

Amendment to AB444 – Revises provisions concerning child welfare

Submitted by: Assemblywoman Shea Backus

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EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of **green bold underlining** is language proposed to be added in this amendment; (3) **red strikethrough** is deleted language in the original bill; (4) **purple double strikethrough** is language proposed to be deleted in this amendment; (5) **orange double underlining** is deleted language in the original bill proposed to be retained in this amendment.

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

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

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

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

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

WHEREAS, Clearly addressing in state law the coordination between and respective roles of the state and tribes regarding the provision of child welfare services to Indian children will provide uniform and consistent direction to state courts, tribes and practitioners to prevent unlawful removals of Indian children from their families and promote the stable placement of Indian children in loving, permanent homes that are connected to family and culture; now, therefore,

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Title 11 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 39, inclusive, of this act.

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

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

3. Sections 2 to 39, inclusive, of this act create additional safeguards for Indian children to address disproportionate rates of removal, to improve the treatment of and services provided to Indian children and Indian families in the child welfare system and to ensure that Indian children who must be removed are placed with Indian families, communities and cultures.

Sec. 3. *As used in sections 2 to 39, inclusive, of this act, the words and terms defined in sections 4 3.5 to 17, inclusive, of this act have the meanings ascribed to them in those sections.*

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

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

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

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

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

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

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

1. *A member or citizen of an Indian tribe; or*
2. *Eligible for membership or citizenship in an Indian tribe and is the biological child of a member of an Indian tribe.*

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

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

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

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

Sec. 14. *“Parent” means:*

1. *A biological parent of an Indian child;*
2. *An Indian who has lawfully adopted an Indian child, including adoptions made under tribal law or custom; or*

~~3. A mom whose parentage has been acknowledged or established under section 19 of this act.~~

A person who has established a parent and child relationship pursuant to Nevada law.

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

Sec. 16. *“Reservation” means Indian country as defined in 18 U.S.C. § 1151 and any lands not covered under that section, the title to which is held by the United States in trust for the benefit of an Indian tribe or person or held by an Indian tribe or person subject to a restriction by the United States against alienation.*

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

Sec. 18. 1. *A person has custody of an Indian child under sections 2 to 39, inclusive, of this act if the person has physical custody or legal custody of the Indian child under any applicable tribal law, tribal custom or state law.*

2. An Indian child's parent has continued custody of the Indian child if the parent currently has, or previously had, custody of the Indian child.

~~3. For purposes of sections 2 to 39, inclusive, of this act, the following persons are presumed to have continued custody of an Indian child:~~

~~a. The Indian child's biological mother.~~

~~b. A man who is married to the Indian child's biological mother.~~

~~c. A man whose parentage has been acknowledged or established as described in section 19 of this act.~~

Sec. 19. 1. ~~A man's parentage of an Indian child is acknowledged or established for purposes of sections 2 to 39, inclusive, of this act and chapters 125A, 127, 128 and 432B of NRS if the man's parentage has been:~~

~~(a) Established under subsection 2 of NRS 126.041;~~

~~(b) Established under tribal law;~~

~~(c) Recognized in accordance with tribal custom; or~~

~~(d) Openly proclaimed by the man, orally or in writing, to the court, the Indian child's family, the Division or an adoption agency licensed in this State and the man's paternity is confirmed in accordance with this section.~~

~~2. If a man acknowledges paternity of an Indian child to the Division or an adoption agency as provided in paragraph (d) of subsection 1, the Division or adoption agency shall notify the court of the man's acknowledgement immediately or, if a matter is not yet pending in this State,~~

~~immediately upon filing a petition or being served with a copy of a petition alleging that the child is within the jurisdiction of the court.~~

~~3.—Not later than 30 days after receiving the oral or written acknowledgment of the man under paragraph (d) of subsection 1 or receiving notice under subsection 2 of the man's acknowledgment, the court shall order tests for the typing of blood or taking of specimens for genetic identification in accordance with NRS 126.121. If any person fails to comply with an order of the court for such tests within a reasonable period, the court shall consider the person to have refused to submit to the test for the purposes of NRS 126.121.~~

~~4.—If the tests ordered pursuant to subsection 3 do not confirm the man's paternity or if the man has refused to consent to the tests, the man's parentage has not been acknowledged or established for purposes of subsection 1.~~

Deleted.

Sec. 20. In a child custody proceeding involving an Indian child, when making a determination regarding the best interests of the child in accordance with sections 2 to 39, inclusive, of this act, chapter 125A, 127, 128 or 432B of NRS, the Indian Child Welfare Act, 25 U.S.C. §§ 1901 et seq., or any applicable regulations or rules regarding sections 2 to 39, inclusive, of this act, chapter 125A, 127, 128 or 432B of NRS or the Indian Child Welfare Act, the court shall, in consultation with the Indian child's tribe, consider the following:

- 1. The protection of the safety, well-being, development and stability of the Indian child;***
- 2. The prevention of unnecessary out-of-home placement of the Indian child;***
- 3. The prioritization of placement of the Indian child in accordance with the placement preferences under section 37 of this act;***
- 4. The value to the Indian child of establishing, developing or maintaining a political,***

*cultural, social and spiritual relationship with the Indian child's tribe and tribal community;
and*

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

Sec. 21. *For purposes of sections 2 to 39, inclusive, of this act:*

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

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

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

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

(c) The Indian child's guardian.

Sec. 22. *1. Unless an Indian child's parent objects, the ~~Division~~ Agency shall provide assistance with enrolling an Indian child within the jurisdiction of the juvenile court under NRS 432B.410 in a tribe with which the child is eligible for enrollment.*

2. In any child custody proceeding under chapter 432B of NRS, if the ~~Division~~ determines that there is reason to know that the child is an Indian child and the ~~Division~~ Agency reasonably believes that the Indian child is eligible for enrollment in a tribe, the ~~Division~~ Agency shall notify the Indian child's parents of his or her their right to object to the ~~Division~~ Agency's assistance under subsection 1. Notice under this subsection is satisfied by sending notification to the parents' last known address.

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

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

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

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

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

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

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

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

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

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

(d) The interests asserted by each tribe;

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

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

3. If an Indian child is a member of or is eligible for membership in more than one tribe, the court may, in its discretion, permit a tribe, in addition to the Indian child's tribe, to

participate in a proceeding under chapter 432B of NRS involving the Indian child in an advisory capacity or as a party.

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

Sec. 25. 1. The ~~Division~~ Agency shall make a good faith effort to enter into a tribal-state agreement with any Indian tribe within the borders of this State. The ~~Division~~ Agency may also enter into a tribal-state agreement with any Indian tribe outside of this State having significant numbers of member children or membership-eligible children residing in this State.

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

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

4. A tribal-state agreement must:

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

(b) If services provided by the tribe or an organization whose mission is to serve the

American Indian or Alaska Native population are unavailable, provide for the Division Agency's use of community services and resources developed specifically for Indian families that have the demonstrated experience and capacity to provide culturally relevant and effective services to Indian children.

