF THE
13 INDIAN CHILD IS NOT VALID.

14 (2) A PARENT OR INDIAN CUSTODIAN MAY WITHDRAW CONSENT TO
15 A FOSTER CARE PLACEMENT PURSUANT TO STATE LAW AT ANY TIME, AND,
16 UPON SUCH WITHDRAWAL, THE INDIAN CHILD MUST BE RETURNED TO THE
17 PARENT OR INDIAN CUSTODIAN.

18 (3) IN A VOLUNTARY PROCEEDING FOR TERMINATION OF PARENTAL
19 RIGHTS TO, OR ADOPTIVE PLACEMENT OF, AN INDIAN CHILD, THE CONSENT
20 OF THE INDIAN CHILD'S PARENT MAY BE WITHDRAWN FOR ANY REASON AT
21 ANY TIME PRIOR TO THE ENTRY OF A FINAL DECREE OF TERMINATION OF
22 PARENTAL RIGHTS OR ADOPTION, AS THE CASE MAY BE, AND THE INDIAN
23 CHILD MUST BE RETURNED TO THE INDIAN CHILD'S PARENT.

24 **19-1.2-127. Tribal-state agreements - purpose - requirements.**

25 (1) (a) THE STATE DEPARTMENT SHALL CONTINUE TO MAKE GOOD FAITH
26 EFFORTS TO FOLLOW AND REVISE TRIBAL-STATE CHILD WELFARE
27 AGREEMENTS WITH THE SOUTHERN UTE INDIAN TRIBE AND THE UTE

1 MOUNTAIN UTE INDIAN TRIBE. THE STATE DEPARTMENT SHALL REVISE A
2 TRIBAL-STATE CHILD WELFARE AGREEMENT UPON THE REQUEST OF, AND
3 IN CONJUNCTION WITH, THE REQUESTING INDIAN TRIBE.

4 (b) THE STATE DEPARTMENT MAY ALSO ENTER INTO A
5 TRIBAL-STATE CHILD WELFARE AGREEMENT WITH ANY INDIAN TRIBE
6 OUTSIDE OF COLORADO THAT HAS A SIGNIFICANT NUMBER OF MEMBER
7 CHILDREN OR MEMBERSHIP-ELIGIBLE CHILDREN RESIDING IN THIS STATE.

8 (2) THE PURPOSES OF A TRIBAL-STATE CHILD WELFARE
9 AGREEMENT ARE TO PROMOTE THE CONTINUED EXISTENCE AND INTEGRITY
10 OF THE INDIAN TRIBE AS A POLITICAL ENTITY AND TO PROTECT THE VITAL
11 INTERESTS OF INDIAN CHILDREN IN SECURING AND MAINTAINING
12 POLITICAL, CULTURAL, AND SOCIAL RELATIONSHIPS WITH THEIR TRIBE AND
13 FAMILY.

14 (3) A TRIBAL-STATE CHILD WELFARE AGREEMENT MAY INCLUDE
15 AGREEMENTS REGARDING DEFAULT JURISDICTION OVER CASES IN WHICH
16 THE STATE COURTS AND TRIBAL COURTS HAVE CONCURRENT
17 JURISDICTION; THE TRANSFER OF CASES BETWEEN STATE COURTS AND
18 TRIBAL COURTS; THE ASSESSMENT, REMOVAL, PLACEMENT, CUSTODY, AND
19 ADOPTION OF INDIAN CHILDREN; AND ANY OTHER CHILD WELFARE
20 SERVICES PROVIDED TO INDIAN CHILDREN.

