

Introduced by

Representatives Davis, Beltz, Brown, Finley-DeVilleville, Holle

Senators Cleary, Cory, Hogan, Lee, Weston

1 A BILL for an Act to amend and reenact sections 27-19.1-01 and 27-19.1-02, subsection 1 of
2 section 27-19.1-03, subsection 1 of section 27-19.1-04, and sections 27-19.1-05 and
3 27-19.1-06 of the North Dakota Century Code, relating to Indian child welfare.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 27-19.1-01 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **27-19.1-01. Active efforts and procedures - Definitions.**

8 1. As used in this chapter, ~~unless context requires otherwise:~~

9 a. "Active efforts" means affirmative, active, thorough, and timely efforts intended
10 primarily to maintain or reunite an Indian child with the Indian child's family. If an
11 agency is involved in the child custody proceeding, active efforts must involve
12 assisting the parent or a parent or Indian custodian with the steps of a case plan
13 and including accessing or developing the resources necessary to satisfy the
14 case plan. To the maximum extent possible, active efforts should be provided in a
15 manner consistent with the prevailing social and cultural conditions and way of
16 life of the Indian child's tribe and should be conducted in partnership with the
17 Indian child and the Indian child's parents, extended family members, Indian
18 custodians, and tribe. Active efforts are to be tailored to the facts and
19 circumstances of the case. The term includes:

20 (1) Conducting a comprehensive assessment of the circumstances of the
21 Indian child's family, with a focus on safe reunification as the most desirable
22 goal, with ongoing timely assessment to determine when the threat is
23 resolved and placement of the Indian child can be returned to the custodian.

- 1 (2) Identifying appropriate services and helping a parent or Indian custodian to
2 overcome barriers, including actively assisting a parent or Indian custodian
3 in obtaining such services.
- 4 (3) Identifying, notifying, and inviting representatives of the Indian child's tribe to
5 participate in providing support and services to the Indian child's family and
6 in family team meetings, permanency planning, and resolution of placement
7 issues.
- 8 (4) Conducting or causing to be conducted a diligent search for the Indian
9 child's extended family members, and contacting and consulting with
10 extended family members to provide family structure and support for the
11 Indian child and the Indian child's parent or Indian custodian.
- 12 (5) Offering and employing available and culturally appropriate family
13 preservation strategies and facilitating the use of remedial and rehabilitative
14 services provided by the Indian child's tribe.
- 15 (6) Taking steps to keep siblings together, if possible.
- 16 (7) Supporting regular visits with a parent or Indian custodian in the most
17 natural setting possible as well as trial home visits of the Indian child during
18 any period of removal, consistent with the need to ensure the health, safety,
19 and welfare of the Indian child.
- 20 (8) Identifying community resources, including housing, financial,
21 transportation, mental health, substance abuse, and peer support services
22 and actively assisting the Indian child's parent or Indian custodian or, as
23 appropriate, the Indian child's family, in utilizing and accessing those
24 resources.
- 25 (9) Monitoring progress and participation in services.
- 26 (10) Considering alternative ways to address the needs of the Indian child's
27 parent or Indian custodian and where appropriate, the family, if the optimum
28 services do not exist or are not available.
- 29 (11) Providing post-reunification services and monitoring.
- 30 b. "Adoptive placement" means the permanent placement of an Indian child for
31 adoption.

- 1 c. "Extended family member" means a relationship defined by the law or custom of
2 the Indian child's tribe or, in the absence of such law or custom, means an
3 individual who has reached the age of eighteen and who is the Indian child's
4 grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece
5 or nephew, first or second cousin, or stepparent.
- 6 d. "Foster care ~~or nonfoster care~~ placement" means the removal of an Indian child
7 from the home of his or her parent or Indian custodian for temporary placement in
8 a foster home, qualified residential treatment program, residential care center for
9 Indian children and youth, or certified shelter care facility, in the home of a
10 relative other than a parent or Indian custodian, or in the home of a guardian,
11 from which placement the parent or Indian custodian cannot have the Indian child
12 returned upon demand. The term does not include an adoptive placement, a
13 preadoptive placement, ~~and~~ an emergency change in placement under section
14 27-20.3-06, or holding an Indian child in custody.
- 15 e. "Indian" means an individual who is a member of an Indian tribe, or who is a
16 native and a member of a regional corporation as defined under 43 U.S.C. 1606.
- 17 f. "Indian child" means any unmarried individual who is under the age of eighteen
18 and is either a member of an Indian tribe or is eligible for membership in an
19 Indian tribe and is the biological child of a member of an Indian tribe.
- 20 g. "Indian child custody proceeding" means a proceeding brought by the state
21 involving:
22 (1) Foster care ~~or nonfoster care~~ placement;
23 (2) A preadoptive placement;
24 (3) An adoptive placement; or
25 (4) A termination of parental rights under section 27-20.3-20 for an Indian child.
- 26 h. "Indian child's tribe" means the Indian tribe in which an Indian child is a member
27 or eligible for membership or, in the case of an Indian child who is a member of or
28 eligible for membership in more than one tribe, the Indian tribe with which the
29 Indian child has the more significant contacts.
- 30 i. "Indian custodian" means any Indian individual who has legal custody of an
31 Indian child under tribal law or custom or under state law or to whom temporary

