

SUBSTITUTE FOR
SENATE BILL NO. 1232

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
(MCL 710.21 to 712A.32) by adding chapter XIIB.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER XIIB

SEC. 1. THIS CHAPTER SHALL BE KNOWN AND MAY BE CITED AS THE
"MICHIGAN INDIAN FAMILY PRESERVATION ACT".

SEC. 3. AS USED IN THIS CHAPTER:

(A) "ACTIVE EFFORTS" MEANS ACTIONS TO PROVIDE REMEDIAL
SERVICES AND REHABILITATIVE PROGRAMS DESIGNED TO PREVENT THE
BREAKUP OF THE INDIAN FAMILY AND TO REUNIFY THE CHILD WITH THE
INDIAN FAMILY. ACTIVE EFFORTS REQUIRE MORE THAN A REFERRAL TO A
SERVICE WITHOUT ACTIVELY ENGAGING THE INDIAN CHILD AND FAMILY.
ACTIVE EFFORTS INCLUDE REASONABLE EFFORTS AS REQUIRED BY TITLE IV-E
OF THE SOCIAL SECURITY ACT, 42 USC 670 TO 679C, AND ALSO INCLUDE

1 DOING OR ADDRESSING ALL OF THE FOLLOWING:

2 (i) ENGAGING THE INDIAN CHILD, CHILD'S PARENTS, TRIBE, EXTENDED
3 FAMILY MEMBERS, AND INDIVIDUAL INDIAN CAREGIVERS THROUGH THE
4 UTILIZATION OF CULTURALLY APPROPRIATE SERVICES AND IN COLLABORATION
5 WITH THE PARENT OR CHILD'S INDIAN TRIBES AND INDIAN SOCIAL SERVICES
6 AGENCIES.

7 (ii) IDENTIFYING APPROPRIATE SERVICES AND HELPING THE PARENTS
8 TO OVERCOME BARRIERS TO COMPLIANCE WITH THOSE SERVICES.

9 (iii) CONDUCTING OR CAUSING TO BE CONDUCTED A DILIGENT SEARCH
10 FOR EXTENDED FAMILY MEMBERS FOR PLACEMENT.

11 (iv) REQUESTING REPRESENTATIVES DESIGNATED BY THE INDIAN
12 CHILD'S TRIBE WITH SUBSTANTIAL KNOWLEDGE OF THE PREVAILING SOCIAL
13 AND CULTURAL STANDARDS AND CHILD REARING PRACTICE WITHIN THE TRIBAL
14 COMMUNITY TO EVALUATE THE CIRCUMSTANCES OF THE INDIAN CHILD'S
15 FAMILY AND TO ASSIST IN DEVELOPING A CASE PLAN THAT USES THE
16 RESOURCES OF THE INDIAN TRIBE AND INDIAN COMMUNITY, INCLUDING
17 TRADITIONAL AND CUSTOMARY SUPPORT, ACTIONS, AND SERVICES, TO
18 ADDRESS THOSE CIRCUMSTANCES.

19 (v) COMPLETING A COMPREHENSIVE ASSESSMENT OF THE SITUATION OF
20 THE INDIAN CHILD'S FAMILY, INCLUDING A DETERMINATION OF THE
21 LIKELIHOOD OF PROTECTING THE INDIAN CHILD'S HEALTH, SAFETY, AND
22 WELFARE EFFECTIVELY IN THE INDIAN CHILD'S HOME.

23 (vi) IDENTIFYING, NOTIFYING, AND INVITING REPRESENTATIVES OF
24 THE INDIAN CHILD'S TRIBE TO PARTICIPATE IN ALL ASPECTS OF THE
25 INDIAN CHILD CUSTODY PROCEEDING AT THE EARLIEST POSSIBLE POINT IN
26 THE PROCEEDING AND ACTIVELY SOLICITING THE TRIBE'S ADVICE
27 THROUGHOUT THE PROCEEDING.

1 (vii) NOTIFYING AND CONSULTING WITH EXTENDED FAMILY MEMBERS OF
2 THE INDIAN CHILD, INCLUDING EXTENDED FAMILY MEMBERS WHO WERE
3 IDENTIFIED BY THE INDIAN CHILD'S TRIBE OR PARENTS, TO IDENTIFY AND
4 TO PROVIDE FAMILY STRUCTURE AND SUPPORT FOR THE INDIAN CHILD, TO
5 ASSURE CULTURAL CONNECTIONS, AND TO SERVE AS PLACEMENT RESOURCES
6 FOR THE INDIAN CHILD.

7 (viii) MAKING ARRANGEMENTS TO PROVIDE NATURAL AND FAMILY
8 INTERACTION IN THE MOST NATURAL SETTING THAT CAN ENSURE THE INDIAN
9 CHILD'S SAFETY, AS APPROPRIATE TO THE GOALS OF THE INDIAN CHILD'S
10 PERMANENCY PLAN, INCLUDING, WHEN REQUESTED BY THE TRIBE,
11 ARRANGEMENTS FOR TRANSPORTATION AND OTHER ASSISTANCE TO ENABLE
12 FAMILY MEMBERS TO PARTICIPATE IN THAT INTERACTION.

13 (ix) OFFERING AND EMPLOYING ALL AVAILABLE FAMILY PRESERVATION
14 STRATEGIES AND REQUESTING THE INVOLVEMENT OF THE INDIAN CHILD'S
15 TRIBE TO IDENTIFY THOSE STRATEGIES AND TO ENSURE THAT THOSE
16 STRATEGIES ARE CULTURALLY APPROPRIATE TO THE INDIAN CHILD'S TRIBE.

17 (x) IDENTIFYING COMMUNITY RESOURCES OFFERING HOUSING,
18 FINANCIAL, AND TRANSPORTATION ASSISTANCE AND IN-HOME SUPPORT
19 SERVICES, IN-HOME INTENSIVE TREATMENT SERVICES, COMMUNITY SUPPORT
20 SERVICES, AND SPECIALIZED SERVICES FOR MEMBERS OF THE INDIAN
21 CHILD'S FAMILY WITH SPECIAL NEEDS, AND PROVIDING INFORMATION ABOUT
22 THOSE RESOURCES TO THE INDIAN CHILD'S FAMILY, AND ACTIVELY
23 ASSISTING THE INDIAN CHILD'S FAMILY OR OFFERING ACTIVE ASSISTANCE
24 IN ACCESSING THOSE RESOURCES.

25 (xi) MONITORING CLIENT PROGRESS AND CLIENT PARTICIPATION IN
26 SERVICES.

27 (xii) PROVIDING A CONSIDERATION OF ALTERNATIVE WAYS OF

1 ADDRESSING THE NEEDS OF THE INDIAN CHILD'S FAMILY, IF SERVICES DO
2 NOT EXIST OR IF EXISTING SERVICES ARE NOT AVAILABLE TO THE FAMILY.

3 (B) "CHILD CUSTODY PROCEEDING" INCLUDES, BUT IS NOT LIMITED
4 TO, 1 OR MORE OF THE FOLLOWING:

5 (i) FOSTER CARE PLACEMENT. ANY ACTION REMOVING AN INDIAN CHILD
6 FROM HIS OR HER PARENT OR INDIAN CUSTODIAN, AND WHERE THE PARENT OR
7 INDIAN CUSTODIAN CANNOT HAVE THE CHILD RETURNED UPON DEMAND BUT
8 PARENTAL RIGHTS HAVE NOT BEEN TERMINATED, FOR TEMPORARY PLACEMENT
9 IN, AND NOT LIMITED TO, 1 OR MORE OF THE FOLLOWING:

10 (A) FOSTER HOME OR INSTITUTION.

11 (B) THE HOME OF A GUARDIAN OR LIMITED GUARDIAN UNDER PART 2 OF
12 ARTICLE V OF THE ESTATES AND PROTECTED INDIVIDUALS CODE, 1998 PA
13 386, MCL 700.5201 TO 700.5219.

14 (C) A JUVENILE GUARDIANSHIP UNDER CHAPTER XIIA.

15 (ii) TERMINATION OF PARENTAL RIGHTS. ANY ACTION RESULTING IN
16 THE TERMINATION OF THE PARENT-CHILD RELATIONSHIP.

17 (iii) PREADOPTIVE PLACEMENT. TEMPORARY PLACEMENT OF AN INDIAN
18 CHILD IN A FOSTER HOME OR INSTITUTION AFTER THE TERMINATION OF
19 PARENTAL RIGHTS, BUT BEFORE OR IN LIEU OF ADOPTIVE PLACEMENT.

20 (iv) ADOPTIVE PLACEMENT. PERMANENT PLACEMENT OF AN INDIAN CHILD
21 FOR ADOPTION, INCLUDING AN ACTION RESULTING IN A FINAL DECREE OF
22 ADOPTION.

23 (v) AN INDIAN CHILD IS CHARGED WITH A STATUS OFFENSE IN
24 VIOLATION OF SECTION 2(A)(2) TO (4) OR (D) OF CHAPTER XIIA.

25 (vi) CHILD CUSTODY PROCEEDING DOES NOT INCLUDE A PLACEMENT
26 BASED ON AN ACT THAT, IF COMMITTED BY AN ADULT, WOULD BE A CRIME OR
27 BASED ON AN AWARD, IN A DIVORCE PROCEEDING, OF CUSTODY TO 1 OF THE

1 PARENTS.

2 (C) "COURT" MEANS THE FAMILY DIVISION OF CIRCUIT COURT OR THE
3 PROBATE COURT.