21 (4) A TRIBAL-STATE CHILD WELFARE AGREEMENT MUST:

22 (a) PROVIDE FOR THE COOPERATIVE DELIVERY OF CHILD WELFARE
23 SERVICES TO INDIAN CHILDREN IN COLORADO, INCLUDING THE
24 UTILIZATION, TO THE EXTENT AVAILABLE, OF SERVICES PROVIDED BY THE
25 INDIAN TRIBE OR AN ORGANIZATION WHOSE MISSION IS TO SERVE THE
26 AMERICAN INDIAN OR ALASKA NATIVE POPULATION TO IMPLEMENT THE
27 TERMS OF THE TRIBAL-STATE CHILD WELFARE AGREEMENT; AND

1 (b) IF SERVICES PROVIDED BY THE INDIAN TRIBE OR AN
2 ORGANIZATION WHOSE MISSION IS TO SERVE THE AMERICAN INDIAN OR
3 ALASKA NATIVE POPULATION ARE UNAVAILABLE, PROVIDE FOR THE STATE
4 DEPARTMENT'S USE OF COMMUNITY SERVICES AND RESOURCES DEVELOPED
5 SPECIFICALLY FOR INDIAN FAMILIES AND THAT HAVE THE DEMONSTRATED
6 CAPACITY TO PROVIDE CULTURALLY RELEVANT AND EFFECTIVE SERVICES
7 TO INDIAN CHILDREN.

8 **19-1.2-128. Collateral attack.** (1) AFTER THE ENTRY OF A FINAL
9 DECREE OF ADOPTION OF AN INDIAN CHILD, THE INDIAN CHILD'S PARENT
10 MAY WITHDRAW CONSENT UPON THE GROUNDS THAT CONSENT WAS
11 OBTAINED THROUGH FRAUD OR DURESS AND MAY PETITION THE COURT TO
12 VACATE THE DECREE.

13 (2) UPON A FINDING THAT CONSENT WAS OBTAINED THROUGH
14 FRAUD OR DURESS, THE COURT SHALL VACATE THE DECREE OF ADOPTION
15 AND ORDER THE RETURN OF THE INDIAN CHILD TO THE INDIAN CHILD'S
16 PARENT.

17 (3) AN ADOPTION THAT HAS BEEN EFFECTIVE FOR AT LEAST TWO
18 YEARS SHALL NOT BE INVALIDATED PURSUANT TO THIS SECTION UNLESS
19 OTHERWISE PERMITTED BY STATE LAW.

20 **19-1.2-129. Report.** (1) (a) ON OR BEFORE SEPTEMBER 15, 2027,
21 AND EVERY ODD-NUMBERED YEAR THEREAFTER, THE JUDICIAL
22 DEPARTMENT SHALL PROVIDE THE FOLLOWING INFORMATION FOR THE
23 PRIOR TWO-YEAR PERIOD TO THE STATE DEPARTMENT:

24 (I) THE NUMBER OF INDIAN CHILDREN INVOLVED IN DEPENDENCY
25 AND NEGLECT PROCEEDINGS;

26 (II) THE DATES OUT-OF-HOME PLACEMENT WERE ORDERED FOR
27 INDIAN CHILDREN IN PROTECTIVE CUSTODY;

1 (III) THE RATIO OF INDIAN CHILDREN TO NON-INDIAN CHILDREN IN
2 PROTECTIVE CUSTODY; AND

3 (IV) THE NUMBER OF CASES THAT WERE TRANSFERRED TO A
4 TRIBAL COURT PURSUANT TO SECTIONS 19-1.2-118 AND 19-1.2-119.

5 (b) ON OR BEFORE SEPTEMBER 15, 2027, AND EVERY
6 ODD-NUMBERED YEAR THEREAFTER, THE STATE DEPARTMENT SHALL
7 COMPILE THE FOLLOWING INFORMATION FOR THE PRIOR TWO-YEAR
8 PERIOD:

9 (I) WHICH TRIBES THE INDIAN CHILDREN WHO WERE IN
10 PROTECTIVE CUSTODY WERE MEMBERS OF OR ELIGIBLE FOR MEMBERSHIP
11 IN;

12 (II) THE NUMBER OF INDIAN CHILDREN IN FOSTER CARE WHO ARE
13 IN EACH OF THE PLACEMENT PREFERENCE CATEGORIES DESCRIBED IN
14 SECTION 19-1.2-120 AND THE NUMBER OF THOSE PLACEMENTS THAT HAVE
15 INDIAN PARENTS IN THE HOME;