1 physical care, custody, and control has been transferred by the parent of the
2 Indian child.

3 j. "Indian tribe" means an Indian tribe, band, nation, or other organized Indian
4 group or community of Indians recognized as eligible for services provided to
5 Indians by the United States secretary of the interior because of their status as
6 Indians, including any Alaska native village as defined in 43 U.S.C. 1602(c).

7 k. "Parent" means a biological parent or parents of an Indian child or an Indian
8 individual who has lawfully adopted an Indian child, including adoptions under
9 tribal law or custom. The term does not include the unwed father if paternity has
10 not been acknowledged or established.

11 l. "Preadoptive placement" means the temporary placement of an Indian child in a
12 foster home, home of a relative other than a parent or Indian custodian, or home
13 of a guardian after a termination of parental rights but before or in lieu of an
14 adoptive placement, but does not include an emergency change in placement
15 under section 27-20.3-06.

16 m. "Termination of parental rights" means any action resulting in the termination of
17 the parent-child relationship. It does not include a placement based upon an act
18 by an Indian child which, if committed by an adult, would be deemed a crime or a
19 placement upon award of custody to one of the Indian child's parents in a divorce
20 proceeding.

21 2. Before removal of an Indian child from the custody of a parent or Indian custodian for
22 purposes of involuntary foster care placement or the termination of parental rights over
23 an Indian child, the court shall find that active efforts have been made to provide
24 remedial services and rehabilitative services designed to prevent the breakup of the
25 Indian family and that these efforts have proved unsuccessful. The court may not
26 order the removal unless evidence of active efforts shows there has been a vigorous
27 and concerted level of casework beyond the level that would constitute reasonable
28 efforts under section 27-20.3-26. Reasonable efforts may not be construed to be
29 active efforts. Active efforts must be made in a manner that takes into account the
30 prevailing social and cultural values, conditions, and way of life of the Indian child's
31 tribe. Active efforts must utilize the available resources of the Indian child's extended

1 family, tribe, tribal and other relevant social service agencies, and individual Indian
2 caregivers.

3 3. The court may order the removal of the Indian child for involuntary foster care
4 placement only if the court determines, by clear and convincing evidence, that
5 continued custody of the Indian child by the parent or Indian custodian is likely to
6 result in serious emotional or physical damage to the Indian child. Evidence must
7 show a causal relationship between the particular conditions in the home and the
8 likelihood that continued custody of the Indian child will result in serious emotional or
9 physical damage to the particular Indian child who is the subject of the proceeding.
10 Poverty, isolation, custodian age, crowded or inadequate housing, substance use, or
11 nonconforming social behavior does not by itself constitute clear and convincing
12 evidence of imminent serious emotional or physical damage to the Indian child. ~~As~~
13 ~~soon as the threat has been removed and the Indian child is no longer at risk, the state~~
14 ~~should terminate the removal, by returning the Indian child to the parent or Indian~~
15 ~~custodian while offering a solution to mitigate the situation that gave rise to the need~~
16 ~~for emergency removal and placement.~~ If a court order authorizes the emergency
17 removal of the Indian child from the parent or Indian custodian of the child under this
18 section, the order must be accompanied by a declaration that includes:

- 19 a. The name, tribal affiliation, and address of the Indian child, each parent of the
20 Indian child, and the Indian custodian of the child, as applicable; and
21 b. A detailed account of the circumstances that led the agency responsible for
22 emergency removal of the child to take that action.