4 (D) "CULTURALLY APPROPRIATE SERVICES" MEANS SERVICES THAT
5 ENHANCE AN INDIAN CHILD'S AND FAMILY'S RELATIONSHIP TO,
6 IDENTIFICATION, AND CONNECTION WITH THE INDIAN CHILD'S TRIBE.
7 CULTURALLY APPROPRIATE SERVICES SHOULD PROVIDE THE OPPORTUNITY TO
8 PRACTICE THE TEACHINGS, BELIEFS, CUSTOMS, AND CEREMONIES OF THE
9 INDIAN CHILD'S TRIBE SO THOSE MAY BE INCORPORATED INTO THE INDIAN
10 CHILD'S DAILY LIFE, AS WELL AS SERVICES THAT ADDRESS THE ISSUES
11 THAT HAVE BROUGHT THE CHILD AND FAMILY TO THE ATTENTION OF THE
12 DEPARTMENT THAT ARE CONSISTENT WITH THE TRIBE'S BELIEFS ABOUT CHILD
13 REARING, CHILD DEVELOPMENT, AND FAMILY WELLNESS. CULTURALLY
14 APPROPRIATE SERVICES MAY INVOLVE TRIBAL REPRESENTATIVES, EXTENDED
15 FAMILY MEMBERS, TRIBAL ELDERS, SPIRITUAL AND CULTURAL ADVISORS,
16 TRIBAL SOCIAL SERVICES, INDIVIDUAL INDIAN CAREGIVERS, MEDICINE MEN
17 OR WOMEN, AND NATURAL HEALERS. IF THE INDIAN CHILD'S TRIBE
18 ESTABLISHES A DIFFERENT DEFINITION OF CULTURALLY APPROPRIATE
19 SERVICES, THE COURT SHALL FOLLOW THE TRIBE'S DEFINITION.

20 (E) "DEPARTMENT" MEANS THE DEPARTMENT OF HUMAN SERVICES OR ANY
21 SUCCESSOR DEPARTMENT OR AGENCY.

22 (F) "EXTENDED FAMILY MEMBERS" MEANS THAT TERM AS DEFINED BY
23 THE LAW OR CUSTOM OF THE INDIAN CHILD'S TRIBE OR, IN THE ABSENCE OF
24 THAT LAW OR CUSTOM, MEANS A PERSON WHO HAS REACHED THE AGE OF 18
25 AND WHO IS THE INDIAN CHILD'S GRANDPARENT, AUNT OR UNCLE, BROTHER
26 OR SISTER, BROTHER-IN-LAW OR SISTER-IN-LAW, NIECE OR NEPHEW, FIRST
27 OR SECOND COUSIN, OR STEPPARENT AND INCLUDES THE TERM "RELATIVE" AS

1 THAT TERM IS DEFINED IN SECTION 13A(J) OF CHAPTER XIIA.

2 (G) "FOSTER HOME OR INSTITUTION" MEANS A CHILD CARING
3 INSTITUTION AS THAT TERM IS DEFINED IN SECTION 1 OF 1973 PA 116,
4 MCL 722.111.

5 (H) "GUARDIAN" MEANS A PERSON WHO HAS QUALIFIED AS A GUARDIAN
6 OF A MINOR UNDER A PARENTAL OR SPOUSAL NOMINATION OR A COURT ORDER
7 ISSUED UNDER SECTION 19A OR 19C OF CHAPTER XIIA, SECTION 5204 OR
8 5205 OF THE ESTATES AND PROTECTED INDIVIDUALS CODE, 1998 PA 386,
9 MCL 700.5204 AND 700.5205, OR SECTIONS 600 TO 644 OF THE MENTAL
10 HEALTH CODE, 1974 PA 258, MCL 330.1600 TO 330.1644. GUARDIAN MAY
11 ALSO INCLUDE A PERSON APPOINTED BY A TRIBAL COURT UNDER TRIBAL CODE
12 OR CUSTOM. GUARDIAN DOES NOT INCLUDE A GUARDIAN AD LITEM.

13 (I) "GUARDIAN AD LITEM" MEANS AN INDIVIDUAL WHOM THE COURT
14 APPOINTS TO ASSIST THE COURT IN DETERMINING THE CHILD'S BEST
15 INTERESTS. A GUARDIAN AD LITEM DOES NOT NEED TO BE AN ATTORNEY.

16 (J) "INDIAN" MEANS ANY MEMBER OF ANY INDIAN TRIBE, BAND,
17 NATION, OR OTHER ORGANIZED GROUP OR COMMUNITY OF INDIANS RECOGNIZED
18 AS ELIGIBLE FOR THE SERVICES PROVIDED TO INDIANS BY THE SECRETARY
19 BECAUSE OF THEIR STATUS AS INDIANS, INCLUDING ANY ALASKA NATIVE
20 VILLAGE AS DEFINED IN SECTION 1602(C) OF THE ALASKA NATIVE CLAIMS
21 SETTLEMENT ACT, 43 USC 1602.

22 (K) "INDIAN CHILD" MEANS AN UNMARRIED PERSON WHO IS UNDER THE
23 AGE OF 18 AND IS EITHER OF THE FOLLOWING:

24 (i) A MEMBER OF AN INDIAN TRIBE.

25 (ii) ELIGIBLE FOR MEMBERSHIP IN AN INDIAN TRIBE AS DETERMINED
26 BY THAT INDIAN TRIBE.

27 (l) "INDIAN CHILD'S TRIBE" MEANS THE INDIAN TRIBE IN WHICH AN

1 INDIAN CHILD IS A MEMBER OR ELIGIBLE FOR MEMBERSHIP. IN THE CASE OF
2 AN INDIAN CHILD WHO IS A MEMBER OF OR ELIGIBLE FOR MEMBERSHIP IN
3 MORE THAN 1 TRIBE, THE INDIAN CHILD'S TRIBE IS THE TRIBE WITH WHICH
4 THE INDIAN CHILD HAS THE MOST SIGNIFICANT CONTACTS.

5 (M) "INDIAN CHILD WELFARE ACT" MEANS THE INDIAN CHILD WELFARE
6 ACT OF 1978, 25 USC 1901 TO 1963.

7 (N) "INDIAN CUSTODIAN" MEANS ANY INDIAN PERSON WHO HAS CUSTODY
8 OF AN INDIAN CHILD UNDER TRIBAL LAW OR CUSTOM OR UNDER STATE LAW OR
9 TO WHOM TEMPORARY PHYSICAL CARE, CUSTODY, AND CONTROL HAVE BEEN
10 TRANSFERRED BY THE CHILD'S PARENT.

11 (O) "INDIAN TRIBE" OR "TRIBE" MEANS ANY INDIAN TRIBE, BAND,
12 NATION, OR OTHER ORGANIZED GROUP OR COMMUNITY OF INDIANS RECOGNIZED
13 AS ELIGIBLE FOR THE SERVICES PROVIDED TO INDIANS BY THE SECRETARY
14 BECAUSE OF THEIR STATUS AS INDIANS, INCLUDING ANY ALASKA NATIVE
15 VILLAGE AS DEFINED IN SECTION 1602(C) OF THE ALASKA NATIVE CLAIMS
16 SETTLEMENT ACT, 43 USC 1602.

17 (P) "INDIAN ORGANIZATION" MEANS ANY GROUP, ASSOCIATION,
18 PARTNERSHIP, CORPORATION, OR OTHER LEGAL ENTITY OWNED OR CONTROLLED
19 BY INDIANS, OR A MAJORITY OF WHOSE MEMBERS ARE INDIANS.

20 (Q) "LAWYER-GUARDIAN AD LITEM" MEANS AN ATTORNEY APPOINTED
21 UNDER SECTION 21 OF THIS CHAPTER. A LAWYER-GUARDIAN AD LITEM
22 REPRESENTS THE CHILD, AND HAS THE POWERS AND DUTIES, AS SET FORTH
23 IN SECTION 17D OF CHAPTER XIIA. THE PROVISIONS OF SECTION 17D OF
24 CHAPTER XIIA ALSO APPLY TO A LAWYER-GUARDIAN AD LITEM APPOINTED FOR
25 THE PURPOSES OF THIS CHAPTER UNDER EACH OF THE FOLLOWING:

26 (i) SECTION 5213 OR 5219 OF THE ESTATES AND PROTECTED
27 INDIVIDUALS CODE, 1998 PA 386, MCL 700.5213 AND 700.5219.

1 (ii) SECTION 4 OF THE CHILD CUSTODY ACT OF 1970, 1970 PA 91,
2 MCL 722.24.

3 (iii) SECTION 10 OF THE CHILD PROTECTION LAW, 1975 PA 238, MCL
4 722.630.

5 (R) "OFFICIAL TRIBAL REPRESENTATIVE" MEANS AN INDIVIDUAL WHO
6 IS DESIGNATED BY THE INDIAN CHILD'S TRIBE TO REPRESENT THE TRIBE IN
7 A COURT OVERSEEING A CHILD CUSTODY PROCEEDING. AN OFFICIAL TRIBAL
8 REPRESENTATIVE DOES NOT NEED TO BE AN ATTORNEY.

9 (S) "PARENT" MEANS ANY BIOLOGICAL PARENT OR PARENTS OF AN
10 INDIAN CHILD OR ANY PERSON WHO HAS LAWFULLY ADOPTED AN INDIAN
11 CHILD, INCLUDING ADOPTIONS UNDER TRIBAL LAW OR CUSTOM. PARENT DOES
12 NOT INCLUDE THE PUTATIVE FATHER IF PATERNITY HAS NOT BEEN
13 ACKNOWLEDGED OR ESTABLISHED.