16 (III) THE NUMBER OF INDIAN CHILDREN PLACED IN ADOPTIVE
17 HOMES FROM THE CHILD WELFARE SYSTEM IN COLORADO IN EACH OF THE
18 PLACEMENT PREFERENCE CATEGORIES DESCRIBED IN SECTION 19-1.2-120
19 AND THE NUMBER OF THOSE PLACEMENTS THAT HAVE INDIAN PARENTS IN
20 THE HOME;

21 (IV) THE NUMBER OF AVAILABLE PLACEMENTS AND COMMON
22 BARRIERS TO RECRUITMENT AND RETENTION OF APPROPRIATE
23 PLACEMENTS;

24 (V) THE NUMBER OF TIMES THE COURT FOUND THAT GOOD CAUSE
25 EXISTED TO DEVIATE FROM THE STATUTORY PLACEMENT PREFERENCE
26 CATEGORIES DESCRIBED IN SECTION 19-1.2-120 WHEN MAKING A FINDING
27 REGARDING THE PLACEMENT OF A CHILD IN A DEPENDENCY AND NEGLECT

1 PROCEEDING;

2 (VI) THE NUMBER OF CASES THAT WERE TRANSFERRED TO A
3 TRIBAL COURT PURSUANT TO SECTIONS 19-1.2-118 AND 19-1.2-119;

4 (VII) THE NUMBER OF TIMES THE COURT FOUND GOOD CAUSE TO
5 DECLINE TO TRANSFER JURISDICTION OF A DEPENDENCY AND NEGLECT
6 PROCEEDING TO A TRIBAL COURT UPON REQUEST AND THE MOST COMMON
7 REASONS THE COURT FOUND GOOD CAUSE TO DECLINE A TRANSFER
8 PETITION;

9 (VIII) THE EFFORTS TAKEN BY THE DEPARTMENT OF HUMAN
10 SERVICES AND THE JUDICIAL DEPARTMENT TO ENSURE COMPLIANCE WITH
11 THIS ARTICLE 1.2 IN DEPENDENCY AND NEGLECT PROCEEDINGS RELATED
12 TO AN INDIAN CHILD;

13 (IX) THE NUMBER OF ICWA COMPLIANCE REPORTS, AS DESCRIBED
14 IN THIS SECTION, IN WHICH THE DEPARTMENT OF HUMAN SERVICES
15 REPORTED THE PETITIONER'S DOCUMENTATION WAS INSUFFICIENT FOR THE
16 COURT TO MAKE A FINDING REGARDING WHETHER THE PETITIONER
17 COMPLIED WITH THE INQUIRY OR NOTICE REQUIREMENTS REQUIRED
18 PURSUANT TO THIS ARTICLE 1.2; AND

19 (X) THE TOTAL NUMBER AND THE RATIO OF ALL ICWA
20 COMPLIANCE REPORTS THAT INDICATED THERE WAS A REASON TO KNOW
21 THAT THE CHILD WAS AN INDIAN CHILD.

22 (c) NO LATER THAN FEBRUARY 1, 2028, AND EVERY
23 EVEN-NUMBERED YEAR THEREAFTER, THE STATE DEPARTMENT SHALL
24 REPORT THE FINDINGS OF THE INFORMATION COMPILED PURSUANT TO
25 SUBSECTIONS (1)(a) AND (1)(b) OF THIS SECTION TO THE HOUSE OF
26 REPRESENTATIVES HEALTH AND HUMAN SERVICES COMMITTEE, THE HOUSE
27 OF REPRESENTATIVES JUDICIARY COMMITTEE, THE SENATE HEALTH AND

1 HUMAN SERVICES COMMITTEE, AND THE SENATE JUDICIARY COMMITTEE,
2 OR THEIR SUCCESSOR COMMITTEES.

3 (2) NOTWITHSTANDING THE REQUIREMENT IN SECTION 24-1-136
4 (11)(a)(I), THE REPORT REQUIRED PURSUANT TO THIS SECTION CONTINUES
5 INDEFINITELY.