23 4. The court may order the termination of parental rights over the Indian child only if the
24 court determines, by evidence beyond a reasonable doubt that continued custody of
25 the Indian child by the parent or Indian custodian is likely to result in serious emotional
26 or physical damage to the Indian child.

27 5. In considering whether to involuntarily place an Indian child in foster care or to
28 terminate the parental rights of the parent of an Indian child, the court shall require that
29 a qualified expert witness must be qualified to testify regarding whether the Indian
30 child's continued custody by the parent or Indian custodian is likely to result in serious
31 emotional or physical damage to the Indian child and should be qualified to testify as

1 to the prevailing social and cultural standards of the Indian child's tribe. An individual
2 may be designated by the Indian child's tribe as being qualified to testify to the
3 prevailing social and cultural standards of the Indian child's tribe. If the parties
4 stipulate in writing and the court is satisfied the stipulation is made knowingly,
5 intelligently, and voluntarily, the court may accept a declaration or affidavit from a
6 qualified expert witness in lieu of testimony. If one or more parties have been found to
7 be in default under the North Dakota Rules of Civil Procedure, the court may accept a
8 declaration or affidavit from a qualified expert witness without a stipulation in writing
9 from the defaulted parties. The court or any party may request the assistance of the
10 Indian child's tribe or the bureau of Indian affairs office serving the Indian child's tribe
11 in locating individuals qualified to serve as expert witnesses. The social worker
12 regularly assigned to the Indian child may not serve as a qualified expert witness in
13 child custody proceedings concerning the Indian child. The qualified expert witness
14 should be someone familiar with the particular Indian child and have contact with the
15 parent or Indian custodian to observe interaction between the parent or Indian
16 custodian, Indian child, and extended family members. The child welfare agency and
17 courts should facilitate access to the family and records to facilitate accurate
18 testimony.

19 6. An emergency removal or placement of an Indian child under state law must terminate
20 immediately when the removal or placement is no longer necessary to prevent
21 imminent physical damage or harm to the Indian child. If removal or placement is
22 determined to be no longer necessary, the child welfare agency shall terminate the
23 removal by returning the Indian child to the parent or Indian custodian and offer a
24 solution to mitigate the situation that gave rise to the need for emergency removal and
25 placement.

26 7. If an Indian child is the subject of a shelter care hearing, the party initiating the hearing
27 shall provide the court with a declaration that includes the specific actions that have
28 been taken to assist the parent or Indian custodian since the emergency removal so
29 the child may be safely returned to the custody of the parent or Indian custodian, and
30 the specific actions the initiating party intends to take so the Indian child may be
31 returned safely without initiating an Indian child custody proceeding.

1 8. To facilitate the intent of this chapter, the agency, in cooperation with the Indian child's
2 tribe of affiliation, unless a parent objects, shall take steps to enroll the Indian child in
3 the tribe with the goal of finalizing enrollment before termination.

4 **SECTION 2. AMENDMENT.** Section 27-19.1-02 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **27-19.1-02. Jurisdiction over custody proceedings.**

7 1. This chapter includes requirements that apply if an Indian child is the subject of:

8 a. A child custody proceeding, including:

9 (1) An involuntary proceeding; ~~and~~

10 (2) A voluntary proceeding that could prohibit the parent or Indian custodian
11 from regaining custody of the Indian child upon demand; and

12 (3) A proceeding involving status offenses if any part of the proceeding results
13 in the need for out-of-home placement of the child, including a foster care,
14 preadoptive or adoptive placement, or termination of parental rights.

15 b. An emergency proceeding ~~other than:~~

16 (1) ~~A tribal.~~

17 2. This chapter does not apply to:

18 a. A tribal court proceeding; ~~or~~

19 (2)b. A proceeding regarding a delinquent act;

20 c. An award of custody of the Indian child to one of the parents, including an award
21 in a divorce proceeding; or

22 d. A voluntary placement that either parent, both parents, or the Indian custodian
23 has, of his or her or their free will, without a threat of removal by a state agency,
24 chosen for the Indian child and that does not operate to prohibit the Indian child's
25 parent or Indian custodian from regaining custody of the Indian child upon
26 demand.