14 (T) "RESERVATION" MEANS INDIAN COUNTRY AS DEFINED IN 18 USC
15 1151 AND ANY LANDS, NOT COVERED UNDER THAT SECTION, TITLE TO WHICH
16 IS EITHER HELD BY THE UNITED STATES IN TRUST FOR THE BENEFIT OF ANY
17 INDIAN TRIBE OR INDIVIDUAL OR HELD BY ANY INDIAN TRIBE OR
18 INDIVIDUAL SUBJECT TO A RESTRICTION BY THE UNITED STATES AGAINST
19 ALIENATION.

20 (U) "SECRETARY" MEANS THE SECRETARY OF THE INTERIOR.

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

26 (W) "WARD OF TRIBAL COURT" MEANS A CHILD OVER WHOM AN INDIAN
27 TRIBE EXERCISES AUTHORITY BY OFFICIAL ACTION IN TRIBAL COURT OR BY

1 THE GOVERNING BODY OF THE TRIBE.

2 SEC. 5. IN INDIAN CHILD CUSTODY PROCEEDINGS, THE BEST
3 INTERESTS OF THE INDIAN CHILD SHALL BE DETERMINED, IN CONSULTATION
4 WITH THE INDIAN CHILD'S TRIBE, IN ACCORDANCE WITH THE INDIAN CHILD
5 WELFARE ACT, AND THE POLICY SPECIFIED IN THIS SECTION. COURTS SHALL
6 DO BOTH OF THE FOLLOWING:

7 (A) PROTECT THE BEST INTERESTS OF INDIAN CHILDREN AND PROMOTE
8 THE STABILITY AND SECURITY OF INDIAN TRIBES AND FAMILIES.

9 (B) ENSURE THAT THE DEPARTMENT USES PRACTICES, IN ACCORDANCE
10 WITH THE INDIAN CHILD WELFARE ACT, THIS CHAPTER, AND OTHER
11 APPLICABLE LAW, THAT ARE DESIGNED TO PREVENT THE VOLUNTARY OR
12 INVOLUNTARY OUT-OF-HOME CARE PLACEMENT OF INDIAN CHILDREN AND, WHEN
13 AN OUT-OF-HOME CARE PLACEMENT, ADOPTIVE PLACEMENT, OR PREADOPTIVE
14 PLACEMENT IS NECESSARY, PLACE AN INDIAN CHILD IN A PLACEMENT THAT
15 REFLECTS THE UNIQUE VALUES OF THE INDIAN CHILD'S TRIBAL CULTURE AND
16 THAT IS BEST ABLE TO ASSIST THE INDIAN CHILD IN ESTABLISHING,
17 DEVELOPING, AND MAINTAINING A POLITICAL, CULTURAL, AND SOCIAL
18 RELATIONSHIP WITH THE INDIAN CHILD'S TRIBE AND TRIBAL COMMUNITY.

19 SEC. 7. (1) AN INDIAN TRIBE HAS EXCLUSIVE JURISDICTION OVER
20 ANY CHILD CUSTODY PROCEEDING INVOLVING AN INDIAN CHILD WHO RESIDES
21 OR IS DOMICILED WITHIN THE RESERVATION OF THAT TRIBE. IF A CHILD IS
22 A WARD OF A TRIBAL COURT, THE INDIAN TRIBE RETAINS EXCLUSIVE
23 JURISDICTION, REGARDLESS OF THE RESIDENCE OR DOMICILE, OR
24 SUBSEQUENT CHANGE IN HIS OR HER RESIDENCE OR DOMICILE.

25 (2) THE STATE COURT MAY EXERCISE LIMITED EMERGENCY
26 JURISDICTION IF AN INDIAN CHILD WHO RESIDES OR IS DOMICILED WITHIN
27 THE RESERVATION IS TEMPORARILY OFF THE RESERVATION AND THE STATE

1 HAS REMOVED THE CHILD IN AN EMERGENCY SITUATION TO PREVENT IMMINENT
2 PHYSICAL DAMAGE OR HARM TO THE CHILD. THE COURT MUST COMPLY WITH
3 THE EMERGENCY REMOVAL HEARING REQUIREMENTS OUTLINED IN MICHIGAN
4 COURT RULES AND SECTIONS 13A, 14, AND 14A OF CHAPTER XIIA. THE
5 EMERGENCY JURISDICTION TERMINATES WHEN THE REMOVAL OR PLACEMENT IS
6 NO LONGER NECESSARY TO PREVENT IMMINENT PHYSICAL DAMAGE OR HARM TO
7 THE CHILD.

8 (3) IN ANY STATE COURT CHILD CUSTODY PROCEEDING, FOR AN INDIAN
9 CHILD NOT DOMICILED OR RESIDING WITHIN THE RESERVATION OF THE
10 INDIAN CHILD'S TRIBE, THE COURT, IN THE ABSENCE OF GOOD CAUSE TO
11 THE CONTRARY, SHALL TRANSFER THE PROCEEDING TO THE INDIAN TRIBE'S
12 JURISDICTION, ABSENT OBJECTION BY EITHER PARENT, UPON THE PETITION
13 OF EITHER PARENT OR THE INDIAN CUSTODIAN OR THE INDIAN CHILD'S
14 TRIBE, PROVIDED THAT THE TRANSFER IS SUBJECT TO DECLINATION BY THE
15 TRIBAL COURT OF THE INDIAN TRIBE.

16 (4) WHEN A COURT MAKES A GOOD CAUSE DETERMINATION UNDER THIS
17 SECTION, ADEQUACY OF THE TRIBE, TRIBAL COURT, OR TRIBAL SOCIAL
18 SERVICES SHALL NOT BE CONSIDERED.

19 (5) A COURT MAY DETERMINE THAT GOOD CAUSE NOT TO TRANSFER A
20 CASE TO TRIBAL COURT EXISTS ONLY IF THE PERSON OPPOSING THE
21 TRANSFER SHOWS BY CLEAR AND CONVINCING EVIDENCE THAT EITHER OF THE
22 FOLLOWING APPLIES:

23 (A) THE INDIAN TRIBE DOES NOT HAVE A TRIBAL COURT.

24 (B) THE REQUIREMENT OF THE PARTIES OR WITNESSES TO PRESENT
25 EVIDENCE IN TRIBAL COURT WOULD CAUSE UNDUE HARDSHIP TO THOSE
26 PARTIES OR WITNESSES THAT THE INDIAN TRIBE IS UNABLE TO MITIGATE.

27 (6) IN ANY STATE COURT CHILD CUSTODY PROCEEDING, AN INDIAN

1 CHILD, THE INDIAN CUSTODIAN OF THE CHILD, AND THE INDIAN CHILD'S
2 TRIBE HAVE A RIGHT TO INTERVENE AT ANY POINT IN THE CHILD CUSTODY
3 PROCEEDING.

4 (7) OFFICIAL TRIBAL REPRESENTATIVES HAVE THE RIGHT TO
5 PARTICIPATE IN ANY PROCEEDING THAT IS SUBJECT TO THE INDIAN CHILD
6 WELFARE ACT AND THIS CHAPTER.

7 (8) THIS STATE SHALL GIVE FULL FAITH AND CREDIT TO THE PUBLIC
8 ACTS, RECORDS, AND JUDICIAL PROCEEDINGS OF ANY INDIAN TRIBE
9 APPLICABLE TO INDIAN CHILD CUSTODY PROCEEDINGS TO THE SAME EXTENT
10 GIVEN TO THE PUBLIC ACTS, RECORDS, AND JUDICIAL PROCEEDINGS OF ANY
11 OTHER ENTITY.

12 SEC. 9. (1) IN A CHILD CUSTODY PROCEEDING, IF THE COURT KNOWS
13 OR HAS REASON TO KNOW THAT AN INDIAN CHILD IS INVOLVED, THE
14 PETITIONER SHALL NOTIFY THE PARENT OR INDIAN CUSTODIAN AND THE
15 INDIAN CHILD'S TRIBE, BY REGISTERED MAIL WITH RETURN RECEIPT
16 REQUESTED, OF THE PENDING CHILD CUSTODY PROCEEDING AND OF THE RIGHT
17 TO INTERVENE. IF THE IDENTITY OR LOCATION OF THE PARENT OR INDIAN
18 CUSTODIAN AND THE TRIBE CANNOT BE DETERMINED, NOTICE SHALL BE GIVEN
19 TO THE SECRETARY IN THE SAME MANNER DESCRIBED IN THIS SUBSECTION.
20 THE SECRETARY HAS 15 DAYS AFTER RECEIPT OF NOTICE TO PROVIDE THE
21 REQUISITE NOTICE TO THE PARENT OR INDIAN CUSTODIAN AND THE TRIBE.

22 (2) NO FOSTER CARE PLACEMENT OR TERMINATION OF PARENTAL RIGHTS
23 PROCEEDING SHALL BE HELD UNTIL AT LEAST 10 DAYS AFTER RECEIPT OF
24 NOTICE BY THE PARENT OR INDIAN CUSTODIAN AND THE TRIBE OR THE
25 SECRETARY. THE PARENT OR INDIAN CUSTODIAN OR THE TRIBE SHALL, UPON
26 REQUEST, BE GRANTED UP TO 20 ADDITIONAL DAYS TO PREPARE FOR THE
27 PROCEEDING. IF THE PETITIONER OR COURT LATER DISCOVERS THAT THE

1 CHILD MAY BE AN INDIAN CHILD, ALL FURTHER PROCEEDINGS SHALL BE
2 SUSPENDED UNTIL NOTICE IS RECEIVED BY THE TRIBE OR THE SECRETARY AS
3 SET FORTH IN THIS SUBSECTION. IF THE COURT DETERMINES AFTER A
4 HEARING THAT THE PARENT OR TRIBE WAS PREJUDICED BY LACK OF NOTICE,
5 THE PRIOR DECISIONS MADE BY THE COURT SHALL BE VACATED AND THE CASE
6 SHALL PROCEED FROM THE FIRST HEARING. THE PETITIONER HAS THE BURDEN
7 OF PROVING LACK OF PREJUDICE.