6 **19-1.2-130. Conflict of laws.** (1) IF ANY PROVISION OF THIS
7 SECTION 1.2 IS FOUND TO PROVIDE A LOWER STANDARD OF PROTECTION TO
8 THE RIGHTS OF AN INDIAN CHILD OR THE INDIAN CHILD'S PARENT, INDIAN
9 CUSTODIAN, OR TRIBE THAN THE FEDERAL "INDIAN CHILD WELFARE ACT
10 OF 1978":

11 (a) THE HIGHER STANDARD OF PROTECTION IN THE FEDERAL
12 "INDIAN CHILD WELFARE ACT OF 1978" CONTROLS; AND

13 (b) THE CONFLICTING PROVISION DOES NOT RENDER ANY
14 REMAINING PROVISIONS OF THIS ARTICLE 1.2 INOPERATIVE THAT PROVIDE
15 A HIGHER STANDARD OF PROTECTION THAN THE FEDERAL "INDIAN CHILD
16 WELFARE ACT OF 1978".

17 **19-1.2-131. Full faith and credit.** THE COURT SHALL GIVE FULL
18 FAITH AND CREDIT TO THE PUBLIC ACTS, RECORDS, AND JUDICIAL
19 PROCEEDINGS OF AN INDIAN TRIBE APPLICABLE TO AN INDIAN CHILD
20 CUSTODY PROCEEDING, INCLUDING, BUT NOT LIMITED TO, TRIBAL
21 CUSTOMARY ADOPTIONS, TO THE SAME EXTENT THAT THE STATE GIVES
22 FULL FAITH AND CREDIT TO THE PUBLIC ACTS, RECORDS, AND JUDICIAL
23 PROCEEDINGS OF ANY OTHER GOVERNMENTAL ENTITY. BY GRANTING FULL
24 FAITH AND CREDIT PURSUANT TO THIS SECTION, A TRIBAL COURT ORDER
25 IS ENFORCEABLE PURSUANT TO SECTIONS 13-53-102 AND 13-53-103.

26 **19-1.2-132. Rules.** THE DEPARTMENT OF HUMAN SERVICES AND
27 THE JUDICIAL DEPARTMENT MAY ADOPT RULES AS NECESSARY TO

1 IMPLEMENT THIS ARTICLE 1.2.

2 **SECTION 3.** In Colorado Revised Statutes, 19-3-702, **amend**
3 (4)(e) introductory portion; and **add** (4)(e)(III.5) as follows:

4 **19-3-702. Permanency hearing.** (4) (e) If the court finds that
5 there is not a substantial probability that the child or youth will be
6 returned to a parent or legal guardian within six months and the child or
7 youth appears to be adoptable and meets the criteria for adoption in
8 section 19-5-203, the court may order ~~the~~ A county department of human
9 or social services to show cause why it should not file a motion to
10 terminate the parent-child legal relationship pursuant to part 6 of this
11 article 3. Cause may include, but is not limited to, any of the following
12 conditions:

13 (III.5) THE COURT, IN A PROCEEDING INVOLVING AN INDIAN CHILD,
14 HAS DETERMINED THAT ACTIVE EFFORTS, AS DEFINED IN SECTION
15 19-1.2-103 AND DESCRIBED IN SECTION 19-1.2-111, HAVE NOT BEEN
16 MADE;

17 **SECTION 4.** In Colorado Revised Statutes, 19-1-103, **amend**
18 (83), (84), and (85) as follows:

19 **19-1-103. Definitions.** As used in this title 19 or in the specified
20 portion of this title 19, unless the context otherwise requires:

21 (83) "Indian child" ~~means an unmarried person who is younger~~
22 ~~than eighteen years of age and who is either:~~ HAS THE SAME MEANING AS
23 SET FORTH IN SECTION 19-1.2-103.