27 2-3. If a proceeding under subsection 1 concerns an Indian child, this chapter applies to
28 that proceeding. In determining whether this chapter applies to a proceeding, the state
29 court may not consider factors such as the participation of a parent or the Indian child
30 in tribal cultural, social, religious, or political activities; the relationship between the

1 Indian child and the Indian child's parent; whether the parent ever had custody of the
2 Indian child; or the Indian child's blood quantum.

3 ~~3.4.~~ If this chapter applies at the commencement of a proceeding, this chapter does not
4 cease to apply solely because the Indian child reaches age eighteen during the
5 pendency of the proceeding.

6 4.5. In an Indian child custody proceeding under this chapter involving an Indian child who
7 is not residing or domiciled within the reservation of the Indian child's tribe, the court
8 assigned to exercise jurisdiction under this chapter, upon the petition of the Indian
9 child's parent, Indian custodian, or tribe, shall transfer the proceeding to the
10 jurisdiction of the tribe unless ~~either~~any of the following ~~applies~~apply:

11 a. A parent of the Indian child objects to the transfer.

12 b. An Indian tribe has exclusive jurisdiction over an Indian child custody proceeding
13 involving an Indian child who resides or is domiciled within the reservation of the
14 tribe, except if that jurisdiction is otherwise vested in the state by federal law. If an
15 Indian child is a ward of a tribal court, the Indian tribe retains exclusive
16 jurisdiction regardless of the residence or domicile of the Indian child.

17 ~~5. In an Indian child custody proceeding under this chapter involving an Indian child who~~
18 ~~is not residing or domiciled within the reservation of the Indian child's tribe, the court~~
19 ~~assigned to exercise jurisdiction under this chapter, upon the petition of the Indian~~
20 ~~child's parent, Indian custodian, or tribe, shall transfer the proceeding to the~~
21 ~~jurisdiction of the tribe unless any of the following apply:~~

22 ~~a. A parent of the Indian child objects to the transfer.~~

23 ~~b.c.~~ The Indian child's tribe does not have a tribal court, or the tribal court of the
24 Indian child's tribe declines jurisdiction.

25 ~~e.d.~~ The court determines good cause exists to deny the transfer. In determining
26 whether good cause exists to deny the transfer, the court may not consider any
27 perceived inadequacy of the tribal social services department or the tribal court of
28 the Indian child's tribe. The court may determine good cause exists to deny the
29 transfer only if the person opposing the transfer shows by clear and convincing
30 evidence the evidence or testimony necessary to decide the case cannot be
31 presented in tribal court without undue hardship to the parties or the witnesses

1 and that the tribal court is unable to mitigate the hardship by making
2 arrangements to receive the evidence or testimony by use of telephone or live
3 audiovisual means, by hearing the evidence or testimony at a location that is
4 convenient to the parties and witnesses, or by use of other means permissible
5 under the tribal court's rules of evidence.

6 6. An Indian child's tribe may intervene at any point in an Indian child custody
7 proceeding.

8 7. The state shall give full faith and credit to the public acts, records, and judicial
9 proceedings of an Indian tribe which are applicable to an Indian child custody
10 proceeding to the same extent that the state gives full faith and credit to the public
11 acts, records, and judicial proceedings of any other governmental entity.

12 **SECTION 3. AMENDMENT.** Subsection 1 of section 27-19.1-03 of the North Dakota
13 Century Code is amended and reenacted as follows:

14 1. In a proceeding involving the foster care ~~or nonfoster care~~ placement of or termination
15 of parental rights to an Indian child whom the court knows or has reason to know may
16 be an Indian child, the party seeking the foster care ~~or nonfoster care~~ placement or
17 termination of parental rights, for the first hearing of the proceeding, shall notify the
18 Indian child's parent, Indian custodian, and tribe, by registered mail, return receipt
19 requested, of the pending proceeding and of the parties' right to intervene in the
20 proceeding and shall file the return receipt with the court. Notice of subsequent
21 hearings in a proceeding must be in writing and may be given by mail, personal
22 delivery, facsimile transmission, or electronic mail. If the identity or location of the
23 Indian child's parent, Indian custodian, or tribe cannot be determined, that notice shall
24 be given to the United States secretary of the interior in like manner. The first hearing
25 in the proceeding may not be held until at least ten days after receipt of the notice by
26 the parent, Indian custodian, and tribe or until at least fifteen days after receipt of the
27 notice by the United States secretary of the interior. On request of the parent, Indian
28 custodian, or tribe, the court shall grant a continuance of up to twenty additional days
29 to enable the requester to prepare for that hearing.