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

2. ~~If a tribe is not subject to Public Law 83-280,~~ The tribe has exclusive jurisdiction in a child custody proceeding involving an Indian child if:

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

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

~~3. An Indian tribe subject to Public Law 83-280 may limit the court's exercise of jurisdiction over an Indian child by entering into a tribal state agreement described in section 25 of this act. The court shall decline to exercise its jurisdiction over an Indian child who is a ward of a tribal court or who resides or is domiciled within the reservation of a tribe if:~~

~~(a) The tribe has entered into a tribal state agreement in which the State has agreed to decline jurisdiction; and~~

~~(b) The tribal state agreement provides that the tribe has default jurisdiction over those cases.~~

~~4. If the court declines to exercise its jurisdiction under subsection 3, the court shall coordinate with the tribal court to facilitate the tribal court's assumption of jurisdiction. Except as otherwise provided in subsection 5, the court shall:~~

~~(a) Allow the Indian child's parent, Indian custodian or tribe to participate in any communications under this subsection with a tribal court or, if the person is unable to participate in a communication, provide the person with an opportunity to represent facts and legal arguments~~

~~supporting the position of the person before the court makes a decision regarding jurisdiction;~~

~~(b) Create records of any communications under this subsection;~~

~~(e) Notify the Indian child's parent, Indian custodian or tribe in advance of each communication; and~~

~~(d) Provide the Indian child's parent, Indian custodian or tribe with access to the record of the communications.~~

5. Communications between the court and a tribal court regarding calendars, court records and similar matters may occur without informing the parties or creating a record of the communications.

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

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

Sec. 27. 1. Except as otherwise provided in subsection 5, the court shall transfer a child custody proceeding involving an Indian child if, at any time during the proceeding, the Indian child's parent, Indian custodian or tribe petitions the court to transfer the proceeding to the tribal court.

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

~~3. Transfer of the proceeding is inappropriate if:~~

~~(a) The Indian child's tribe has declined the transfer;~~

~~(b) One or both of the Indian child's parents object to the transfer; or~~

~~(c) Good cause exists to deny the transfer.~~

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

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

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

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

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

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

~~(f) Whether the transfer serves the best interests of the Indian child.~~

5. 4. *The court shall deny the transfer motion if:*

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

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

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

6. 5. *Notwithstanding paragraph (b) of subsection ~~5~~ 4, the objection of the Indian child's*

parent does not preclude the transfer if:

- (a) The objecting parent dies or the objecting parent's parental rights are terminated and have not been restored; and*
- (b) The Indian child's remaining parent, Indian custodian or tribe files a new transfer motion subsequent to the death of the objecting parent or the termination of the parental rights of the objecting parent.*

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

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

- 1. Notify the tribal court of the pending dismissal of the child custody proceeding;*
- 2. Transfer all information regarding the proceeding, including, without limitation, pleadings and court records, to the tribal court;*

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

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

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

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

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

*1. Each petitioner and every other person otherwise required by the court or by any **applicable law**, ~~regulation or rule~~ shall:*

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

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

2. The court shall:

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

*(b) Not enter a **custody** order in the matter until all applicable inquiry and notice requirements set forth in sections 2 to **39**, inclusive, of this act have been met.*

Sec. 30. ~~*1.—In an emergency proceeding, the person taking the child into protective custody shall make a good faith effort to determine whether there is reason to know that the child is an Indian child and to contact by telephone, electronic mail, facsimile or other means of immediate communication any tribe of which the child is or may be a member to determine the child's affiliation.*~~

~~*2.—*~~*Except as provided in subsection 1 or if the person already knows that a child is an Indian child, whenever a person is required in a child custody proceeding to determine whether there is reason to know that the child is an Indian child, the person shall make a good faith effort to determine whether the child is an Indian child, including, **but not limited to**, ~~at a minimum,~~ by consulting with:*

(a) The child;

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

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

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

or the person, indicates that the child is an Indian child.

4. Except as otherwise provided in section 49 of this act, whenever a person is required to demonstrate to the court in a child custody proceeding that the person made efforts to determine whether a child is an Indian child, the court shall make written findings regarding whether the person satisfied the inquiry requirements under subsection 1 or 2, as appropriate, and whether the child is an Indian child or whether there is reason to know that the child is an Indian child. At the commencement of any hearing in an emergency proceeding or a child custody proceeding, unless the court previously found that the child is an Indian child, the court shall ask, on the record, each person present on the matter whether the person has reason to know that the child is an Indian child and shall make a finding regarding whether there is reason to know that the child is an Indian child.

5. If the court finds under subsection 4 that there is:

(a) Reason to know that the child is an Indian child but the court does not have sufficient evidence to find that the child is an Indian child, the court shall order that ~~the child be treated as an Indian child~~ inquiry as to whether the child is an Indian child continues until the court finds that the child is not an Indian child.

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

6. If the court finds under subsection 4 that there is reason to know that the child is an Indian child but the court does not have sufficient evidence to make a finding that the child is or is not an Indian child, the court shall require the ~~Division~~ Agency or other party to submit a report, declaration or testimony on the record that the ~~Division~~ Agency or other party used due

diligence to identify and work with all of the tribes of which the child may be a member or in which the child may be eligible for membership to verify whether the child is a member or is eligible for membership.

7. A person making an inquiry under this section ~~subsection 1 or 2~~ shall request that any tribe receiving information under this section keep documents and information regarding the inquiry confidential if the proceeding arises under NRS 432B or a consenting parent in an adoption proceeding requests anonymity. A request from a consenting parent for anonymity does not relieve the court or any party in an adoption proceeding from the duty to verify whether the child is an Indian child.

Sec. 31. 1. In an emergency proceeding, the person taking the child into protective custody must make good faith efforts to determine whether there is reason to know that a child is an Indian child and if there is reason to know that a child is an Indian child and the nature of the emergency allows, the ~~Division~~ Agency shall notify by telephone, electronic mail, facsimile or other means of immediate communication any tribe of which the child is or may be a member. Notification under this subsection must include the basis for the child's removal, the time, date and place of the initial hearing and a statement that the tribe has the right to participate in the proceeding as a party or in an advisory capacity.

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

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

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

3. *Notice under subsection 2 must be:*

(a) *Sent to:*

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

(2) ~~The child's parents;~~

(3) ~~The child's Indian custodian, if applicable; and~~

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

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

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

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

(2) *To the extent known:*

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

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

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

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

(5) In a child custody proceeding, a4 copy of the petition or motion initiating the proceeding and, if a hearing has been scheduled, information on the date, time and location of the hearing;

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

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

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

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

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

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

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

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

(10) The mailing addresses and telephone numbers of the court and contact information for all parties to the proceeding ~~and persons notified under this section;~~ and

(11) A statement that the information contained in the notice is confidential and that the notice should not be shared with any person not needing the information to exercise rights under sections 2 to 39, inclusive, of this act.