8 (3) THE DEPARTMENT SHALL ACTIVELY SEEK TO DETERMINE WHETHER A
9 CHILD AT INITIAL CONTACT IS AN INDIAN CHILD. IF THE DEPARTMENT IS
10 ABLE TO MAKE AN INITIAL DETERMINATION AS TO WHICH INDIAN TRIBE OR
11 TRIBES A CHILD BROUGHT TO ITS ATTENTION MAY BE A MEMBER, THE
12 DEPARTMENT SHALL EXERCISE DUE DILIGENCE TO CONTACT THE INDIAN TRIBE
13 OR TRIBES IN WRITING SO THAT THE TRIBE MAY VERIFY MEMBERSHIP OR
14 ELIGIBILITY FOR MEMBERSHIP. IF THE DEPARTMENT IS UNABLE TO MAKE AN
15 INITIAL DETERMINATION AS TO WHICH TRIBE OR TRIBES A CHILD MAY BE A
16 MEMBER, THE DEPARTMENT SHALL, AT A MINIMUM, CONTACT IN WRITING THE
17 TRIBE OR TRIBES LOCATED IN THE COUNTY WHERE THE CHILD IS LOCATED
18 AND THE SECRETARY.

19 (4) CIRCUMSTANCES UNDER WHICH A COURT, THE DEPARTMENT, OR
20 OTHER PARTY TO A CHILD CUSTODY PROCEEDING HAS REASON TO BELIEVE A
21 CHILD INVOLVED IN A CHILD CUSTODY PROCEEDING IS AN INDIAN INCLUDE,
22 BUT ARE NOT LIMITED TO, ANY OF THE FOLLOWING:

23 (A) ANY PARTY TO THE CASE, INDIAN TRIBE, INDIAN ORGANIZATION,
24 OR PUBLIC OR PRIVATE AGENCY INFORMS THE COURT THAT THE CHILD IS AN
25 INDIAN CHILD.

26 (B) ANY PUBLIC OR STATE-LICENSED AGENCY INVOLVED IN CHILD
27 PROTECTION SERVICES OR FAMILY SUPPORT HAS DISCOVERED INFORMATION

1 THAT SUGGESTS THAT THE CHILD IS AN INDIAN CHILD.

2 (C) THE CHILD WHO IS THE SUBJECT OF THE PROCEEDING GIVES THE
3 COURT REASON TO BELIEVE HE OR SHE IS AN INDIAN CHILD.

4 (D) THE RESIDENCE OR THE DOMICILE OF THE CHILD, HIS OR HER
5 BIOLOGICAL PARENTS, OR THE INDIAN CUSTODIAN IS KNOWN BY THE COURT
6 TO BE OR IS SHOWN TO BE A PREDOMINANTLY INDIAN COMMUNITY.

7 (E) AN OFFICER OF THE COURT INVOLVED IN THE PROCEEDING HAS
8 KNOWLEDGE THAT THE CHILD MAY BE AN INDIAN CHILD.

9 (5) THE DEPARTMENT SHALL EXERCISE DUE DILIGENCE TO DETERMINE,
10 DOCUMENT, AND CONTACT THE INDIAN CHILD'S EXTENDED FAMILY MEMBERS IN
11 ACCORDANCE WITH THE FOSTERING CONNECTIONS TO SUCCESS AND INCREASING
12 ADOPTIONS ACT OF 2008, PUBLIC LAW 110-351. IF APPLICABLE,
13 DETERMINATIONS AND DOCUMENTATION SHOULD BE CONDUCTED IN
14 CONSULTATION WITH THE CHILD OR PARENT'S TRIBE.

15 (6) A WRITTEN DETERMINATION OR ORAL TESTIMONY BY A PERSON
16 AUTHORIZED BY THE INDIAN TRIBE TO SPEAK ON ITS BEHALF, REGARDING A
17 CHILD'S MEMBERSHIP OR ELIGIBILITY FOR MEMBERSHIP IN A TRIBE, IS
18 CONCLUSIVE AS TO THAT TRIBE.

19 (7) THE PETITIONER SHALL DOCUMENT ALL EFFORTS MADE TO
20 DETERMINE A CHILD'S MEMBERSHIP OR ELIGIBILITY FOR MEMBERSHIP IN AN
21 INDIAN TRIBE AND SHALL PROVIDE THEM, UPON REQUEST, TO THE COURT,
22 INDIAN TRIBE, INDIAN CHILD, INDIAN CHILD'S LAWYER GUARDIAN AD
23 LITEM, PARENT, OR INDIAN CUSTODIAN.

24 SEC. 11. EACH PARTY TO A FOSTER CARE OR TERMINATION OF
25 PARENTAL RIGHTS PROCEEDING INVOLVING AN INDIAN CHILD HAS A RIGHT TO
26 EXAMINE ALL REPORTS OR OTHER DOCUMENTS FILED WITH THE COURT UPON
27 WHICH ANY DECISION WITH RESPECT TO THAT PROCEEDING MAY BE BASED.

1 SEC. 13. (1) IF BOTH PARENTS OR INDIAN CUSTODIAN VOLUNTARILY
2 CONSENT TO A PETITION FOR GUARDIANSHIP UNDER SECTION 5204 OR 5205
3 OF THE ESTATES AND PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL
4 700.5204 AND 700.5205, OR TO ADOPTIVE PLACEMENT OR THE TERMINATION
5 OF HIS OR HER PARENTAL RIGHTS FOR THE EXPRESS PURPOSE OF ADOPTION
6 BY EXECUTING A RELEASE UNDER SECTION 28 OF CHAPTER X, OR CONSENT
7 UNDER SECTION 43 OF CHAPTER X, THE FOLLOWING REQUIREMENTS MUST BE
8 MET:

9 (A) TO BE VALID, CONSENT UNDER THIS SECTION MUST BE EXECUTED
10 ON A FORM APPROVED BY THE STATE COURT ADMINISTRATIVE OFFICE, IN
11 WRITING, RECORDED BEFORE A JUDGE OF A COURT OF COMPETENT
12 JURISDICTION, AND ACCOMPANIED BY THE PRESIDING JUDGE'S CERTIFICATE
13 THAT THE TERMS AND CONSEQUENCES OF THE CONSENT WERE FULLY EXPLAINED
14 IN DETAIL AND WERE FULLY UNDERSTOOD BY THE PARENT OR INDIAN
15 CUSTODIAN. THE COURT SHALL ALSO CERTIFY THAT EITHER THE PARENT OR
16 INDIAN CUSTODIAN FULLY UNDERSTOOD THE EXPLANATION IN ENGLISH OR
17 THAT IT WAS INTERPRETED INTO A LANGUAGE THAT THE PARENT OR INDIAN
18 CUSTODIAN UNDERSTOOD. ANY CONSENT GIVEN BEFORE, OR WITHIN 10 DAYS
19 AFTER, BIRTH OF THE INDIAN CHILD IS NOT VALID.

20 (B) NOTICE OF THE PENDING PROCEEDING MUST BE GIVEN AS
21 PRESCRIBED BY MICHIGAN SUPREME COURT RULE, THE INDIAN CHILD WELFARE
22 ACT, AND SECTION 9 OF THIS CHAPTER.

23 (C) THE VOLUNTARY CUSTODY PROCEEDING SHALL BE CONDUCTED IN
24 ACCORDANCE WITH MICHIGAN SUPREME COURT RULES AND THE FOLLOWING
25 STATUTES:

26 (i) IN A GUARDIANSHIP PROCEEDING UNDER SECTION 5204 OR 5205 OF
27 THE ESTATES AND PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL

1 700.5204 AND 700.5205, SECTION 25 OF THIS CHAPTER ALSO APPLIES.

2 (ii) IN AN ADOPTION PROCEEDING, SECTION 27 OF THIS CHAPTER ALSO
3 APPLIES.

4 (2) CONSENT DESCRIBED UNDER SUBSECTION (1) MUST CONTAIN THE
5 FOLLOWING INFORMATION:

6 (A) THE INDIAN CHILD'S NAME AND DATE OF BIRTH.

7 (B) THE NAME OF THE INDIAN CHILD'S TRIBE AND ANY IDENTIFYING
8 NUMBER OR OTHER INDICATION OF THE CHILD'S MEMBERSHIP IN THE TRIBE,
9 IF ANY.

10 (C) THE NAME AND ADDRESS OF THE CONSENTING PARENT OR INDIAN
11 CUSTODIAN.

12 (D) A SWORN STATEMENT FROM THE TRANSLATOR, IF ANY, ATTESTING
13 TO THE ACCURACY OF THE TRANSLATION.

14 (E) THE SIGNATURE OF THE CONSENTING PARENT, PARENTS, OR INDIAN
15 CUSTODIAN RECORDED BEFORE THE JUDGE, VERIFYING AN OATH OF
16 UNDERSTANDING OF THE SIGNIFICANCE OF THE VOLUNTARY PLACEMENT AND
17 THE PARENT'S RIGHT TO PETITION TO TERMINATE THE VOLUNTARY PLACEMENT
18 OR CONSENT AT ANY TIME.