30 **SECTION 4. AMENDMENT.** Subsection 1 of section 27-19.1-04 of the North Dakota
31 Century Code is amended and reenacted as follows:

1 1. A voluntary consent by a parent or Indian custodian to a foster care ~~or nonfoster care~~
2 placement of an Indian child is not valid unless the consent or delegation is executed
3 in writing, recorded before a judge, and accompanied by a written certification by the
4 judge that the terms and consequences of the consent or delegation were fully
5 explained in detail to and were fully understood by the parent or Indian custodian. The
6 judge also shall certify the parent or Indian custodian fully understood the explanation
7 in English or that the explanation was interpreted into a language the parent or Indian
8 custodian understood. Any consent or delegation of powers given under this
9 subsection before or within ten days after the birth of the Indian child is not valid. A
10 parent or Indian custodian who has executed a consent or delegation of powers under
11 this subsection may withdraw the consent or delegation for any reason at any time,
12 and the Indian child must be returned to the parent or Indian custodian. A parent or
13 Indian custodian who has executed a consent or delegation of powers under this
14 subsection also may move to invalidate the out-of-home care placement.

15 **SECTION 5. AMENDMENT.** Section 27-19.1-05 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **27-19.1-05. ~~Placements~~Placement preferences.**

- 18 1. Subject to subsections 3 and 4, in placing an Indian child for adoption or in delegating
19 powers, as described in a lawful executed power of attorney regarding an Indian child,
20 preference must be given, in the absence of good cause, as described in
21 subsection 6, to the contrary, to a placement with or delegation to one of the following,
22 in the order of preference listed:
- 23 a. The tribe's statutory adopted placement preference, if applicable;
 - 24 b. An extended family member of the Indian child;
 - 25 ~~b.c.~~ Another member of the Indian child's tribe;
 - 26 ~~c.d.~~ Another Indian family with whom the Indian child has a relationship or an Indian
27 family from a tribe that is culturally similar to or linguistically connected to the
28 Indian child's tribe; or
 - 29 ~~d.e.~~ The tribe's statutory adopted placement preferences Another Indian family.
- 30 2. An Indian child who is accepted for a foster care ~~or nonfoster care~~ placement or a
31 preadoptive placement must be placed in the least restrictive setting that most

- 1 approximates a family that meets the Indian child's special needs, if any, and which is
2 within reasonable proximity to the Indian child's home, taking into account those
3 special needs. Subject to subsections 4 and 6, in placing an Indian child in a foster
4 care ~~or nonfoster care~~ placement or a preadoptive placement, preference must be
5 given, in the absence of good cause, as described in subsection 6, to the contrary, to a
6 placement in one of the following, in the order of preference listed:
- 7 a. The tribe's statutory adopted placement preference, if applicable;
 - 8 b. The home of an extended family member of the Indian child;
 - 9 ~~b.c.~~ A foster home licensed, approved, or specified by the Indian child's tribe;
 - 10 ~~c.d.~~ An Indian foster home licensed or approved by the department; or
 - 11 ~~d.e.~~ A qualified residential treatment facility or residential care center for children and
12 youth approved by an Indian tribe or operated by an Indian organization that has
13 a program suitable to meet the needs of the Indian child.
- 14 3. An Indian child who is the subject of an emergency removal or placement under a
15 child custody determination under section 27-20.3-06 must be placed in compliance
16 with foster care ~~or nonfoster care~~ placement or preadoptive placement preferences,
17 unless the person responsible for determining the placement finds good cause, as
18 described in subsection 6, for departing from the order of placement preference under
19 subsection 2 or finds that emergency conditions necessitate departing from that order.
20 When the reason for departing from that order is resolved, the Indian child must be
21 placed in compliance with the order of placement preference under subsection 2.
- 22 4. In placing an Indian child under subsections 1 and 2 regarding an Indian child under
23 subsection 1, if the Indian child's tribe has established, by resolution, an order of
24 preference that is different from the order specified in subsection 1 or 2, the order of
25 preference established by that tribe must be followed, in the absence of good cause,
26 as described in subsection 6, to the contrary, so long as the placement under
27 subsection 1 is appropriate for the Indian child's special needs, if any, and the
28 placement under subsection 2 is the least restrictive setting appropriate for the Indian
29 child's needs as specified in subsection 2.
- 30 5. The standards to be applied in meeting the placement preference requirements of this
31 subsection must be the prevailing social and cultural standards of the Indian

1 community in which the Indian child's parent, Indian custodian, or extended family
2 members reside or with which the Indian child's parent, Indian custodian, or extended
3 family members maintain social and cultural ties.

