18. ADOPTION

Disclaimer: *A Practical Guide to the Indian Child Welfare Act* is intended to facilitate compliance with the letter and spirit of ICWA and is intended for educational and informational purposes only. It is not legal advice. You should consult competent legal counsel for legal advice, rather than rely on the *Practical Guide*.

25 U.S.C. § 1903. Definitions

(1) "child custody proceeding" shall mean and include—

(iv) "adoptive placement" which shall mean the permanent placement of an Indian child for adoption, including any action resulting in a final decree of adoption.

Such term or terms shall not include a placement based upon an act which, if committed by an adult, would be deemed a crime or upon an award, in a divorce proceeding, of custody to one of the parents.

25 U.S.C. § 1912. Pending court proceedings

(a) Notice; time for commencement of proceedings; additional time for preparation

In any involuntary proceeding in a State court, where the court knows or has reason to know that an Indian child is involved, the party seeking the foster care placement of, or termination of parental rights to, an Indian child shall notify the parent or Indian custodian and the Indian child's tribe, by registered mail with return receipt requested, of the pending proceedings and of their right of intervention. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, such notice shall be given to the Secretary in like manner, who shall have fifteen days after receipt to provide the requisite notice to the parent or Indian custodian and the tribe. No foster care placement or termination of parental rights proceeding shall be held until at least ten days after receipt of notice by the parent or Indian custodian and the tribe or the Secretary: *Provided*, That the parent or Indian custodian or the tribe shall, upon request, be granted up to twenty additional days to prepare for such proceeding.

(f) Parental rights termination orders; evidence; determination of damage to child

No termination of parental rights may be ordered in such proceeding in the absence of a determination, supported by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, 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.

25 U.S.C. § 1913. Parental rights; voluntary termination

(a) Consent; record; certification matters; invalid consents

Where any parent or Indian custodian voluntarily consents to a foster care placement or to termination of parental rights, such consent shall not be valid unless executed in writing and recorded before a judge of a court of competent jurisdiction and accompanied by the presiding judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The court shall also certify that either the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood. Any consent given prior to, or within ten days after, birth of the Indian child shall not be valid.

(c) Voluntary termination of parental rights or adoptive placement; withdrawal of consent; return of custody

In any voluntary proceeding for termination of parental rights to, or adoptive placement of, an Indian child, the consent of the parent may be withdrawn for any reason at any time prior to the entry of a final decree of termination or adoption, as the case may be, and the child shall be returned to the parent.

25 U.S.C. § 1915. Placement of Indian children

(a) Adoptive placements; preferences

In any adoptive placement of an Indian child under State law, a preference shall be given, in the absence of good cause to the contrary, to a placement with (1) a member of the child's extended family; (2) other members of the Indian child's tribe; or (3) other Indian families.

(e) Record of placement; availability

A record of each such placement, under State law, of an Indian child shall be maintained by the State in which the placement was made, evidencing the efforts to comply with the order of preference specified in this section. Such record shall be made available at any time upon the request of the Secretary or the Indian child's tribe.

25 U.S.C. § 1916. Return of Custody

(a) Petition; best interests of child

Notwithstanding State law to the contrary, whenever a final decree of adoption of an Indian child has been vacated or set aside or the adoptive parents voluntarily consent to the termination of their parental rights to the child, a biological parent or prior Indian custodian may petition for return of custody and the court shall grant such petition unless there is a showing, in a proceeding subject to the provisions of section 1912 of this title, that such return of custody is not in the best interests of the child.

25 U.S.C. § 1917. Tribal affiliation information and other information for protection of rights from tribal relationship; application of subject of adoptive placement; disclosure by court

Upon application by an Indian individual who has reached the age of eighteen and who was the subject of an adoptive placement, the court which entered the final decree shall inform such individual of the tribal affiliation, if any, of the individual's biological parents and provide such other information as may be necessary to protect any rights flowing from the individual's tribal relationship.