19 (F) FOR CONSENT FOR VOLUNTARY PLACEMENT OF THE INDIAN CHILD IN
20 FOSTER CARE, THE NAME AND ADDRESS OF THE PERSON OR ENTITY WHO WILL
21 ARRANGE THE FOSTER CARE PLACEMENT AS WELL AS THE NAME AND ADDRESS
22 OF THE PROSPECTIVE FOSTER CARE PARENTS IF KNOWN AT THE TIME.

23 (G) FOR CONSENT TO TERMINATION OF PARENTAL RIGHTS OR ADOPTION
24 OF AN INDIAN CHILD, IN ADDITION TO THE INFORMATION IN SUBDIVISIONS
25 (A) TO (F), THE NAME AND ADDRESS OF THE PERSON OR ENTITY THAT WILL
26 ARRANGE THE PREADOPTIVE OR ADOPTIVE PLACEMENT.

27 (3) IF THE PLACEMENT IS FOR PURPOSES OF ADOPTION, A CONSENT

1 UNDER SUBSECTION (1) OF THE INDIAN CHILD'S PARENT OR INDIAN
2 CUSTODIAN MUST BE EXECUTED IN CONJUNCTION WITH EITHER A CONSENT TO
3 ADOPT, AS REQUIRED BY SECTION 43 OF CHAPTER X, OR A RELEASE, AS
4 REQUIRED BY SECTION 28 OF CHAPTER X. A PARENT OR INDIAN CUSTODIAN
5 WHO EXECUTES A CONSENT UNDER THIS SECTION MAY WITHDRAW HIS OR HER
6 CONSENT AT ANY TIME BEFORE ENTRY OF A FINAL ORDER OF ADOPTION BY
7 FILING A WRITTEN DEMAND REQUESTING THE RETURN OF THE CHILD. ONCE A
8 DEMAND IS FILED WITH THE COURT, THE COURT SHALL ORDER THE RETURN OF
9 THE CHILD. WITHDRAWAL OF CONSENT UNDER THIS SECTION CONSTITUTES A
10 WITHDRAWAL OF A RELEASE EXECUTED UNDER SECTION 28 OF CHAPTER X OR A
11 CONSENT TO ADOPT EXECUTED UNDER SECTION 43 OF CHAPTER X.

12 (4) A PARENT OR INDIAN CUSTODIAN WHO EXECUTES A CONSENT UNDER
13 THIS SECTION FOR THE PURPOSE OF GUARDIANSHIP MAY WITHDRAW HIS OR
14 HER CONSENT AT ANY TIME BY SENDING WRITTEN NOTICE TO THE COURT
15 SUBSTANTIALLY IN COMPLIANCE ON A FORM APPROVED BY THE STATE COURT
16 ADMINISTRATIVE OFFICE THAT THE PARENT OR INDIAN CUSTODIAN REVOKES
17 CONSENT AND WANTS HIS OR HER CHILD RETURNED.

18 (5) A RELEASE EXECUTED UNDER SECTION 28 OF CHAPTER X DURING A
19 PENDENCY OF A PROCEEDING UNDER SECTION 2(B) OF CHAPTER XIIA IS
20 SUBJECT TO SECTION 15 OF THIS CHAPTER. IF THE RELEASE FOLLOWS THE
21 INITIATION OF A PROCEEDING UNDER SECTION 2(B) OF CHAPTER XIIA, THE
22 COURT SHALL MAKE A FINDING THAT CULTURALLY APPROPRIATE SERVICES
23 WERE OFFERED.

24 (6) A PARENT WHO EXECUTES A CONSENT TO ADOPTION UNDER SECTION
25 43 OF CHAPTER X MAY WITHDRAW THAT CONSENT AT ANY TIME BEFORE ENTRY
26 OF A FINAL ORDER FOR ADOPTION BY FILING NOTIFICATION OF THE
27 WITHDRAWAL OF CONSENT WITH THE COURT. IN A DIRECT PLACEMENT, AS

1 DEFINED IN SECTION 22(O) OF CHAPTER X, A CONSENT BY A PARENT OR
2 GUARDIAN SHALL BE ACCOMPANIED BY A VERIFIED STATEMENT SIGNED BY THE
3 PARENT OR GUARDIAN THAT CONTAINS ALL OF THE FOLLOWING:

4 (A) THAT THE PARENT OR GUARDIAN HAS RECEIVED A LIST OF
5 COMMUNITY AND FEDERAL RESOURCE SUPPORTS AND A COPY OF THE WRITTEN
6 DOCUMENT DESCRIBED IN SECTION 6(1)(C) OF THE FOSTER CARE AND
7 ADOPTION SERVICES ACT, 1994 PA 204, MCL 722.956.

8 (B) AS REQUIRED BY SECTIONS 29 AND 44 OF CHAPTER X, THAT THE
9 PARENT OR GUARDIAN HAS RECEIVED COUNSELING RELATED TO THE ADOPTION
10 OF HIS OR HER CHILD OR WAIVES THE COUNSELING WITH THE SIGNING OF
11 THE VERIFIED STATEMENT.

12 (C) THAT THE PARENT OR GUARDIAN HAS NOT RECEIVED OR BEEN
13 PROMISED ANY MONEY OR ANYTHING OF VALUE FOR THE CONSENT TO ADOPTION
14 OF THE CHILD, EXCEPT FOR LAWFUL PAYMENTS THAT ARE ITEMIZED ON A
15 SCHEDULE FILED WITH THE CONSENT.

16 (D) THAT THE VALIDITY AND FINALITY OF THE CONSENT ARE NOT
17 AFFECTED BY ANY COLLATERAL OR SEPARATE AGREEMENT BETWEEN THE PARENT
18 OR GUARDIAN AND THE ADOPTIVE PARENT.

19 (E) THAT THE PARENT OR GUARDIAN UNDERSTANDS THAT IT SERVES THE
20 WELFARE OF THE CHILD FOR THE PARENT TO KEEP THE CHILD PLACING
21 AGENCY, COURT, OR DEPARTMENT INFORMED OF ANY HEALTH PROBLEMS THAT
22 THE PARENT DEVELOPS THAT COULD AFFECT THE CHILD.

23 (F) THAT THE PARENT OR GUARDIAN UNDERSTANDS THAT IT SERVES THE
24 WELFARE OF THE CHILD FOR THE PARENT OR GUARDIAN TO KEEP HIS OR HER
25 ADDRESS CURRENT WITH THE CHILD PLACING AGENCY, COURT, OR DEPARTMENT
26 IN ORDER TO PERMIT A RESPONSE TO ANY INQUIRY CONCERNING MEDICAL OR
27 SOCIAL HISTORY FROM AN ADOPTIVE PARENT OF A MINOR ADOPTEE OR FROM

1 AN ADOPTEE WHO IS 18 YEARS OR OLDER.

2 SEC. 15. (1) IF AN INDIAN CHILD IS THE SUBJECT OF A CHILD
3 PROTECTIVE PROCEEDING UNDER SECTION 2(B) OF CHAPTER XIIA, INCLUDING
4 INSTANCES IN WHICH THE PARENT OR INDIAN CUSTODIAN EXECUTED A
5 RELEASE UNDER SECTION 28 OF CHAPTER X DURING THE PENDENCY OF THAT
6 PROCEEDING, OR A GUARDIANSHIP PROCEEDING UNDER SECTION 5204 OR 5205
7 OF THE ESTATES AND PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL
8 700.5204 AND 700.5205, IF A PARENT DOES NOT PROVIDE CONSENT AS
9 DESCRIBED IN SECTION 13 OF THIS CHAPTER, OR A GUARDIANSHIP
10 PROCEEDING UNDER SECTION 19A OR 19C OF CHAPTER XIIA, THE FOLLOWING
11 REQUIREMENTS MUST BE MET:

12 (A) NOTICE OF THE PENDING PROCEEDING MUST BE GIVEN AS
13 PRESCRIBED BY MICHIGAN SUPREME COURT RULE, THE INDIAN CHILD WELFARE
14 ACT, AND SECTION 9 OF THIS CHAPTER.

15 (B) THE PROCEEDING SHALL BE CONDUCTED IN ACCORDANCE WITH
16 MICHIGAN SUPREME COURT RULES AND SUBSECTIONS (2) TO (4).

17 (C) SECTION 25 OF THIS CHAPTER APPLIES IN A GUARDIANSHIP
18 PROCEEDING UNDER SECTION 5204 OR 5205 OF THE ESTATES AND PROTECTED
19 INDIVIDUALS CODE, 1998 PA 386, MCL 700.5204 AND 700.5205.

20 (2) AN INDIAN CHILD MAY BE REMOVED FROM A PARENT OR INDIAN
21 CUSTODIAN, PLACED INTO A FOSTER CARE PLACEMENT, OR, FOR AN INDIAN
22 CHILD ALREADY TAKEN INTO PROTECTIVE CUSTODY, REMAIN REMOVED FROM A
23 PARENT OR INDIAN CUSTODIAN PENDING FURTHER PROCEEDINGS, ONLY UPON
24 CLEAR AND CONVINCING EVIDENCE, THAT INCLUDES TESTIMONY OF AT LEAST
25 1 EXPERT WITNESS WHO HAS KNOWLEDGE OF CHILD REARING PRACTICES OF
26 THE INDIAN CHILD'S TRIBE, THAT ACTIVE EFFORTS HAVE BEEN MADE TO
27 PROVIDE REMEDIAL SERVICES AND REHABILITATIVE PROGRAMS DESIGNED TO

1 PREVENT THE BREAKUP OF THE INDIAN FAMILY, THAT THE ACTIVE EFFORTS
2 WERE UNSUCCESSFUL, AND THAT THE CONTINUED CUSTODY OF THE CHILD BY
3 THE PARENT OR INDIAN CUSTODIAN IS LIKELY TO RESULT IN SERIOUS
4 EMOTIONAL OR PHYSICAL DAMAGE TO THE CHILD. THE ACTIVE EFFORTS MUST
5 TAKE INTO ACCOUNT THE PREVAILING SOCIAL AND CULTURAL CONDITIONS AND
6 WAY OF LIFE OF THE INDIAN CHILD'S TRIBE.