4. *If there is a reason to know that the Indian child's parent or Indian custodian has limited English proficiency and may not understand the contents of the notice under subsection 2, the court must provide language access services as required by Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d et seq., and other applicable federal and state laws. If the court is unable to secure translation or interpretation support, the court shall contact or direct a party to contact the Indian child's tribe or the local office of the United States Bureau of Indian Affairs for assistance identifying a qualified translator or interpreter.*

5. If a child is known to be an Indian child, a *A hearing that requires notice under subsection 2 may not be held until at least 10 days after the latest of receipt of the notice by the Indian child's parent, Indian custodian or tribe or, if applicable, the United States Bureau of Indian Affairs. Upon request, the court shall grant the Indian child's parent, Indian custodian or tribe up to 20 additional days from the date upon which notice was received by the parent, Indian custodian or tribe to prepare for participation in the hearing. Nothing in this subsection prevents a court at an emergency proceeding before the expiration of the waiting period described in this subsection from reviewing the removal of an Indian child from the Indian child's parent or Indian custodian to determine whether the removal or placement is no longer necessary to prevent imminent physical damage or harm to the Indian child.*

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

witness.

~~2. At a hearing in a child custody proceeding, if the court has found that there is reason to know that a child is an Indian child, at least one qualified expert witness must testify regarding:~~

~~—— (a) Whether the continued custody of the Indian child by the child's parent or custody by the child's Indian custodian is likely to result in serious emotional or physical damage to the Indian child; and~~

~~—— (b) The prevailing social and cultural standards and child rearing practices of the Indian child's tribe.~~

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

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

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

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

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

5. In addition to testimony from a qualified expert witness, the court may hear supplemental testimony regarding information described in subsection 2 from a professional having

substantial education and experience in the area of the professional's specialty.

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

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

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

3. *Active efforts must:*

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

(b) *If the child is alleged to be within the jurisdiction of the juvenile court under NRS 432B.410, include assisting the Indian child's parent or parents or Indian custodian through the steps of a case plan ~~and with accessing or developing the resources necessary to satisfy the~~ ease plan;*

(c) *Include ~~providing assistance in a manner consistent with the prevailing social and cultural standards and way of life of the Indian child's tribe;~~ Include providing assistance with the cooperation of the Indian child's tribe to the extent possible;*

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

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

4. *Active efforts may include, as applicable, the following:*

(a) ~~Conducting a comprehensive assessment of the circumstances of the Indian child's family, with a focus on reunification as the most desirable goal;~~

(b) ~~Identifying appropriate services and helping the Indian child's parents overcome barriers~~

to reunification, including actively assisting the parents in obtaining the identified services;

~~(c) Identifying, notifying and inviting representatives of the Indian child's tribe to participate in providing support and services to the Indian child's family and in family team meetings, permanency planning, resolution of placement issues, reviews or other case management related meetings;~~

~~(d) Conducting or causing to be conducted a diligent search for the Indian child's extended family members, contacting and consulting with the Indian child's extended family members and adult relatives to provide family structure and support for the Indian child and the Indian child's parents;~~

~~(e) Offering and employing culturally appropriate family preservation strategies and facilitating the use of remedial and rehabilitative services provided by the Indian child's tribe;~~

~~(f) Taking steps to keep the Indian child and the Indian child's siblings together whenever possible;~~

~~(g) Supporting regular visits with the Indian child's parent or Indian custodian in the most natural setting possible, as well as trial home visits during any period of removal, consistent with the need to ensure the health, safety and welfare of the Indian child;~~

~~(h) Identifying community resources, including, without limitation, housing, financial assistance, employment training, transportation, mental health, health care, substance abuse prevention and treatment, parent training, transportation and peer support services and actively assisting the Indian child's parents or, when appropriate, the Indian child's extended family members, in utilizing and accessing those resources;~~

~~(i) Monitoring progress and participation of the Indian child's parents, Indian custodian or extended family members in the services as described in paragraphs (b), (c), (e) and (h);~~

~~(j) Considering alternative options to address the needs of the Indian child's parents and, where appropriate, the Indian child's extended family members, if the services as described in paragraphs (b), (c), (e) and (h) are not available;~~

~~(k) Providing post-reunification services and monitoring while the Indian child is within the juvenile court's jurisdiction; and~~

~~(l) Any other efforts that are appropriate to the Indian child's circumstances.~~

~~5. As used in this section, "active efforts" means efforts that are affirmative, active, thorough, timely and intended to maintain or reunite an Indian child with the Indian child's family.~~

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

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

(a) The attorney will appear in a court in this State for the limited purpose of participating in a proceeding under chapter 432B of NRS subject to the provisions of sections 2 to 39, inclusive, of this act;

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

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

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

Sec. 35. 1. *If ~~there is reason to know that~~ a child in a proceeding under chapter 432B of NRS is an Indian child:*

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

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

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

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

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

under section 37 of this act if the child is an Indian child.

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

- (a) Most closely approximates a family, taking into consideration sibling attachment;
- (b) Allows the Indian child's special needs, if any, to be met;
- (c) Is in reasonable proximity to the Indian child's home, extended family or siblings; and
- (d) Is in accordance with the order of preference established by the Indian child's tribe or,

if the Indian child's tribe has not established placement preferences, is in accordance with the following order of preference:

- (1) A member of the Indian child's extended family;
- (2) A foster home licensed, approved or specified by the Indian child's tribe;
- (3) A foster home licensed or approved by a licensing authority in this State and in which one or more of the licensed or approved foster parents is an Indian; or
- (4) An institution for children that has a program suitable to meet the Indian child's needs and is approved by an Indian tribe or operated by an Indian organization.

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

- (a) In accordance with the order of preference established by the Indian child's tribe; or
- (b) If the Indian child's tribe has not established placement preferences, according to the

following order of preference:

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

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

(3) With other Indian families.

3. If an Indian child is placed outside of the placement preferences of subsection 1 or 2, the placing party must ask the court to make a finding that good cause exists for placement outside of the preferences. ~~A party may move the court for authority to make a placement contrary to the placement preferences of subsection 1 or 2. The motion must detail the reasons the party asserts that good cause exists for placement contrary to the placement preferences established by subsection 1 or 2. Upon the filing of an objection to a motion under this subsection, the court shall fix the time for hearing on the objections.~~ *If the court determines that the moving party has established, by clear and convincing evidence, that there is good cause to depart from the placement preferences under this section, the court may authorize placement in an alternative placement. The court's determination under this subsection:*

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

(1) The preferences of the Indian child;

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

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

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

which the Indian child's parent or extended family members maintain social and cultural ties.

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

(c) May be informed by but not determined by the placement request of a parent of the Indian child, after the parent has reviewed the placement options, if any, that comply with the placement preferences under this section.

