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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. **1285**

February 22, 2007

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The bill was read for the first time and referred to the Committee on Health and Human Services

1.1 A bill for an act
1.2 relating to Indian child welfare; modifying child placement provisions for Indian
1.3 children; amending Minnesota Statutes 2006, sections 260.755, subdivisions 12,
1.4 20; 260.761, subdivision 7; 260.765, subdivision 5; 260.771, subdivisions 1, 2.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2006, section 260.755, subdivision 12, is amended to
1.7 read:

1.8 Subd. 12. **Indian tribe.** "Indian tribe" means an Indian tribe, band, nation, or
1.9 other organized group or community of Indians recognized as eligible for the services
1.10 provided to Indians by the secretary because of their status as Indians, including any ~~band~~
1.11 Native group under the Alaska Native Claims Settlement Act, United States Code, title 43,
1.12 section 1602, ~~and exercising tribal governmental powers.~~

1.13 Sec. 2. Minnesota Statutes 2006, section 260.755, subdivision 20, is amended to read:

1.14 Subd. 20. **Tribal court.** "Tribal court" means a court with ~~federally recognized~~
1.15 jurisdiction over child custody proceedings and which is either a court of Indian offenses,
1.16 or a court established and operated under the code or custom of an Indian tribe, or ~~the~~
1.17 any other administrative body of a tribe which is vested with authority over child custody
1.18 proceedings. Except as provided in section 260.771, subdivision 5, nothing in this chapter
1.19 shall be construed as conferring jurisdiction on an Indian tribe.

1.20 Sec. 3. Minnesota Statutes 2006, section 260.761, subdivision 7, is amended to read:

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

2.4 Sec. 4. Minnesota Statutes 2006, section 260.765, subdivision 5, is amended to read:

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

2.8 Sec. 5. Minnesota Statutes 2006, section 260.771, subdivision 1, is amended to read:

2.9 Subdivision 1. **Indian tribe jurisdiction.** An Indian tribe ~~with a tribal court~~ has
2.10 exclusive jurisdiction over a child placement proceeding involving an Indian child who
2.11 resides or is domiciled within the reservation of ~~such the~~ the tribe ~~at the commencement of~~
2.12 ~~the proceedings~~, except where jurisdiction is otherwise vested in the state by existing
2.13 federal law. When an Indian child is ~~in the legal custody of a person or agency pursuant~~
2.14 ~~to an order~~ a ward of a tribal court, the Indian tribe retains exclusive jurisdiction,
2.15 notwithstanding the residence or domicile of the child.

2.16 Sec. 6. Minnesota Statutes 2006, section 260.771, subdivision 2, is amended to read:

2.17 Subd. 2. **Court determination of tribal affiliation of child.** In any child placement
2.18 proceeding, the court shall establish whether an Indian child is involved and the identity
2.19 of the Indian child's tribe. The federal Indian Child Welfare Act and this chapter are
2.20 applicable without exception in any child custody proceeding, as defined in the federal act,
2.21 involving an Indian child. This chapter applies to child custody proceedings involving
2.22 an Indian child whether the child is in the physical or legal custody of an Indian parent,
2.23 Indian custodian, Indian extended family member, or other person at the commencement
2.24 of the proceedings. A court shall not determine the applicability of the federal Indian
2.25 Child Welfare Act or this chapter to a child custody proceeding based upon whether an
2.26 Indian child is part of an existing Indian family or based upon the level of contact a child
2.27 has with the child's Indian tribe, reservation, society, or off-reservation community.