7 (3) A PARTY SEEKING A TERMINATION OF PARENTAL RIGHTS TO AN
8 INDIAN CHILD UNDER STATE LAW MUST DEMONSTRATE TO THE COURT'S
9 SATISFACTION THAT ACTIVE EFFORTS HAVE BEEN MADE TO PROVIDE REMEDIAL
10 SERVICES AND REHABILITATIVE PROGRAMS DESIGNED TO PREVENT THE
11 BREAKUP OF THE INDIAN FAMILY AND THAT THE ACTIVE EFFORTS WERE
12 UNSUCCESSFUL.

13 (4) NO TERMINATION OF PARENTAL RIGHTS MAY BE ORDERED IN A
14 PROCEEDING DESCRIBED IN THIS SECTION WITHOUT A DETERMINATION,
15 SUPPORTED BY EVIDENCE BEYOND A REASONABLE DOUBT, INCLUDING
16 TESTIMONY OF AT LEAST 1 QUALIFIED EXPERT WITNESS AS DESCRIBED IN
17 SECTION 17, THAT THE CONTINUED CUSTODY OF THE CHILD BY THE PARENT
18 OR INDIAN CUSTODIAN IS LIKELY TO RESULT IN SERIOUS EMOTIONAL OR
19 PHYSICAL DAMAGE TO THE CHILD.

20 (5) ANY INDIAN CHILD WHO IS THE SUBJECT OF ANY ACTION FOR
21 TERMINATION OF PARENTAL RIGHTS UNDER STATE LAW, ANY PARENT OR
22 INDIAN CUSTODIAN FROM WHOSE CUSTODY THE CHILD WAS REMOVED, AND THE
23 INDIAN CHILD'S TRIBE MAY PETITION ANY COURT OF COMPETENT
24 JURISDICTION TO INVALIDATE THE ACTION UPON A SHOWING THAT THE
25 ACTION VIOLATED ANY PROVISION OF THIS SECTION.

26 SEC. 17. (1) IF THE TESTIMONY OF A QUALIFIED EXPERT WITNESS IS
27 REQUIRED, THE COURT SHALL ACCEPT EITHER OF THE FOLLOWING IN THE

1 FOLLOWING ORDER OF PREFERENCE:

2 (A) A MEMBER OF THE INDIAN CHILD'S TRIBE, OR WITNESS APPROVED
3 BY THE INDIAN CHILD'S TRIBE, WHO IS RECOGNIZED BY THE TRIBAL
4 COMMUNITY AS KNOWLEDGEABLE IN TRIBAL CUSTOMS AND HOW THE TRIBAL
5 CUSTOMS PERTAIN TO FAMILY ORGANIZATION AND CHILD REARING PRACTICES.

6 (B) A PERSON WITH KNOWLEDGE, SKILL, EXPERIENCE, TRAINING, OR
7 EDUCATION AND WHO CAN SPEAK TO THE INDIAN CHILD'S TRIBE AND ITS
8 CUSTOMS AND HOW THE TRIBAL CUSTOMS PERTAIN TO FAMILY ORGANIZATION
9 AND CHILD REARING PRACTICES.

10 (2) A PARTY TO A CHILD CUSTODY PROCEEDING MAY PRESENT HIS OR
11 HER OWN QUALIFIED EXPERT WITNESS TO REBUT THE TESTIMONY OF THE
12 PETITIONER'S QUALIFIED EXPERT WITNESS.

13 SEC. 19. IF A COURT DETERMINES AT A HEARING THAT A PETITIONER
14 IN AN INDIAN CHILD CUSTODY PROCEEDING HAS IMPROPERLY REMOVED THE
15 CHILD FROM CUSTODY OF THE PARENT OR INDIAN CUSTODIAN OR HAS
16 IMPROPERLY RETAINED CUSTODY AFTER A VISIT OR OTHER TEMPORARY
17 RELINQUISHMENT OF CUSTODY, THE COURT SHALL DECLINE JURISDICTION
18 OVER THE PETITION AND IMMEDIATELY RETURN THE CHILD TO HIS OR HER
19 PARENT OR INDIAN CUSTODIAN UNLESS RETURNING THE CHILD TO HIS OR HER
20 PARENT OR INDIAN CUSTODIAN WOULD SUBJECT THE CHILD TO A SUBSTANTIAL
21 AND IMMEDIATE DANGER OR THREAT OF DANGER.

22 SEC. 21. (1) IN A CASE IN WHICH THE COURT DETERMINES
23 INDIGENCY, THE PARENT OR INDIAN CUSTODIAN HAS THE RIGHT TO COURT-
24 APPOINTED COUNSEL IN A REMOVAL, PLACEMENT, OR TERMINATION
25 PROCEEDING. THE COURT MAY, IN ITS DISCRETION, APPOINT COUNSEL FOR
26 THE CHILD UPON A FINDING THAT THE APPOINTMENT IS IN THE BEST
27 INTEREST OF THE CHILD. IF STATE LAW MAKES NO PROVISION FOR

1 APPOINTMENT OF COUNSEL IN THOSE PROCEEDINGS, THE COURT SHALL
2 PROMPTLY NOTIFY THE SECRETARY UPON APPOINTMENT OF COUNSEL.

3 (2) IF STATE LAW DOES NOT REQUIRE THE APPOINTMENT OF A LAWYER-
4 GUARDIAN AD LITEM FOR THE CHILD, THE COURT MAY, IN ITS DISCRETION,
5 APPOINT A LAWYER-GUARDIAN AD LITEM FOR THE CHILD UPON A FINDING
6 THAT THE APPOINTMENT IS IN THE BEST INTEREST OF THE CHILD.

7 SEC. 23. (1) EXCEPT FOR A PLACEMENT FOR GUARDIANSHIP UNDER
8 SECTION 5204 OR 5205 OF THE ESTATES AND PROTECTED INDIVIDUALS CODE,
9 1998 PA 386, MCL 700.5204 AND 700.5205, WHERE BOTH PARENTS SUBMIT A
10 CONSENT FOR THE GUARDIANSHIP, AN INDIAN CHILD SHALL BE PLACED IN
11 THE LEAST RESTRICTIVE SETTING THAT MOST APPROXIMATES A FAMILY AND
12 IN WHICH HIS OR HER SPECIAL NEEDS, IF ANY, MAY BE MET. THE CHILD
13 SHALL BE PLACED WITHIN REASONABLE PROXIMITY TO HIS OR HER HOME,
14 TAKING INTO ACCOUNT ANY SPECIAL NEEDS OF THE CHILD. ABSENT GOOD
15 CAUSE TO THE CONTRARY, THE FOSTER CARE OR PREADOPTIVE PLACEMENT OF
16 AN INDIAN CHILD MUST BE IN THE FOLLOWING ORDER OF PREFERENCE:

17 (A) A MEMBER OF THE INDIAN CHILD'S EXTENDED FAMILY.

18 (B) A FOSTER HOME LICENSED, APPROVED, OR SPECIFIED BY THE
19 INDIAN CHILD'S TRIBE.

20 (C) AN INDIAN FOSTER HOME LICENSED OR APPROVED BY THE
21 DEPARTMENT.

22 (D) AN INSTITUTION FOR CHILDREN APPROVED BY AN INDIAN TRIBE OR
23 OPERATED BY AN INDIAN ORGANIZATION THAT HAS A PROGRAM SUITABLE TO
24 MEET THE INDIAN CHILD'S NEEDS.

25 (2) ABSENT GOOD CAUSE TO THE CONTRARY, THE ADOPTIVE PLACEMENT
26 OF AN INDIAN CHILD MUST BE IN THE FOLLOWING ORDER OF PREFERENCE:

27 (A) A MEMBER OF THE CHILD'S EXTENDED FAMILY.

1 (B) A MEMBER OF THE INDIAN CHILD'S TRIBE.

2 (C) AN INDIAN FAMILY.

3 (3) THE BURDEN OF ESTABLISHING GOOD CAUSE NOT TO FOLLOW THE
4 ORDER OF PREFERENCE IS ON THE PARTY REQUESTING THE DEVIATION.

5 (4) THE COURT SHALL NOT FIND GOOD CAUSE TO DEVIATE FROM THE
6 PLACEMENT PREFERENCES STATED IN THIS SECTION WITHOUT FIRST ENSURING
7 THAT ALL POSSIBLE PLACEMENTS REQUIRED UNDER THIS SECTION HAVE BEEN
8 THOROUGHLY INVESTIGATED AND ELIMINATED. ALL EFFORTS MADE UNDER THIS
9 SECTION MUST BE PROVIDED TO THE COURT IN WRITING OR STATED ON THE
10 RECORD. THE COURT SHALL ADDRESS EFFORTS TO PLACE AN INDIAN CHILD IN
11 ACCORDANCE WITH THIS SECTION AT EACH HEARING UNTIL THE PLACEMENT
12 MEETS THE REQUIREMENTS OF THIS SECTION.