(d) May not be based on:

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

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

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

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

~~4. The court, on the court's own motion or on the motion of any party, shall make a determination under section 38 of this act regarding the Indian child's placement if the court or the moving party has reason to believe that the child was placed contrary to the placement preferences of subsection 1 or 2 without good cause. A motion under this subsection may be made orally on the record or in writing.~~

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

competent jurisdiction by:

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

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

(g) The Indian child's tribe.

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

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

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

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

6. As used in this section, "termination of parental rights" includes, without limitation, the involuntary termination of parental rights under chapter 128 or 432B of NRS, or the termination of parental rights resulting from an adoption proceeding under chapter 127 of NRS.

Sec. 39. ~~1. The juvenile court, on the court's own motion or on the motion of any party, shall~~

~~expeditiously determine whether an Indian child asserted to be within the jurisdiction of the juvenile court under NRS 432B.410 has been improperly removed or improperly retained following a visit or temporary relinquishment of custody. A motion under this section may be made orally on the record or in writing.~~

~~2. If the court finds that the Indian child has been improperly removed or improperly retained, the court shall order the Division to immediately return the Indian child to the child's parent or Indian custodian and dismiss the proceeding, unless the court determines by clear and convincing evidence that doing so would subject the child to substantial and immediate danger or a threat of substantial and immediate danger.~~

Deleted.

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

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

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

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

Sec. 41. Chapter 127 of NRS is hereby amended by adding thereto the provisions set forth as sections 42 to 50, inclusive, of this act.

Sec. 42. 1. *In addition to the requirements set forth in NRS 127.110, a petition for*

adoption of a child must contain:

(a) A declaration under penalty of perjury and documentation, as described by the regulations adopted by the Division pursuant to section 49 of this act, of the petitioner's good faith efforts described in subsection 2 of section 30 of this act, to determine whether there is reason to know that the child is an Indian child;

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

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

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

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

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

(a) A finding that the petitioner complied with the inquiry requirements under subsection 2 of section 30 of this act;

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

(c) If the court finds ~~that there is reason to know that~~ the child is an Indian child:

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

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

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

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

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

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

(2) The child's parents;

(3) The child's Indian custodian, if applicable;

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

(5) (3) The Administrator of the Division Agency.

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

Sec. 43. 1. *If a petition for adoption of a child concerns the adoption of an Indian child, except as otherwise provided in subsection 5 and unless their parental rights have been terminated, the court determines that consent is not required, consent in writing to the adoption must be given by: the Indian child's parents. The consents must be filed with the court.*

~~(a) The Indian child's parents, or the survivor of the parents.~~

~~(b) If the Indian child has no living parent, the Indian child's guardian or Indian custodian.~~

~~(c) If the Indian child has no living parent, guardian or Indian custodian, the next of kin in this State.~~

~~□ Consent under this subsection is valid only as to the person giving consent.~~

~~2. If both of the Indian child's parents are living but only one of the Indian child's parents consents to the adoption:~~

~~(a) The petitioner must demonstrate to the court that the petitioner has made active efforts, as described in section 33 of this act to prevent the breakup of the family or to reunite the family;~~

~~(b) The petitioner, in accordance with section 44 of this act, shall serve on the nonconsenting parent a summons and a motion and order to show cause why the proposed adoption should not be ordered without the nonconsenting parent's consent; and~~

~~(c) The objections of the nonconsenting parent, if any, must be heard if appearance is made.~~

~~3.—An Indian child's parent may consent to the adoption of the Indian child at any time not less than 10 days following the date of the Indian child's birth by executing the consent in person before the court on the record, and filing the consent with the court. The consent must clearly set out the conditions to the consent, if any.~~

~~4.—5.—Before the execution of a parent's consent under subsection ~~3-2~~, the court must explain to the parent on the record in detail and in the language of the parent:~~

(a) The right to legal counsel;

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

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

~~5.—6.—~~*After the execution of a parent’s consent under subsection ~~3-2~~, the court shall certify that the court made the explanation under subsection ~~4-3~~ and that the parent fully understood the explanation.*

~~6.—7.—~~*At any time before the entry of a judgment of adoption, an Indian child’s parent may withdraw the parent’s consent under this section. The withdrawal of consent must be made by filing the written withdrawal with the court or by making a statement of withdrawal on the record in the adoption proceeding. Upon entry of the withdrawal of consent, the court must promptly notify the person or entity that arranged the adoptive placement and order that the Indian child be returned to the parent or Indian custodian as soon as practicable. to regain custody and control of the child. The parent who withdrew consent may petition the court for return of the child.*

~~7.—~~This section does not apply when consent is given in loco parentis.

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

Sec. 44. ~~1.—~~If a parent of an Indian child does not consent to the adoption of the child pursuant to section ~~43~~ of this act, the petitioner shall serve the parent with a summons and a true copy of a motion and order to show cause why the proposed adoption should not be ordered without the parent’s consent. The summons and the motion and order to show cause need not contain the names of the adoptive parents.

~~2.—~~In addition to the service required pursuant to subsection ~~1~~, the petitioner shall serve by

~~registered or certified mail, return receipt requested, copies of the motion and order to show cause, together with the notice of proceeding in the form required under subsection 3 of section 31 of this act, on:~~

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

~~(b) The child's parents;~~

~~(c) The child's Indian custodian, if applicable; and~~

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

~~3. The petitioner shall file a declaration of compliance under penalty of perjury that includes:~~

~~(a) A statement describing the efforts the petitioner made in accordance with section 33 of this act to prevent the breakup of the family or to reunite the family; and~~

~~(b) A copy of each notice of proceeding the petitioner served as required under subsection 2, together with any return receipts or other proof of service.~~

~~4. A summons under this section must contain:~~

~~(a) A statement that an adoption petition has been filed and that, if the parent fails to file a written answer to the motion and order to show cause within the time provided, the court, without further notice and in the parent's absence, may take any action that is authorized by law, including, without limitation, entering a judgment of adoption of the child if the court determines, on the date the answer is required or on a future date, that:~~

~~(1) Consent of the parent is not required;~~

~~(2) The adoption is in the best interests of the child; and~~

~~(3) The nonconsenting parent's continued custody of the child is likely to result in serious emotional or physical damage to the child.~~

~~(b) A statement that:~~

~~(1) The parent must file with the court a written answer to the motion and order to show cause within 30 days after the date on which the parent is served with the summons; and~~

~~(2) In the answer, the parent must inform the court and the petitioner of the parent's telephone number or contact telephone number and the parent's current residence, mailing or contact address in the same state as the parent's home.~~

~~(c) A notice that, if the parent answers the motion and order to show cause, the court:~~

~~(1) Will schedule a hearing to address the motion and order to show cause and, if appropriate, the adoption petition;~~

~~(2) Will order the parent to appear personally; and~~

~~(3) May schedule other hearings related to the petition and may order the parent to appear personally.~~

~~(d) A notice that the parent has the right to be represented by an attorney.~~

~~(e) A statement that the parent has the responsibility to maintain contact with the parent's attorney and to keep the attorney advised of the parent's whereabouts.~~

~~5. A parent who is served with a summons and a motion and order to show cause under this section shall file with the court a written answer to the motion and order to show cause within 30 days after the date on which the parent is served with the summons. In the answer, the parent shall inform the court and the petitioner of the parent's telephone number or contact telephone number and current address.~~

~~6. If the parent requests the assistance of appointed counsel and the court determines that the~~

parent is financially eligible, the court shall appoint an attorney to represent the parent.