- 4 6. a. If a party asserts that good cause not to follow the placement preferences exists,
5 the reasons for that belief or assertion must be stated orally on the record or
6 provided in writing to the parties to the child custody proceeding and the court.
- 7 b. The party seeking departure from the placement preferences bears the burden of
8 proving by clear and convincing evidence that there is good cause to depart from
9 the placement preferences.
- 10 c. A court's determination of good cause to depart from the placement preferences
11 must be made on the record or in writing and must be based on one or more of
12 the following considerations:
- 13 (1) The request of the Indian child's parent, if they attest that they have
14 reviewed the placement options, if any, that comply with the order of
15 preference.
- 16 (2) The request of the Indian child, if the Indian child is of sufficient age and
17 capacity to understand the decision being made.
- 18 (3) The presence of a sibling attachment that can be maintained only through a
19 particular placement.
- 20 (4) The extraordinary physical, mental, or emotional needs of the Indian child,
21 such as specialized treatment services that may be unavailable in the
22 community where families who meet the placement preferences live.
- 23 (5) The unavailability of a suitable placement after a determination by the court
24 that a diligent search was conducted to find suitable placements meeting
25 the preference criteria, but none has been located. For purposes of this
26 analysis, the standards for determining whether a placement is unavailable
27 must conform to the prevailing social and cultural standards of the Indian
28 community in which the Indian child's parent, Indian custodian, or extended
29 family resides or with which the Indian child's parent, Indian custodian, or
30 extended family members maintain social and cultural ties.

- 1 d. A placement may not depart from the preferences based on the socioeconomic
- 2 status of any placement relative to another placement.
- 3 e. A placement may not depart from the preferences based solely on ordinary
- 4 bonding or attachment that flowed from time spent in a nonpreferred placement
- 5 that was made in violation of this chapter.
- 6 f. The burden of establishing good cause to depart from the order of placement
- 7 preference is on the party requesting that departure.
- 8 7. The department or a child welfare agency shall maintain a record of each adoptive
- 9 placement, foster care or ~~nonfoster care~~ placement, preadoptive placement, and
- 10 delegation of powers, made of an Indian child, evidencing the efforts made to comply
- 11 with the placement preference requirements specified in this section, and shall make
- 12 that record available at any time on the request of the United States secretary of the
- 13 interior or the Indian child's tribe.

14 **SECTION 6. AMENDMENT.** Section 27-19.1-06 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **27-19.1-06. Adoptee information.**

- 17 1. The state court entering a final adoption decree or order in any voluntary or involuntary
- 18 Indian child adoptive placement must furnish a copy of the decree or order within thirty
- 19 days to the Bureau of Indian Affairs, ~~Chief, Division of Human Services, 1849~~
- 20 ~~C Street NW, Mail Stop 3645 MIB, Washington, DC 20240~~ as prescribed by the Bureau
- 21 of Indian Affairs, along with the following information, in an envelope marked
- 22 "Confidential":
 - 23 a. The birth name and birth date of the Indian child, and tribal affiliation and name of
 - 24 the Indian child after adoption;
 - 25 b. The names and addresses of the biological parents;
 - 26 c. The names and addresses of the adoptive parents;
 - 27 d. The name and contact information for any agency having files or information
 - 28 relating to the adoption;
 - 29 e. Any affidavit signed by the biological parent or parents requesting the parent's
 - 30 identity remain confidential; and

- 1 f. Any information relating to tribal membership or eligibility for tribal membership of
2 the adopted Indian child.
- 3 2. The court shall give the birth parent of an Indian child the opportunity to file an affidavit
4 indicating that the birth parent wishes the United States secretary of the interior to
5 maintain the confidentiality of the birth parent's identity. If the birth parent files that
6 affidavit, the court shall include the affidavit with the information provided to the United
7 States secretary of the interior under subsection 1, and that secretary shall maintain
8 the confidentiality of the birth parent's identity.