13 (5) THE COURT'S DETERMINATION OF GOOD CAUSE TO NOT FOLLOW THE
14 ORDER OF PREFERENCE SHALL BE BASED ON 1 OR MORE OF THE FOLLOWING
15 CONDITIONS:

16 (A) A REQUEST WAS MADE BY A CHILD OF SUFFICIENT AGE.

17 (B) A CHILD HAS AN EXTRAORDINARY PHYSICAL OR EMOTIONAL NEED AS
18 ESTABLISHED BY TESTIMONY OF AN EXPERT WITNESS.

19 (6) IN THE CASE OF A PLACEMENT UNDER SUBSECTION (1) OR (2), IF
20 THE INDIAN CHILD'S TRIBE ESTABLISHES A DIFFERENT ORDER OF
21 PREFERENCE, THE DEPARTMENT OR COURT ORDERING THE PLACEMENT SHALL
22 FOLLOW THE TRIBE'S ORDER OF PREFERENCE.

23 (7) A RECORD OF EACH PLACEMENT OF AN INDIAN CHILD SHALL BE
24 MAINTAINED BY THE DEPARTMENT OR COURT EVIDENCING THE EFFORTS TO
25 COMPLY WITH THE ORDER OF PREFERENCE SPECIFIED IN THIS SECTION. THE
26 RECORD SHALL BE MADE AVAILABLE AT ANY TIME UPON THE REQUEST OF THE
27 SECRETARY OR INDIAN CHILD'S TRIBE.

1 (8) THE STANDARDS TO BE APPLIED IN MEETING THE PLACEMENT
2 PREFERENCES ESTABLISHED IN THIS SECTION SHALL BE THE PREVAILING
3 SOCIAL AND CULTURAL STANDARDS OF THE INDIAN TRIBE OR TRIBES IN
4 WHICH THE PARENT OR EXTENDED FAMILY RESIDES OR MAINTAINS SOCIAL AND
5 CULTURAL TIES.

6 (9) NOTHING IN THIS CHAPTER OR SECTION PREVENTS THE EMERGENCY
7 REMOVAL, PROTECTIVE CUSTODY, OR SUBSEQUENT PLACEMENT OF AN INDIAN
8 CHILD WHO IS A RESIDENT OF OR IS DOMICILED ON A RESERVATION BUT IS
9 TEMPORARILY LOCATED OFF THE RESERVATION.

10 (10) ALL EFFORTS MADE TO IDENTIFY, LOCATE, AND PLACE A CHILD
11 ACCORDING TO THIS SECTION SHALL BE DOCUMENTED AND, UPON REQUEST,
12 MADE AVAILABLE TO THE COURT, TRIBE, INDIAN CHILD, INDIAN CHILD'S
13 LAWYER-GUARDIAN AD LITEM, PARENT, OR INDIAN CUSTODIAN.

14 SEC. 25. (1) IF A PETITION FOR A GUARDIANSHIP IS FILED AND IS
15 DETERMINED TO BE INVOLUNTARY UNDER SECTION 15 OF THIS CHAPTER AND
16 THE COURT KNOWS OR HAS REASON TO KNOW THAT THE CHILD IS AN INDIAN
17 CHILD, THE COURT MAY ORDER THE DEPARTMENT OR A COURT EMPLOYEE TO
18 CONDUCT AN INVESTIGATION OF THE PROPOSED GUARDIANSHIP AND FILE A
19 WRITTEN REPORT OF THE INVESTIGATION. IN ADDITION TO THE INFORMATION
20 REQUIRED IN SECTION 5204 OF THE ESTATES AND PROTECTED INDIVIDUALS
21 CODE, 1998 PA 386, MCL 700.5204, THE REPORT MUST INCLUDE, BUT IS
22 NOT LIMITED TO, THE FOLLOWING INFORMATION:

23 (A) WHETHER THE CHILD IS OR IS NOT AN INDIAN CHILD.

24 (B) THE IDENTITY AND LOCATION OF THE CHILD'S PARENTS, IF
25 KNOWN.

26 (C) IF THE CHILD IS AN INDIAN CHILD, THE REPORT MUST ALSO
27 ADDRESS ALL OF THE FOLLOWING:

1 (i) THE TRIBE OR TRIBES OF WHICH THE CHILD IS A MEMBER OR
2 ELIGIBLE FOR MEMBERSHIP.

3 (ii) IF THE CHILD AND FAMILY NEED CULTURALLY APPROPRIATE AND
4 OTHER SERVICES TO PRESERVE THE INDIAN FAMILY.

5 (iii) THE IDENTITY AND LOCATION OF EXTENDED FAMILY MEMBERS AND
6 IF NO EXTENDED FAMILY MEMBERS CAN BE FOUND, WHAT EFFORTS WERE MADE
7 TO LOCATE THEM.

8 (2) NOTICE OF THE PENDING PROCEEDING MUST BE GIVEN AS
9 PRESCRIBED BY MICHIGAN SUPREME COURT RULE, THE INDIAN CHILD WELFARE
10 ACT, AND SECTION 9 OF THIS CHAPTER. IF THE COURT KNOWS OR HAS
11 REASON TO KNOW THAT THE PROCEEDING INVOLVES AN INDIAN CHILD, THE
12 COURT SHALL CONDUCT A HEARING TO DETERMINE ALL OF THE FOLLOWING:

13 (A) IF THE TRIBE HAS EXCLUSIVE JURISDICTION. IF SO, THE COURT
14 SHALL ISSUE AN ORDER TERMINATING THE GUARDIANSHIP OR DISMISSING THE
15 PETITION.

16 (B) IF THE CURRENT PLACEMENT WITH THE GUARDIAN MEETS THE
17 PLACEMENT REQUIREMENTS IN SECTION 23 OF THIS CHAPTER.

18 (C) IF IT IS IN THE INDIAN CHILD'S BEST INTEREST TO ORDER THE
19 GUARDIANSHIP.

20 (D) IF A LAWYER-GUARDIAN AD LITEM SHOULD BE APPOINTED TO
21 REPRESENT THE INDIAN CHILD.

22 (3) IF A PETITION FOR GUARDIANSHIP IS FILED AND IS TO BE
23 ACCOMPANIED BY A CONSENT TO A VOLUNTARY PLACEMENT OF AN INDIAN
24 CHILD, THE CONSENT MUST BE EXECUTED IN ACCORDANCE WITH SECTION 13
25 OF THIS CHAPTER. IF THE INDIAN CHILD'S PARENTS DO NOT EXECUTE A
26 CONSENT UNDER SECTION 13 OF THIS CHAPTER, THE PETITION IS
27 CONSIDERED TO BE FOR AN INVOLUNTARY GUARDIANSHIP AND THE

1 REQUIREMENTS OF SECTION 15 OF THIS CHAPTER MUST BE MET.

2 (4) A PARENT OR INDIAN CUSTODIAN WHO EXECUTES A CONSENT UNDER
3 THIS SECTION FOR THE PURPOSE OF GUARDIANSHIP MAY WITHDRAW HIS OR
4 HER CONSENT AT ANY TIME BY SENDING WRITTEN NOTICE TO THE COURT
5 SUBSTANTIALLY IN COMPLIANCE ON A FORM APPROVED BY THE STATE COURT
6 ADMINISTRATIVE OFFICE THAT THE PARENT OR INDIAN CUSTODIAN REVOKES
7 CONSENT AND WANTS HIS OR HER CHILD RETURNED.

8 (5) THE GUARDIANSHIP IS TERMINATED WHEN THE COURT RECEIVES
9 FROM A PARENT OR INDIAN CUSTODIAN NOTICE TO WITHDRAW CONSENT TO THE
10 GUARDIANSHIP, AND THE CHILD SHALL BE IMMEDIATELY RETURNED TO THE
11 PARENT OR INDIAN CUSTODIAN.

12 (6) IF THE COURT DISCOVERS A CHILD MAY BE AN INDIAN CHILD
13 AFTER A GUARDIANSHIP IS ORDERED, THE COURT SHALL PROVIDE NOTICE OF
14 THE GUARDIANSHIP AND THE POTENTIAL APPLICABILITY OF THE INDIAN
15 CHILD WELFARE ACT, IN COMPLIANCE WITH MICHIGAN COURT RULES AND THE
16 INDIAN CHILD WELFARE ACT, TO THE TRIBE, THE PARENTS OR INDIAN
17 CUSTODIAN, AND THE CURRENT GUARDIAN ON A FORM APPROVED BY THE STATE
18 COURT ADMINISTRATIVE OFFICE.

19 SEC. 27. (1) IF A RELEASE OR CONSENT TO ADOPTION UNDER CHAPTER
20 X IS EXECUTED, CONSENT TO VOLUNTARY PLACEMENT OF AN INDIAN CHILD
21 MUST ALSO BE EXECUTED BY BOTH PARENTS OF THE INDIAN CHILD IN
22 ACCORDANCE WITH SECTION 13 OF THIS CHAPTER.

23 (2) AT ANY TIME DURING AN ADOPTION PROCEEDING, A COURT MAY
24 ORDER VISITATION BETWEEN THE INDIAN CHILD AND 1 OR MORE MEMBERS OF
25 THE INDIAN CHILD'S TRIBE AND EXTENDED FAMILY MEMBERS.

26 (3) NOTICE OF THE PENDING PROCEEDING MUST BE GIVEN AS
27 PRESCRIBED BY MICHIGAN SUPREME COURT RULE, THE INDIAN CHILD WELFARE

1 ACT, AND SECTION 9 OF THIS CHAPTER.

2 (4) UPON APPLICATION BY AN INDIAN INDIVIDUAL WHO HAS REACHED
3 THE AGE OF 18 AND WHO WAS SUBJECT TO ADOPTIVE PLACEMENT, THE COURT
4 THAT ENTERED THE ORDER OF ADOPTION SHALL INFORM THE INDIVIDUAL OF
5 HIS OR HER TRIBAL AFFILIATION, IF KNOWN, OF THE INDIVIDUAL'S
6 BIOLOGICAL PARENTS, AND PROVIDE ANY INFORMATION AS NECESSARY TO
7 PROTECT ANY RIGHTS FROM THE INDIVIDUAL'S TRIBAL RELATIONSHIP.