~~7.~~ Upon receiving the petitioner's declaration of compliance under subsection 3, the court shall order that the motion and order to show cause may proceed if the court finds that the petitioner satisfied the inquiry requirements under subsection 2 of section 30 of this act and, if applicable, the notice requirements under subsection 2 of section 31 of this act.

~~8.~~ If the court finds that the petitioner failed to satisfy the inquiry requirements under subsection 2 of section 30 of this act or, if applicable, the notice requirements under subsection 2 of section 31 of this act or if the documentation is insufficient for the court to make those findings, the court shall direct the petitioner to cure the inquiry or notice deficiency and file an amended declaration of compliance. The court shall order the petitioner to appear and show cause why the court should not deny the motion and order to show cause if the petitioner fails to file the amended declaration of compliance within a reasonable amount of time.

~~9.~~ The court shall offer to order mediation through the Division, or if there is mutual party agreement to private mediation and to the party assumption of costs, through other mediation services, between the Indian child's parents, the Indian child's tribe and the proposed adoptive placement.

~~10.~~ If a parent files a written answer as required under subsection 5, the court shall, by oral order made on the record or by written order provided to the parent in person or mailed to the parent at the address provided by the parent:

~~(a)~~ Inform the parent of the time, place and purpose of the next hearing or hearings related to the motion and order to show cause or the adoption petition;

~~(b)~~ Require the parent to appear personally at the next hearing or hearings related to the motion and order to show cause or the adoption petition; and

~~(c) Inform the parent that, if the parent fails to appear as ordered for any hearing related to the motion and order to show cause or the adoption petition, the court, without further notice and in the parent's absence, may take any action that is authorized by law, including, without limitation, entering a judgment of adoption of the child on the date specified in the order or on a future date, without the consent of the parent.~~

~~11. If the parent's answer indicates the parent's consent to the adoption, the court may not accept the consent unless the consent meets the requirements set forth in section 43 of this act.~~

~~12. If a parent fails to file a written answer as required in subsection 5 or fails to appear for a hearing related to the motion and order to show cause or the petition as ordered by the court, the court may, without further notice to the parent and in the parent's absence, take any action that is authorized by law, including, without limitation, entering a judgment of adoption of the child without the consent of the parent if the court finds on the date the answer is required or on a future date, the action to be in the child's best interests.~~

~~13. Notwithstanding any other provision of law, the court may not enter a judgment of adoption of an Indian child without the consent of the parent unless:~~

~~(a) The court has offered the parties the opportunity to participate in mediation as required under subsection 9;~~

~~(b) If requested by the tribe, an agreement is in place that requires the proposed adoptive placement to maintain connection between the child and the child's tribe;~~

~~(c) The court determines that the petitioner complied with the notice requirements under subsection 2 of section 31 of this act;~~

~~(d) The court determines that evidence, including the testimony of one or more qualified expert witnesses under section 32 of this act, establishes beyond a reasonable doubt that the continued~~

~~custody of the child by the nonconsenting parent is likely to result in serious emotional or physical damage to the child and that the petitioner's active efforts under section 33 of this act to reunite the Indian family did not eliminate the necessity for termination of the nonconsenting parent's parental rights based on serious emotional or physical damage to the child; and~~

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

~~14. The evidence under paragraph (d) of subsection 13 must show a causal relationship between the particular conditions in the Indian child's home and the likelihood that the nonconsenting parent's continued custody of the Indian child will result in serious emotional or physical damage to the Indian child who is the subject of the adoption proceeding. Evidence that shows the existence of community or family poverty, isolation, single parenthood, custodian age, crowded or inadequate housing, substance use or nonconforming social behavior does not, by itself, establish a causal relationship as required by this subsection.~~

~~15. If the child has no living parent and no guardian or next of kin in this State qualified to appear in behalf of the child, the court may order any notice to be given as the court deems necessary or proper.~~

~~16. The child's tribe or Indian custodian may intervene at any time as a matter of right.~~

Deleted.

Sec. 45. 1. If, upon a petition for adoption of a child duly presented and consented to, the court is satisfied as to the identity and relations of the persons, that the petitioner is of sufficient ability to bring up the child and furnish suitable nurture and education, having reference to the

degree and condition of the parents, and that it is fit and proper that such adoption be effected, a judgment shall be made setting forth the facts and ordering that from the date of the judgment, the child, for all legal intents and purposes, is the child of the petitioner.

2. A judgment entered under this section must include:

(a) A finding that the petitioner complied with the inquiry requirements under subsection 2 of section 30 of this act to determine whether there is reason to know that the child is an Indian child; and

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

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

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

(b) The names and addresses of the biological parents, if known;

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

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

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

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

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

(h) ~~If an agency consented to the adoption in loco parentis and~~ the adoptive placement and the parents entered into a post adoptive contact agreement and/or the adoptive placement

and the Indian child's tribe has entered into an agreement that requires the adoptive placement to maintain connection between the child and the child's tribe, the terms of the agreement(s); and

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

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

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

Sec. 46. 1. A petition to vacate a judgment of adoption of an Indian child under this chapter or chapter 432B of NRS may be filed in a court of competent jurisdiction by a parent who consented to the adoption.

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

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

(a) The petition is filed not later than 4 2 years following the date of the judgment; and

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

4. When the court vacates a judgment of adoption under this section, the court shall also

order that the parental rights of the parent whose consent the court found was obtained through fraud or duress be restored. The order restoring parental rights under this section must include a ~~transition~~ plan for the physical custody of the Indian child, whether that be back to the agency or the parent.

*Sec. 47. 1. If a judgment of adoption of an Indian child under this chapter ~~or chapter 432B~~ of NRS ~~is vacated~~, or the adoptive parent has voluntarily consented to the termination of parental rights, ~~the court vacating the judgment~~ or terminating the parental rights *must notify, by registered or certified mail with return receipt requested, the Indian child's former parents, prior Indian custodian, if any, ~~and~~ Indian tribe, and the Agency.**

2. The notice required under subsection 1 must:

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

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

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

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

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

(a) The former parent's right to legal counsel, if applicable;

(b) The terms and consequences of the waiver; and

(c) How the waiver may be revoked.

