

**WHY BEING NATIVE AMERICAN/ALASKAN NATIVE MATTERS  
IN YOUR CHILD WELFARE CASE  
ICWA FACTS FOR PARENTS**

**REQUEST A TRANSFER OF PROCEEDINGS:** Absent objection by either parent, or declination by the tribal court of such tribe, either parent, the Indian custodian, or the Indian child's tribe may request a transfer the proceedings to the jurisdiction of the tribe.

**INTERVENTION:** The Indian custodian and the Indian child's tribe have the right to intervene at any point in the proceeding.

**NOTICE REQUIREMENT:** Notice of the pending proceeding and of the right of intervention shall be provided to the parent, Indian custodian and the Indian child's tribe by registered mail, return receipt requested. If the identity or the location of the parent or Indian custodian and the tribe cannot be determined, then the notice shall be given to the Secretary of the Interior who has **15** days after receipt to provide the requisite notice. No foster care placement or termination of parental rights proceeding will be held until at least **10** days after the receipt of the notice and upon request, up to **20** additional days may be granted to prepare for such proceeding.

**EXAMINATION OF REPORTS OR DOCUMENTS:** Each party in the proceeding has the right to examine reports & documents filed in which the court based its decisions.

**REMEDIAL SERVICES AND REHABILITATIVE PROGRAMS:** Active efforts must be made to provide remedial services and rehabilitative programs designed to prevent the breakup of an Indian family.

**FOSTER CARE:** The Court must determine continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child before placement in foster care.

**TERMINATION OF PARENTAL RIGHTS:** To terminate parental rights, the Court must determine that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. If any parent or Indian custodian voluntarily consents to a foster placement or to termination of parental rights the Court is obligated to follow the procedures set forth in 25 U.S.C. Section 1913.

**PLACEMENT OF INDIAN CHILDREN:** In adoptive placements the Court shall give preference to placement with: 1) a member of the child's extended family, 2) other members of the child's tribe; or 3) other Indian families.

Any child accepted for foster care or pre-adoptive placement shall be placed in the least restrictive setting within a reasonable proximity to his/her home, taking into account special needs of the child. Preference shall be given to placement with: 1) a member of the Indian child's extended family, 2) a foster home licensed, approved, or specified by the Indian child's tribe, 3) an Indian foster home licensed or approved by the authorized non-Indian licensing authority; or 4) an institution for children approved by an Indian tribe or operated by an Indian organization, which has a program suitable, to meet the Indian child's needs.

**RETURN OF CUSTODY:** A biological parent or prior Indian custodian may petition for return of custody if a final decree of adoption is vacated or set aside or the adoptive parents voluntarily consent to the termination of their parental rights to the child.

**APPLICATION BY SUBJECT OF ADOPTIVE PLACEMENT:**

An Indian individual who has turned eighteen and who was the subject of an adoptive placement may apply and the Court shall inform the individual of the tribal affiliation, if any, of the individuals' biological parents and provide other information as may be necessary to protect any rights flowing from the individual's tribal relationship.

**EMERGENCY REMOVAL OR PLACEMENT OF A CHILD:** Nothing listed above 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 parent or Indian custodian or the emergency placement of such child in a foster home or institution, under state law, in order to prevent imminent physical damage or harm to the child.