8 (5) AFTER THE ENTRY OF A FINAL ORDER OF ADOPTION OF AN INDIAN
9 CHILD IN ANY STATE COURT, THE PARENT MAY WITHDRAW CONSENT ON THE
10 GROUNDS THAT CONSENT WAS OBTAINED THROUGH FRAUD OR DURESS AND MAY
11 PETITION THE COURT TO VACATE THE FINAL ORDER OF ADOPTION. UPON A
12 FINDING THAT THE CONSENT WAS OBTAINED THROUGH FRAUD OR DURESS, THE
13 COURT SHALL VACATE THE FINAL ORDER OF ADOPTION AND RETURN THE CHILD
14 TO THE PARENT. NO ADOPTION THAT HAS BEEN EFFECTIVE FOR AT LEAST 2
15 YEARS MAY BE INVALIDATED UNDER THE PROVISIONS OF THIS SUBSECTION
16 UNLESS OTHERWISE PERMITTED UNDER STATE LAW.

17 (6) NOTWITHSTANDING STATE LAW TO THE CONTRARY, WHENEVER A
18 FINAL ORDER OF ADOPTION OF AN INDIAN CHILD HAS BEEN VACATED OR SET
19 ASIDE OR THE ADOPTIVE PARENTS VOLUNTARILY CONSENT TO THE
20 TERMINATION OF THEIR PARENTAL RIGHTS TO THE CHILD, A BIOLOGICAL
21 PARENT OR PRIOR INDIAN CUSTODIAN MAY PETITION FOR RETURN OF CUSTODY
22 AND THE COURT SHALL GRANT THE PETITION UNLESS THERE IS A SHOWING,
23 IN A PROCEEDING SUBJECT TO THE PROVISIONS OF SECTION 1912 OF THE
24 INDIAN CHILD WELFARE ACT, 25 USC 1912, THAT THE RETURN OF CUSTODY
25 IS NOT IN THE BEST INTERESTS OF THE CHILD.

26 SEC. 29. (1) IF AN INDIAN CHILD IS TAKEN INTO CUSTODY UNDER
27 SECTION 14 OF CHAPTER XIIA, THE SUBSEQUENT PLACEMENT SHALL

1 TERMINATE IMMEDIATELY WHEN THE REMOVAL AND PLACEMENT ARE NO LONGER
2 NECESSARY TO PREVENT IMMINENT PHYSICAL DAMAGE OR HARM TO THE CHILD.

3 (2) IF A CHILD IS TAKEN INTO CUSTODY UNDER SECTION 14 OF
4 CHAPTER XIIA AND THE CHILD IS UNDER THE EXCLUSIVE JURISDICTION OF
5 AN INDIAN TRIBE OR IS DOMICILED ON A RESERVATION BUT TEMPORARILY
6 LOCATED OFF THE RESERVATION, THE COURT SHALL IMMEDIATELY INITIATE A
7 CHILD CUSTODY PROCEEDING AND DO EITHER OF THE FOLLOWING:

8 (A) TRANSFER THE CHILD TO THE JURISDICTION OF THE APPROPRIATE
9 INDIAN TRIBE.

10 (B) RETURN THE CHILD TO THE PARENT OR INDIAN CUSTODIAN.

11 SEC. 31. (1) THE STATE IS AUTHORIZED TO ENTER INTO AGREEMENTS
12 WITH TRIBES IN THIS STATE REGARDING THE CARE AND CUSTODY OF INDIAN
13 CHILDREN, FUNDING OF THE CARE AND CUSTODY OF INDIAN CHILDREN, AND
14 JURISDICTION OVER CHILD CUSTODY PROCEEDINGS, INCLUDING AGREEMENTS
15 THAT MAY PROVIDE FOR TRANSFER OF JURISDICTION ON A CASE-BY-CASE
16 BASIS AND AGREEMENTS THAT PROVIDE FOR CONCURRENT JURISDICTION
17 BETWEEN THE STATE AND INDIAN TRIBES.

18 (2) UNLESS THE AGREEMENT PROVIDES OTHERWISE, BOTH OF THE
19 FOLLOWING APPLY:

20 (A) THE AGREEMENTS DESCRIBED IN SUBSECTION (1) MAY BE REVOKED
21 BY EITHER PARTY UPON 180 DAYS' WRITTEN NOTICE TO THE OTHER PARTY.

22 (B) REVOCATION OF AN AGREEMENT DOES NOT AFFECT ANY ACTION OR
23 PROCEEDING OVER WHICH THE COURT ALREADY HAS JURISDICTION.

24 SEC. 33. THE DEPARTMENT, IN CONSULTATION WITH INDIAN TRIBES IN
25 THIS STATE, SHALL ESTABLISH STANDARDS AND PROCEDURES FOR THE
26 DEPARTMENT'S REVIEW OF CASES SUBJECT TO THIS CHAPTER AND METHODS
27 FOR MONITORING THE DEPARTMENT'S COMPLIANCE WITH PROVISIONS OF THE

1 INDIAN CHILD WELFARE ACT AND THIS CHAPTER.

2 SEC. 35. (1) A MICHIGAN COURT ENTERING A FINAL DECREE OR ORDER
3 IN ANY INDIAN CHILD ADOPTIVE PLACEMENT SHALL PROVIDE THE SECRETARY
4 AND THE TRIBAL ENROLLMENT OFFICER OF THE APPROPRIATE TRIBE WITH A
5 COPY OF THE DECREE OR ORDER TOGETHER WITH OTHER INFORMATION AS MAY
6 BE NECESSARY TO SHOW THE FOLLOWING:

7 (A) THE NAME, DATE OF BIRTH, AND TRIBAL AFFILIATION OF THE
8 CHILD.

9 (B) THE NAMES AND ADDRESSES OF THE BIOLOGICAL PARENTS, IF
10 KNOWN.

11 (C) THE NAMES AND ADDRESSES OF THE ADOPTIVE PARENTS.

12 (D) THE IDENTITY OF ANY AGENCY HAVING FILES OR INFORMATION
13 RELATING TO THE ADOPTIVE PLACEMENT.

14 (2) IF COURT RECORDS CONTAIN A STATEMENT OF IDENTIFYING
15 INFORMATION OF THE BIOLOGICAL PARENT OR PARENTS THAT THEIR IDENTITY
16 REMAINS CONFIDENTIAL, THE COURT SHALL INCLUDE THE STATEMENT OF
17 IDENTIFYING INFORMATION WITH THE OTHER INFORMATION SENT TO THE
18 SECRETARY AND THE TRIBAL ENROLLMENT OFFICER OF THE APPROPRIATE
19 INDIAN TRIBE DESCRIBED IN SUBSECTION (1).

20 SEC. 37. THE DEPARTMENT SHALL PUBLISH ANNUALLY A CENSUS WITH
21 NO INDIVIDUALLY IDENTIFIABLE INFORMATION OF ALL INDIAN CHILDREN IN
22 THE DEPARTMENT'S CARE AND CUSTODY. THE CENSUS SHALL INCLUDE, BY
23 COUNTY AND STATEWIDE, INFORMATION REGARDING THE INDIAN CHILDREN ON
24 ALL OF THE FOLLOWING:

25 (A) LEGAL STATUS.

26 (B) PLACEMENT INFORMATION AND WHETHER IT COMPLIES WITH THIS
27 CHAPTER.

1 (C) AGE.

2 (D) SEX.

3 (E) TRIBE IN WHICH THE CHILD IS A MEMBER OR ELIGIBLE FOR
4 MEMBERSHIP.

5 (F) ACCUMULATED LENGTH OF TIME IN FOSTER CARE.

6 (G) OTHER DEMOGRAPHIC INFORMATION CONSIDERED APPROPRIATE
7 CONCERNING ALL INDIAN CHILDREN WHO ARE THE SUBJECT OF CHILD CUSTODY
8 PROCEEDINGS.

9 SEC. 39. ANY INDIAN CHILD WHO IS THE SUBJECT OF AN ACTION FOR
10 FOSTER CARE PLACEMENT OR TERMINATION OF PARENTAL RIGHTS UNDER STATE
11 LAW, ANY PARENT OR INDIAN CUSTODIAN FROM WHOSE CUSTODY AN INDIAN
12 CHILD WAS REMOVED, AND THE INDIAN CHILD'S TRIBE MAY PETITION ANY
13 COURT OF COMPETENT JURISDICTION TO INVALIDATE THE ACTION UPON A
14 SHOWING THAT THE ACTION VIOLATED ANY PROVISION OF SECTIONS 7, 9,
15 11, 13, 15, 21, 23, 25, 27, AND 29 OF THIS CHAPTER.

16 SEC. 41. IF ANY PROVISION OF THIS CHAPTER OR ITS APPLICATION
17 TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID FOR ANY REASON IN A
18 COURT OF COMPETENT JURISDICTION, THE INVALIDITY DOES NOT AFFECT
19 OTHER PROVISIONS OR ANY OTHER APPLICATION OF THIS CHAPTER THAT CAN
20 BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION. FOR
21 THIS PURPOSE, THE PROVISIONS OF THIS CHAPTER ARE SEVERABLE.