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

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

6. If a judgment of adoption of an Indian child under this chapter ~~or chapter 432B of NRS~~ is vacated other than as provided in section 38 of this act ~~or the adoptive parent of the Indian child has voluntarily consented to the termination of parental rights~~, an Indian child's former parent or prior Indian custodian may intervene in the proceeding and move the court for the Indian child to be returned to the custody of the former parent or prior Indian custodian and for the parental rights to the Indian child to be restored. The moving party shall provide by registered or certified mail, return receipt requested, notice of the motion for the Indian child to be returned to the custody of the former parent or prior Indian custodian and the time set for filing objections to the motion, together with notice of proceeding in the form required under subsection 3 of section 31 of this act to:

(a) The agency in the county where the order was vacated.

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

~~(b)~~ (c) *The child's parents;*

~~(e)~~ (d) *The child's Indian custodian, if applicable; and*

~~(d)~~ (e) *The appropriate Regional Director of the United States Bureau of Indian Affairs*

listed in 25 C.F.R. § 23.11(b), if the identity or location of the child's parents cannot be ascertained.

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

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

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

9. *As used in this section:*

(a) *"Former parent" means a person who was previously the legal parent of an Indian child subject to a judgment of adoption under this chapter or chapter 432B of NRS and whose parental rights have not been restored under section 39 or 46 of this act.*

(b) *"Prior Indian custodian" means a person who was previously the custodian of an Indian child subject to ~~an Indian child's Indian custodian before entry of~~ a judgment of adoption of the child under this chapter or chapter 432B of NRS.*

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

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

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

2. *Upon receiving an ICWA compliance report, the court shall order the matter to proceed if the court finds that the petitioner satisfied the inquiry requirements under subsection 2 of section 30 of this act and, if applicable, the notice requirements under subsection 2 of section 31 of this act. If the court finds that:*

(a) *Subject to the procedures under subsection 4 of section 30 of this act, ~~there is reason to know that~~ if the child is an Indian child, the court's order under this subsection must include a finding regarding whether the proposed adoptive placement complies with the preferences under section 37 of this act. If the court finds that the proposed adoptive placement does not comply*

with such preferences or that the documentation provided by the petitioner is insufficient for the court to make a finding, the court shall direct the petitioner to amend the petition to cure the deficiency or file a motion under subsection 3 of section 37 of this act, for authority to make the placement contrary to the placement preferences under section 37 of this act.

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

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

(a) Descriptions of the consultations the petitioner or moving party made with the persons described in subsection 2 of section 30 of this act and subsection 3 of section 31 of this act and the responses the petitioner or moving party obtained;

(b) Descriptions of any oral responses and copies of any written responses the petitioner or moving party obtained from the persons described in subsection 2 of section 30 of this act and subsection 3 of section 31 of this act;

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

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

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

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

4. The Division shall adopt any other regulations for the preparation of ICWA compliance reports that are necessary for the ~~Division~~ Agency to carry out its duties under this chapter.

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

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

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

6. The Court Administrator may design and offer trainings to courts having jurisdiction over adoption matters regarding the application of sections 2 to 39, inclusive, of this act and

sections 42 to 50, inclusive, of this act to adoptions of minor children, including, without limitation, identifying when there is reason to know that the child is an Indian child and making findings regarding the sufficiency of inquiry and notice and the appropriateness of adoptive placements.

7. As used in this section, “ICWA compliance report” means a written report prepared by the ~~Division~~ Agency concerning compliance with the Indian Child Welfare Act.

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

(a) The ~~Division~~ Agency shall provide the Indian child’s tribe and proposed tribal customary adoptive parents with a written report on the Indian child, including, without limitation, to the extent not otherwise prohibited by state or federal law, the medical background, if known, of the Indian child’s parents, and the Indian child’s educational information, developmental history and medical background, including all known diagnostic information, current medical reports and any psychological evaluations.

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

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

(2) Uses the prevailing social and cultural standards of the Indian child’s tribe as the standards for evaluation of the proposed adoptive placement;

(3) Includes an evaluation of the background, safety and health information of the

proposed adoptive placement, including the biological, psychological and social factors of the proposed adoptive placement and assessment of the commitment, capability and suitability of the proposed adoptive placement to meet the Indian child's needs; and

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

(c) Notwithstanding subsection 3, the court may not accept the tribe's order or judgment of tribal customary adoption if any adult living in the proposed adoptive placement has a felony conviction for child abuse or neglect, spousal abuse, crimes against a child, including child pornography, or a crime involving violence. The Division shall, by regulation, define "crime involving violence" for the purposes of this paragraph. The definition must include rape, sexual assault and homicide, but must not include other physical assault or battery.

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

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

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

(c) The order or judgment:

(1) Includes a description of the modification of the legal relationship of the Indian child's parents or Indian custodian and the Indian child, including any contact between the Indian child and the Indian child's parents or Indian custodian, responsibilities of the Indian child's parents or Indian custodian and the rights of inheritance of the parents and Indian child;

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

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

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

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

5. After accepting a tribal customary adoption order or judgment under subsection 3, the court that accepted the order or judgment shall proceed as provided in section 45 of this act and enter a judgment of adoption. In addition to the requirements under section 45 of this act, the judgment of adoption must include a statement that any parental rights or obligations not specified in the judgment are transferred to the tribal customary adoptive parents and a description of any parental rights or duties retained by the Indian child's parents, the rights of inheritance of the parents and Indian child and the Indian child's legal relationship with the child's tribe.

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

7. Upon the court's entry of a judgment of adoption under this section, the court's jurisdiction over the Indian child terminates.

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

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

10. *The Division shall adopt regulations requiring that any report regarding a ward who is an Indian child that the ~~Division~~ Agency submits to the court, including any home studies, placement reports or other reports required by law must address tribal customary adoption as a permanency option. The Supreme Court may adopt rules necessary for the court processes to implement the provisions of this section, and the Court Administrator may prepare necessary forms for the implementation of this section.*

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

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

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

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

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

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

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

Sec. 51.5. NRS 127.007 is hereby amended to read as follows:

127.007 1. The Division shall maintain the State Register for Adoptions, which is hereby established, in its central office to provide information ~~to identify adults who were adopted and persons related to them within the third degree of consanguinity.~~

2. The State Register for Adoptions consists of:

(a) Names and other information, which the Administrator of the Division deems to be necessary for the operation of the Register, relating to persons who have released a child for adoption or have consented to the adoption of a child, or whose parental rights have been terminated by a court of competent jurisdiction, and who have submitted the information ~~voluntarily~~ to the Division;

(b) Names and other necessary information of persons ~~who are 18 years of age or older, who were adopted and~~ who have submitted the information voluntarily to the Division; and

(c) Names and other necessary information of persons who are related within the third degree of consanguinity to adopted persons, and who have submitted the information voluntarily to the Division.

→ Any person whose name appears in the Register may withdraw it by requesting in writing that it be withdrawn. The Division shall immediately withdraw a name upon receiving a request to do so, and may not thereafter release any information to identify that person, including the information that such a name was ever in the Register.