24 ~~(a) A member of an Indian tribe; or~~

25 ~~(b) Eligible for membership in an Indian tribe and who is the~~
26 ~~biological child of a member of an Indian tribe.~~

27 (84) "Indian child's tribe" ~~means:~~ HAS THE MEANING DETERMINED

1 PURSUANT TO SECTION 19-1.2-108.

2 ~~(a) The Indian tribe in which an Indian child is a member or~~
3 ~~eligible for membership; or~~

4 ~~(b) In the case of an Indian child who is a member of or eligible~~
5 ~~for membership in more than one tribe, the Indian tribe with which the~~
6 ~~Indian child has the most significant contacts.~~

7 (85) "Indian tribe" means an Indian tribe, band, nation, or other
8 organized group or community of Indians recognized as eligible for the
9 federal governmental services provided to Indians because of their status
10 as Indians HAS THE SAME MEANING AS SET FORTH IN SECTION 19-1.2-103.

11 **SECTION 5.** In Colorado Revised Statutes, 19-2.5-502, **amend**
12 (5)(a) introductory portion and (5)(b) as follows:

13 **19-2.5-502. Petition initiation - petition form and content.**

14 (5) (a) Pursuant to ~~section 19-1-126~~ ARTICLE 1.2 OF THIS TITLE 19, in
15 ~~those~~ delinquency proceedings to which the federal "Indian Child Welfare
16 Act of 1978", 25 U.S.C. sec. 1901 et seq., ~~as amended~~, applies, including,
17 but not limited to, status offenses such as the illegal possession or
18 consumption of ethyl alcohol or marijuana by an underage ~~person~~
19 INDIVIDUAL or illegal possession of marijuana paraphernalia by an
20 underage person, as described in section 18-13-122, and possession of
21 handguns by juveniles, as described in section 18-12-108.5, the petition
22 must:

23 (b) If notices were sent to the INDIAN CHILD'S parent or Indian
24 custodian ~~of the child~~ and to the Indian child's tribe pursuant to ~~section~~
25 ~~19-1-126~~ ARTICLE 1.2 OF THIS TITLE 19, the postal receipts must be
26 attached to the petition and filed with the court or filed within fourteen
27 days after the filing of the petition, as specified in ~~section 19-1-126(1)(c)~~

1 ARTICLE 1.2 OF THIS TITLE 19.

2 **SECTION 6.** In Colorado Revised Statutes, 19-3-502, **amend**
3 (2.7)(a) introductory portion and (2.7)(b) as follows:

4 **19-3-502. Petition form and content - limitations on claims in**
5 **dependency or neglect actions.** (2.7) (a) Pursuant to ~~the provisions of~~
6 ~~section 19-1-126~~ ARTICLE 1.2 OF THIS TITLE 19, the petition must:

7 (b) If notices were sent to the INDIAN CHILD'S parent or Indian
8 custodian ~~of the child~~ and to the Indian child's tribe pursuant to ~~section~~
9 ~~19-1-126~~ ARTICLE 1.2 OF THIS TITLE 19, the postal receipts ~~shall~~ MUST be
10 attached to the petition and filed with the court or filed within ~~ten~~
11 FOURTEEN days after the filing of the petition, as specified in ~~section~~
12 ~~19-1-126 (1)(c)~~ ARTICLE 1.2 OF THIS TITLE 19.

13 **SECTION 7.** In Colorado Revised Statutes, 19-3-602, **amend**
14 (1.5)(a) introductory portion and (1.5)(b) as follows:

15 **19-3-602. Motion for termination - separate hearing - right to**
16 **counsel - no jury trial.** (1.5) (a) Pursuant to ~~the provisions of section~~
17 ~~19-1-126~~ SECTION 19-1.2-125, the motion for termination must:

18 (b) If notices were sent to the INDIAN CHILD'S parent or Indian
19 custodian ~~of the child~~ and to the Indian child's tribe, pursuant to ~~section~~
20 ~~19-1-126~~ SECTION 19-1.2-108, the postal receipts, or copies thereof, ~~shall~~
21 MUST be attached to the motion for termination and filed with the court
22 or filed within ~~ten~~ FOURTEEN days after the filing of the motion for
23 termination, as specified in ~~section 19-1-126 (1)(c)~~ SECTION 19-1.2-125.

