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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 2961

03/16/2023 Authored by Keeler and Kozlowski The bill was read for the first time and referred to the Committee on Children and Families Finance and Policy

1.1 A bill for an act
1.2 relating to child protection; modifying foster care licensing requirements for Tribal
1.3 licensees; expanding council membership; adding required county performance
1.4 on child protection measures; modifying Indian child welfare primary support
1.5 grants; modifying Indian Child Welfare Act compliance system review
1.6 requirements; requiring the commissioner of human services to develop and
1.7 maintain an Indian child welfare compliance tracking database; requiring a report;
1.8 appropriating money; amending Minnesota Statutes 2022, sections 245A.04, by
1.9 adding a subdivision; 256M.41, subdivision 4; 260.785, subdivision 1; 260.835,
1.10 subdivisions 1, 2; 477A.0126, subdivisions 6, 7.

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

1.12 Section 1. Minnesota Statutes 2022, section 245A.04, is amended by adding a subdivision
1.13 to read:

1.14 Subd. 9b. Tribal child foster care licensing variances and reciprocity. (a) The
1.15 commissioner may grant a permanent variance to allow a family foster parent who has been
1.16 licensed by a Tribal licensing agency also to be licensed under this chapter and applicable
1.17 rules if the following conditions are met:

1.18 (1) the variance must be requested by the Tribal license holder on a form and in a manner
1.19 prescribed by the commissioner;

1.20 (2) the request for a variance includes documentation from the licensing Tribe of all
1.21 requirements for family foster care licensure by the Tribe; and

1.22 (3) the request for a variance includes proof of Tribal family foster care licensure or
1.23 attestation from the licensing Tribe that the applicant is licensed by the Tribe and not subject
1.24 to any licensing sanctions or disciplinary actions.

2.1 (b) The commissioner's decision to grant or deny a variance request is final and not  
2.2 subject to appeal under the provisions of chapter 14.

2.3 (c) If the commissioner grants a permanent variance under paragraph (a), the licensing  
2.4 Tribe must immediately inform the commissioner if the Tribe initiates any licensing action  
2.5 against a license holder or receives information or a report of conditions or actions by the  
2.6 license holder that affect the health and safety of children in the license holder's care. The  
2.7 commissioner may revoke the permanent variance and take any appropriate licensing actions  
2.8 under sections 245A.06 and 245A.07.

2.9 (d) The commissioner may enter into an agreement with a Tribe to allow for family  
2.10 foster care licensing reciprocity. The commissioner may only enter into such an agreement  
2.11 if the commissioner determines that all health and safety requirements under this chapter  
2.12 and applicable rules are met under Tribal licensing requirements and licensing inspections.  
2.13 If an applicant for family foster care licensure under this chapter holds a family foster care  
2.14 license from a Tribe that has entered into an agreement with the commissioner, the  
2.15 commissioner shall issue a family foster care license to the applicant. The licensing Tribe  
2.16 must immediately inform the commissioner if the Tribe initiates any licensing action against  
2.17 the license holder or receives information or a report of conditions or actions by the license  
2.18 holder that affect the health and safety of children in the license holder's care. The  
2.19 commissioner may revoke a license issued in accordance with this paragraph and take any  
2.20 appropriate licensing actions under sections 245A.06 and 245A.07.

2.21 Sec. 2. Minnesota Statutes 2022, section 256M.41, subdivision 4, is amended to read:

2.22 Subd. 4. **County performance on child protection measures.** The commissioner shall  
2.23 set child protection measures and standards, which shall include measures and standards  
2.24 addressing compliance with the federal Indian Child Welfare Act and the Minnesota Indian  
2.25 Family Preservation Act. The commissioner shall require an underperforming county to  
2.26 demonstrate that the county designated sufficient funds and implemented a reasonable  
2.27 strategy to improve child protection performance, including the provision of a performance  
2.28 improvement plan and additional remedies identified by the commissioner. The commissioner  
2.29 may redirect up to 20 percent of a county's funds under this section toward the performance  
2.30 improvement plan. Sanctions under section 256M.20, subdivision 3, related to noncompliance  
2.31 with federal performance standards also apply.

3.1 Sec. 3. Minnesota Statutes 2022, section 260.785, subdivision 1, is amended to read:

3.2 Subdivision 1. **Primary support grants.** The commissioner shall establish direct grants  
3.3 to Indian Tribes, Indian organizations, and Tribal social services agency programs located  
3.4 off-reservation that serve Indian children and their families to provide primary support for  
3.5 Indian child welfare programs to implement and increase compliance with the Indian Family  
3.6 Preservation Act, and to provide behavioral health services to Indian families.

3.7 Sec. 4. Minnesota Statutes 2022, section 260.835, subdivision 1, is amended to read:

3.8 Subdivision 1. **Creation.** The commissioner shall appoint an American Indian Child  
3.9 Welfare Advisory Council to help formulate policies and procedures relating to Indian child  
3.10 welfare services and to make recommendations regarding approval of grants provided under  
3.11 section 260.785, subdivisions 1, 2, and 3. The council shall consist of ~~17~~ 20 members  
3.12 appointed by the commissioner and must include representatives of each of the 11 Minnesota  
3.13 reservations who are authorized by Tribal resolution, one representative from the Duluth  
3.14 Urban Indian Community, three representatives from the Minneapolis Urban Indian  
3.15 Community, ~~and~~ two representatives from the St. Paul Urban Indian Community, and three  
3.16 representatives from other urban Indian communities outside of the seven-county  
3.17 metropolitan area. Representatives from the urban Indian communities must be selected  
3.18 through an open appointments process under section 15.0597. The terms, compensation,  
3.19 and removal of American Indian Child Welfare Advisory Council members shall be as  
3.20 provided in section 15.059.