3. Except as otherwise provided in subsection 4, the Division may release information:

(a) About a person related within the third degree of consanguinity to an adopted person; or

(b) About an adopted person to a person related within the third degree of consanguinity,

→ if the names and information about both persons are contained in the Register and written consent for the release of such information is given by the natural parent.

4. An adopted person may, by submitting a written request to the Division, restrict the release of any information concerning himself or herself to one or more categories of relatives within the third degree of consanguinity.

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

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

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

127.018 1. ~~Unless the child involved is subject to the jurisdiction of an Indian tribe pursuant to the Indian Child Welfare Act,~~ *Except as otherwise provided in sections 2 to 39, inclusive, of this act and sections 42 to 50, inclusive, of this act,* a child of whom this State:

- (a) Is the home state on the date of the commencement of the proceeding; or
- (b) Was the home state within 6 months before the commencement of the proceeding,

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

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

- (a) The state in which a child lived for at least 6 consecutive months, including any temporary absence from the state, immediately before the commencement of a proceeding; or
- (b) In the case of a child less than 6 months of age, the state in which the child lived from birth, including any temporary absence from the state.

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

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

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

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

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

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

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

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

(a) An agency which provides child welfare services;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. No order of adoption may be entered unless there has been full compliance with the provisions of NRS 127.220 to 127.310, inclusive ~~§~~, *and the provisions of sections 2 to 39, inclusive, of this act and sections 42 to 50, inclusive, of this act.*

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

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

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

128.023 1. If proceedings pursuant to this chapter involve the termination of parental rights of the parent of an Indian child, the court shall ~~†~~:

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

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

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

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

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

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

□ as provided in the Indian Child Welfare Act.

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

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

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

- (a) The facts which bring the child within the purview of this chapter.
 - (b) The name, age and residence of the child.
 - (c) The names and residences of the parents of the child.
 - (d) The name and residence of the person or persons having physical custody or control of the child.
 - (e) The name and residence of the child's legal guardian, if there is one.
 - (f) The name and residence of the child's nearest known relative, if no parent or guardian can be found.
 - (g) Whether the *petitioner has reason to know that the* child is ~~known to be~~ an Indian child.
3. If any of the facts required by subsection 2 are not known by the petitioner, the petition must so state.
4. If the petitioner is a mother filing with respect to her unborn child, the petition must so state and must contain the name and residence of the father or putative father, if known.
5. If the petitioner or the child is receiving public assistance, the petition must so state.

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

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

- (a) Brought pursuant to title 5 of NRS or chapter 31A, 123, 125, 125A, 125B, 125C, 126, 127, 128, 129, 130, 159A, 425 or 432B of NRS, except to the extent that a specific statute authorizes the use of any other judicial or administrative procedure to facilitate the collection of an obligation for support.

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

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

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

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

(f) To change the name of a minor.

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

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

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

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

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

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

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

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

7.285 1. ~~1A~~ *Except as otherwise provided in section 34 of this act, a* person shall not

practice law in this state if the person:

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

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

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

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

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

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

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

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

62A.160 “Indian child” has the meaning ascribed to it in ~~25 U.S.C. § 1903.~~ *section 9 of this act.*

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

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

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

~~—(b) Transfer the proceedings to the Indian child’s tribe in accordance with the Indian Child~~

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

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

- (a) Shall appoint an attorney to represent the parent;
- (b) May appoint an attorney to represent the Indian child; and
- (c) May apply to the Secretary of the Interior for the payment of the fees and expenses of such an attorney.

Sec. 63. ~~Chapter 432B of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1.—If a parent or guardian of a child who is in need of protection intends to voluntarily place the child with a public agency or private institution or agency pursuant to NRS 432B.360, the Division of Child and Family Services shall make inquiries, as described in subsection 2 of section 30 of this act, to determine whether the Division of Child and Family Services has reason to know that the child is an Indian child.~~

~~2.—If the Division of Child and Family Services has reason to know that the child is an Indian child, the placement agreement must be executed in person before the juvenile court, consistent with this subsection, and the placement must be approved by the court.~~

~~3.—At a hearing, the juvenile court shall explain to the Indian child's parent or Indian custodian, on the record in detail and in the language of the parent or Indian custodian, the parent's right to legal counsel, the terms and consequences of the voluntary placement agreement, and the court must inform the parent or Indian custodian that the voluntary placement agreement may be~~

~~revoked at any time before an entry of a final decree of termination of parental rights and have the Indian child returned to the parent's custody. The Indian child's parent or Indian custodian shall execute the voluntary placement agreement before the court and file the voluntary placement agreement with the court. The court shall certify that the court provided the explanation consistent with the requirements under this subsection and that the Indian child's parent or Indian custodian fully understood the explanation.~~

~~4.—The juvenile court may approve the voluntary placement agreement if:~~

~~(a) The court finds that the Indian child's parent or Indian custodian entered into the voluntary placement agreement without a threat of removal by the Division of Child and Family Services or a public or private institution or agency; and~~

~~(b) The proposed placement conforms with the placement preferences described in section 37 of this act.~~

~~5.—An Indian child's parent or Indian custodian may terminate the voluntary placement agreement at any time before an entry of an order terminating parental rights. To terminate the voluntary placement agreement, the Indian child's parent or Indian custodian must file a written notice of termination with the juvenile court or otherwise testify before the court. The court shall promptly notify the Division of Child and Family Services of the termination and order the immediate return of the Indian child to the physical custody of the Indian child's parent or Indian custodian.~~

~~6.—As used in this section, "voluntary placement agreement" means a binding, written agreement between the Division of Child and Family Services and the parent or legal guardian of a minor child that does not transfer legal custody to the Division of Child and Family Services but that specifies, at a minimum, the legal status of the child and the rights and obligations of the parent~~

~~or legal guardian, the child and the Division of Child and Family Services while the child is in placement.~~

Deleted.

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

432B.067 “Indian child” has the meaning ascribed to it in ~~{25 U.S.C. § 1903.}~~ *section 9 of*

this act.