24 **SECTION 8.** In Colorado Revised Statutes, 19-5-103, **amend**
25 (1.5)(a) introductory portion and (1.5)(b) as follows:

26 **19-5-103. Relinquishment procedure - petition - hearings.**
27 (1.5) (a) Pursuant to ~~the provisions of section 19-1-126~~ ARTICLE 1.2 OF

1 THIS TITLE 19, the petition for relinquishment ~~shall~~ MUST:

2 (b) If notices were sent to the INDIAN CHILD'S parent or Indian
3 custodian ~~of the child~~ and to the Indian child's tribe pursuant to ~~section~~
4 ~~19-1-126~~ ARTICLE 1.2 OF THIS TITLE 19, the postal receipts ~~shall~~ MUST be
5 attached to the petition and filed with the court or filed within fourteen
6 days after the filing of the petition, as specified in ~~section 19-1-126(1)(c)~~
7 ARTICLE 1.2 OF THIS TITLE 19.

8 **SECTION 9.** In Colorado Revised Statutes, 19-5-105.5, **amend**
9 (7.3) as follows:

10 **19-5-105.5. Termination of parent-child legal relationship**
11 **upon a finding that the child was conceived as a result of sexual**
12 **assault - legislative declaration - definitions.** (7.3) If the child is an
13 Indian child, the court shall ensure compliance with the federal "Indian
14 Child Welfare Act of 1978", 25 U.S.C. sec. 1901 et seq., and the
15 provisions of ~~section 19-1-126~~ ARTICLE 1.2 OF THIS TITLE 19.

16 **SECTION 10.** In Colorado Revised Statutes, 19-5-105.7, **amend**
17 (11)(b) as follows:

18 **19-5-105.7. Termination of parent-child legal relationship in**
19 **a case of an allegation that a child was conceived as a result of sexual**
20 **assault but in which no conviction occurred - legislative declaration**
21 **- definitions.** (11) (b) If the child is an Indian child, the court shall
22 ensure compliance with the federal "Indian Child Welfare Act of 1978",
23 25 U.S.C. sec. 1901 et seq., and ~~the provisions of section 19-1-126~~
24 ARTICLE 1.2 OF THIS TITLE 19.

25 **SECTION 11.** In Colorado Revised Statutes, 19-5-208, **amend**
26 (2.5)(a) introductory portion and (2.5)(b) as follows:

27 **19-5-208. Petition for adoption - open adoption - post-adoption**

1 **contact agreement.** (2.5) (a) Pursuant to ~~the provisions of section~~
2 ~~19-1-126~~ ARTICLE 1.2 OF THIS TITLE 19, the petition for adoption must:

3 (b) If notices were sent to the INDIAN CHILD'S parent or Indian
4 custodian ~~of the child~~ and to the Indian child's tribe pursuant to ~~section~~
5 ~~19-1-126~~ ARTICLE 1.2 OF THIS TITLE 19, the postal receipts, or copies
6 thereof, ~~shall~~ MUST be attached to the petition for adoption and filed with
7 the court or filed within ~~ten~~ FOURTEEN days after the filing of the petition
8 for adoption, as specified in ~~section 19-1-126 (1)(c)~~ ARTICLE 1.2 OF THIS
9 TITLE 19.

10 **SECTION 12. Safety clause.** The general assembly finds,
11 determines, and declares that this act is necessary for the immediate
12 preservation of the public peace, health, or safety or for appropriations for
13 the support and maintenance of the departments of the state and state
14 institutions.