3.21 Sec. 5. Minnesota Statutes 2022, section 260.835, subdivision 2, is amended to read:

3.22 Subd. 2. **Expiration.** ~~The American Indian Child Welfare Advisory Council expires~~  
3.23 ~~June 30, 2023.~~ This section does not expire.

3.24 Sec. 6. Minnesota Statutes 2022, section 477A.0126, subdivision 6, is amended to read:

3.25 Subd. 6. **Indian Child Welfare Act compliance system review.** (a) By January 1, 2018,  
3.26 the commissioner of human services, in consultation with counties and Tribes and the  
3.27 American Indian Child Welfare Advisory Council, shall develop a system to review county  
3.28 compliance with the Indian Child Welfare Act and the Minnesota Indian Family Preservation  
3.29 Act. The system ~~may~~ must include, but is not limited to, the cases to be reviewed, the criteria  
3.30 to be reviewed to demonstrate compliance, the rate of noncompliance and the coordinating  
3.31 penalty, the program improvement plan, and training.

4.1 (b) The commissioner of human services, in partnership with the American Indian Child  
 4.2 Welfare Advisory Council, shall provide continuous review of cases reported by counties  
 4.3 for aid payments under this section for compliance with the Indian Child Welfare Act and  
 4.4 the Minnesota Indian Family Preservation Act. The commissioner shall review 50 percent  
 4.5 of cases reported by each county for aid payments under this section each year for compliance  
 4.6 with the Indian Child Welfare Act and the Minnesota Indian Family Preservation Act.

4.7 (c) By June 30, 2024, each county reporting cases for aid payments under this section  
 4.8 must also submit a randomized sample of ten percent of all child protection cases in the  
 4.9 county from July 1, 2023, to June 30, 2024, and the commissioner shall review those cases  
 4.10 for compliance with the Indian Child Welfare Act and the Minnesota Indian Family  
 4.11 Preservation Act.

4.12 (d) If the commissioner's case review shows noncompliance with any required component  
 4.13 of the Indian Child Welfare Act or the Minnesota Indian Family Preservation Act in a  
 4.14 specific case, the county shall cooperate with the commissioner and the American Indian  
 4.15 Child Welfare Advisory Council to assess the reasons for noncompliance in that case and  
 4.16 remedy any identified factors in the county's noncompliance, as part of the county's program  
 4.17 improvement plan.

4.18 ~~(e)~~ (e) The determination made by the commissioner of human services regarding a  
 4.19 county's compliance or noncompliance with the Indian Child Welfare Act and the Minnesota  
 4.20 Indian Family Preservation Act shall be final.

4.21 Sec. 7. Minnesota Statutes 2022, section 477A.0126, subdivision 7, is amended to read:

4.22 Subd. 7. **Appropriation.** (a) \$5,000,000 is annually appropriated to the commissioner  
 4.23 of revenue from the general fund to pay aid and make transfers required under this section.

4.24 (b) ~~\$390,000~~ \$..... is appropriated annually from the general fund to the commissioner  
 4.25 of human services to implement subdivision 6.

4.26 Sec. 8. **APPROPRIATION; CHILD PROTECTION CASE REVIEW.**

4.27 \$..... in fiscal year 2024 is appropriated from the general fund to the commissioner of  
 4.28 human services for the case review activities required under Minnesota Statutes, section  
 4.29 477A.0126, subdivision 6, paragraph (c). This is a onetime appropriation.

5.1       Sec. 9. **APPROPRIATION; INDIAN CHILD WELFARE COMPLIANCE**  
5.2       **DATABASE.**

5.3       (a) \$..... in fiscal year 2024 and \$..... in fiscal year 2025 are appropriated from the  
5.4       general fund to the commissioner of human services to develop and maintain a centralized  
5.5       database to continuously monitor county compliance with the requirements of the federal  
5.6       Indian Child Welfare Act and the Minnesota Indian Family Preservation Act under Minnesota  
5.7       Statutes, sections 260.751 to 260.835. The commissioner shall collect data on inquiries  
5.8       about Indian lineage, identification of Indian children involved in family assessments or  
5.9       investigations, notice provided to Tribes, efforts to prevent out-of-home placement of Indian  
5.10      children, findings regarding active efforts provided, and permanency outcomes in child in  
5.11      need of protection or services cases involving Indian children.

5.12      (b) By January 15 of each year, beginning January 15, 2024, the commissioner of human  
5.13      services shall report to the chairs and ranking minority members of the legislative committees  
5.14      with jurisdiction over child protection with summary data from the Indian child welfare  
5.15      compliance database. The report may include recommendations for statutory or policy  
5.16      changes to improve compliance with the federal Indian Child Welfare Act and the Minnesota  
5.17      Indian Family Preservation Act under Minnesota Statutes, sections 260.751 to 260.835, and  
5.18      improve outcomes for Indian children and their families.

5.19      Sec. 10. **APPROPRIATION; INDIAN CHILD WELFARE PRIMARY SUPPORT**  
5.20      **GRANTS.**

5.21      \$9,000,000 in fiscal year 2024 and \$9,000,000 in fiscal year 2025 are appropriated from  
5.22      the general fund to the commissioner of human services for Indian child welfare primary  
5.23      support grants under Minnesota Statutes, section 260.785.