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

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

1. Regulations establishing reasonable and uniform standards for:
 - (a) Child welfare services provided in this State;
 - (b) Programs for the prevention of abuse or neglect of a child and the achievement of the permanent placement of a child;
 - (c) The development of local councils involving public and private organizations;
 - (d) Reports of abuse or neglect, records of these reports and the response to these reports;
 - (e) Carrying out the provisions of NRS 432B.260, including, without limitation, the qualifications of persons with whom agencies which provide child welfare services enter into agreements to provide services to children and families;
 - (f) The management and assessment of reported cases of abuse or neglect;
 - (g) The protection of the legal rights of parents and children;
 - (h) Emergency shelter for a child;
 - (i) The prevention, identification and correction of abuse or neglect of a child in residential institutions;

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

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

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

(3) The state and federal legal rights of:

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

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

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

2. Regulations, which are applicable to any person who is authorized to place a child in protective custody without the consent of the person responsible for the child's welfare, setting

forth reasonable and uniform standards for establishing whether immediate action is necessary to protect the child from injury, abuse or neglect for the purposes of determining whether to place the child into protective custody pursuant to NRS 432B.390. Such standards must consider the potential harm to the child in remaining in his or her home, including, without limitation:

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

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

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

3. Regulations establishing procedures for:

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

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

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

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

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

(b) *The implementation of sections 2 to 39, inclusive, of this act and sections 42 to 50, inclusive, of this act.*

Sec. 66. NRS 432B.360 is hereby amended to read as follows:

432B.360 1. ~~At~~ *Except as otherwise provided in section 63 of this act, a* parent or guardian of a child who is in need of protection may place the child with a public agency authorized to care for children or a private institution or agency licensed by the Department of Health and Human Services or a county whose population is 100,000 or more to care for such children if:

(a) Efforts to keep the child in his or her own home have failed; and

(b) The parents or guardian and the agency or institution voluntarily sign a written agreement for placement of the child which sets forth the rights and responsibilities of each of the parties to the agreement.

2. If a child is placed with an agency or institution pursuant to subsection 1, the parent or guardian shall:

(a) If able, contribute to the support of the child during the temporary placement;

(b) Inform the agency or institution of any change in the address or circumstances of the parent or guardian; and

(c) Meet with a representative of the agency or institution and participate in developing and carrying out a plan for the possible return of the child to the custody of the parent or guardian, the

placement of the child with a relative or the eventual adoption of the child.

3. A parent or guardian who voluntarily agrees to place a child with an agency or institution pursuant to subsection 1 is entitled to have the child returned to the physical custody of the parent or guardian within 48 hours of a written request to that agency or institution. If that agency or institution determines that it would be detrimental to the best interests of the child to return the child to the custody of the parent or guardian, it shall cause a petition to be filed pursuant to NRS 432B.490.

4. If the child has remained in temporary placement for 6 consecutive months, the agency or institution shall:

- (a) Immediately return the child to the physical custody of the parent or guardian; or
- (b) Cause a petition to be filed pursuant to NRS 432B.490.

5. The Division of Child and Family Services shall adopt regulations to carry out the provisions of this section.

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

432B.397 1. The agency which provides child welfare services for a child that is taken into custody pursuant to this chapter shall make all necessary inquiries *in accordance with subsection 2 of section 30 of this act* to determine whether ~~there is reason to know that~~ the child is an Indian child. The agency shall report that determination to the court.

2. An agency which provides child welfare services pursuant to this chapter shall provide training for its personnel regarding the requirements of the Indian Child Welfare Act ~~§~~, *sections 2 to 39, inclusive, of this act and sections 42 to 50, inclusive, of this act.*

Sec. 68. NRS 432B.410 is hereby amended to read as follows:

432B.410 1. Except ~~if the child involved is subject to the jurisdiction of an Indian tribe~~

~~pursuant to the Indian Child Welfare Act,]~~ *as otherwise provided in section 26 of this act,* the court has exclusive original jurisdiction in proceedings concerning any child domiciled, living or found within the county who is a child in need of protection or may be a child in need of protection.

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

Sec. 69. NRS 432B.425 is hereby amended to read as follows:

432B.425 If proceedings pursuant to this chapter involve the protection of an Indian child, the court shall ~~+~~

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

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

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

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

432B.5902 1. After a motion for the termination of parental rights is filed pursuant to NRS 432B.5901, unless a party to be served voluntarily appears and consents to the hearing, and except as otherwise provided in subsection 3, a copy of the motion and notice of the hearing must be served, either together or separately, upon all parties to the proceeding by personal service or, if the whereabouts of the person are unknown, obtaining an order from the court that service may be

made by publication in accordance with the procedure set forth in subsections 1, 4 and 5 of NRS 128.070 and subsection 2.

2. If a court orders that service be made by publication pursuant to subsection 1 and the person to be served by publication has a last known address, personal service must also be attempted before service of the notice is deemed to be complete. The court order must direct the publication to be made in a newspaper designated by the court at least once every week for a period of 4 weeks. If personal service is also attempted, service of the notice shall be deemed to be complete at the expiration of such a period. The provisions of this subsection and subsection 1 must not be construed to preclude personal service and service by publication from being attempted simultaneously.

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

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

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

(b) If the child who is subject to the motion is known to be an Indian child, that child's tribe; and

~~If applicable, each Indian tribe of the child who is the subject of the motion, in accordance with NRS 128.023; and~~

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

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

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

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

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

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

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

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

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

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

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

6. The number of Indian children placed in adoptive homes in each of the placement

preference categories described in section 37 of this act and the number of those placements that have Indian parents in the home.

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

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

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

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

11. The efforts the Division and the Court Administrator have taken to ensure compliance with the provisions of sections 2 to 39, inclusive, of this act and sections 42 to 50, inclusive, of this act in dependency proceedings.

12. The number of ICWA compliance reports in which the Division reported the petitioner's documentation was insufficient for the court to make a finding regarding whether the petitioner complied with the inquiry requirements under subsection 2 of section 30 of this act and notice requirements under subsection 2 of section 31 of this act. As used in this subsection, "ICWA compliance report" has the meaning ascribed to it in section 49 of this act.

Sec. 73. Not later than March 15, 2025, the Division of Child and Family Services of the Department of Health and Human Services shall submit a report to the Chairs of the Senate and Assembly Standing Committees on Judiciary describing the Division's implementation of tribal customary adoption as described in section 50 of this act as an alternative permanency option for

wards who are Indian children and the Division's recommendation for proposed legislation to improve the tribal customary adoption process.

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

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

Sec. 75. 1. If any provision of sections 2 to 39, inclusive, of this act or sections 42 to 50, inclusive, of this act is found to provide a lower standard of protection to the rights of an Indian child or the Indian child's parent, Indian custodian or tribe than that provided in the Indian Child Welfare Act:

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

(b) It shall not serve to render inoperative any remaining provisions of sections 2 to 39, inclusive, of this act and sections 42 to 50, inclusive, of this act that may be held to provide a higher standard of protection than that provided in the Indian Child Welfare Act.

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

Sec. 76. The Court Administrator may adopt any rules necessary to implement the provisions of sections 2 to 39, inclusive, of this act and sections 42 to 50, inclusive, of this act.

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

Sec. 78. NRS 62D.200, 127.013, 127.017, 128.027, ~~128.093~~, 432B.451 and 432B.465 are hereby repealed.

Sec. 79. This act becomes effective:

1. Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and
 2. On January 1, 2024, for all other purposes.
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LEADLINES OF REPEALED SECTIONS

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

127.013 Transfer of proceedings to Indian tribe.

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

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

~~**128.093 Testimony of qualified expert witness required in proceedings to terminate parental rights of parent of Indian child.**~~

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

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