§ 39. Indian affairs. 1. Powers and duties, if any, conferred or imposed, in terms, by laws now in force, on the governor, commissioners of the land office and the superintendent of purchase or fiscal supervisor of state charities, so far only as they relate to affairs of Indians, or on the commissioner of education, so far only as they relate to affairs of Indians other than the education of children upon the Indian reservations, except such powers and duties, if any, as may have been conferred or imposed, in terms, on either of such officers, in relation to such affairs, by laws enacted and in effect since July first, nineteen hundred and twenty-four, shall continue to be exercised and performed by the department, instead of by the officers named.

2. The office of children and family services may enter into an agreement with an Indian tribe for the provision of foster care, preventive and adoptive services to Indian children as defined in subdivision thirty-six of section two of this chapter and for the provision of adult and child protective services to Indians residing upon the tribe's reservation in the state, after the Indian tribe has submitted to the office of children and family services a plan that satisfactorily demonstrates that such tribe is able to meet the applicable standards for foster care services, preventive services, adoptive services, and adult and child protective services set forth in the applicable federal and state law and regulations. The office of children and family services is authorized to reimburse such tribe for the full cost of foster care, preventive services, adult and child protective services, and adoptive services and care, after deducting any federal funds properly received on account thereof.

3. Any Indian tribe designated as such by the Secretary of the Interior which became subject to the jurisdiction of courts of the state of New York pursuant to sections two hundred thirty-two and two hundred thirty-three of title twenty-five of the United States code or any other federal law, may reassume jurisdiction over those child custody proceedings provided for in articles three, seven, ten, and ten-A of the family court act and sections three hundred fifty-eight-a and three hundred eighty-four-b of this chapter involving Indian children provided that the Secretary of the Interior has granted approval pursuant to and

in accordance with the applicable sections of title twenty-five of the United States code.

4. Any Indian tribe designated as such by the state of New York which is subject to the jurisdiction of the courts of the state of New York, may reassume jurisdiction over those child custody proceedings provided for in articles three, seven, ten, and ten-A of the family court act, and sections three hundred fifty-eight-a and three hundred eighty-four-b of this chapter involving Indian children provided that the local commissioner has granted approval in accordance with rules and regulations established by the department.

5. (a) An Indian tribe approved to assume jurisdiction shall have exclusive jurisdiction over any child custody proceeding involving an Indian child who resides or is domiciled within the reservation of such tribe, except where such jurisdiction is otherwise vested in the courts of the state of New York by existing federal law. Where an Indian child is a ward of a tribal court, the Indian tribe shall retain exclusive jurisdiction, notwithstanding the residence or domicile of the child.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, nothing herein shall be construed to prevent the emergency removal of an Indian child who is a resident of or is domiciled on a reservation, but temporarily located off the reservation, from his parents or Indian custodian or the emergency placement of such child in a foster home or institution, under applicable state law in order to prevent imminent physical damage or harm to the child. The state authority, official or agency shall insure that the emergency removal or placement terminates immediately when such removal or placement is no longer necessary to prevent imminent physical damage or harm to the child and shall expeditiously initiate a child custody proceeding subject to the provisions of this section, transfer the child to the jurisdiction of the appropriate Indian tribe, or restore the child to the parent or Indian custodian as may be appropriate.

6. In any state court child custody proceeding involving the foster care placement of, or termination of parental rights to an Indian child not domiciled or residing within the reservation of the Indian child's

tribe, the court, in the absence of good cause to the contrary, shall transfer such proceeding to the jurisdiction of the tribe, absent objection by either parent, upon the petition of either parent or the Indian custodian or the Indian child's tribe; provided, however, that such transfer shall be subject to declination by the tribal court of such tribe.

7. In any state court proceeding involving the foster care placement of or the termination of parental rights to an Indian child, the Indian custodian of the child and the Indian tribe shall have a right to intervene at any point in the proceeding.

8. The department may enter into an agreement, contract or compact with an Indian tribe or intertribal consortium for the provision of welfare related services by social services districts or by any tribe or tribes in connection with a tribal plan for direct tribal funding and administration of federal temporary assistance to needy families block grant monies.