25 U.S.C. § 1951. Information availability to and disclosure by Secretary

(a) Copy of final decree or order; other information; anonymity affidavit; exemption from Freedom of Information Act

Any State court entering a final decree or order in any Indian child adoptive placement after November 8, 1978, shall provide the Secretary with a copy of such decree or order together with such other information as may be necessary to show—

(1) the name and tribal affiliation of the child;

(2) the names and addresses of the biological parents;

(3) the names and addresses of the adoptive parents; and

(4) the identity of any agency having files or information relating to such adoptive placement.

Where the court records contain an affidavit of the biological parent or parents that their identity remain confidential, the court shall include such affidavit with the other information. The Secretary shall insure that the confidentiality of such information is maintained and such information shall not be subject to the Freedom of Information Act (5 U.S.C. 552), as amended.

(b) Disclosure of information for enrollment of Indian child in tribe or for determination of member rights or benefits; certification of entitlement to enrollment

Upon the request of the adopted Indian child over the age of eighteen, the adoptive or foster parents of an Indian child, or an Indian tribe, the Secretary shall disclose such information as may be necessary for the enrollment of an Indian child in the tribe in which the child may be eligible for enrollment or for determining any rights or benefits associated with that membership. Where the documents relating to such child contain an affidavit from the biological parent or parents requesting anonymity, the Secretary shall certify to the Indian child's tribe, where the information warrants, that the child's parentage and other circumstances of birth entitle the child to enrollment under the criteria established by such tribe.

Disclaimer: The above provisions of the Indian Child Welfare Act are set forth to facilitate consideration of this particular topic. Additional federal, state or tribal law may be applicable. Independent research is necessary to make that determination.

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Frequently Asked Questions

18.1 What is an adoptive placement under the ICWA?

An adoptive placement under the Indian Child Welfare Act (ICWA) is "the permanent placement of an Indian child for adoption, including any action resulting in a final decree of adoption." 25 U.S.C. § 1903(1)(iv). An adoptive placement is one of the categories of child custody proceedings to which the ICWA applies, along with foster care placements, termination of parental rights, and pre-adoptive placements. 25 U.S.C. § 1903(1). The Act applies to extended-family adoptive placements as well as step-parent adoptions. *A.B.M. v. M.H.*, 651 P.2d 1170 (Alaska 1982); *In re Baade*, 462 N.W.2d 485 (S.D. 1990); *In re Lindsay C.*, 280 Cal. Rptr. 194 (Ct. App. 1991). See FAQ 1.2, Application, for a further explanation of the issue related to the application of the ICWA in an intra-family dispute.

18.2 What is the difference between an involuntary and voluntary adoptive placement and are there different procedural requirements?

The ICWA refers to involuntary proceedings, § 1912(a), and to voluntary proceedings, § 1913(a), which specifically include foster care placements and terminations of parental rights. Adoption occurs after parental rights have been terminated. Thus, an involuntary adoptive placement is the result of an initial involuntary proceeding, such as removal of the child from his or her parent or Indian custodian where parental rights have been terminated, while a voluntary adoptive placement occurs as a result of the

parents' deliberate intention to relinquish their parental rights to and legal custody of their child, usually through a private adoption agreement.

The ICWA imposes several significant, but varying conditions on both proceedings. See also FAQ 4, Notice, FAQ 16, Placement and FAQ 17, Voluntary Proceedings.

Practice Tip:
In some states an adoption can take place over the objection of a natural parent and without the termination of that parent's rights if the court finds that the parent has abandoned the child. These laws are superseded by the ICWA which expressly requires a termination of parental rights prior to an adoption. *See Baade*, 462 N.W.2d at 490. Section 1913(c) mentions consents to adoption placement in addition to voluntary termination proceedings.

18.3 Does ICWA apply to private agency adoptive proceedings?

Yes. In enacting the ICWA, Congress noted the particularly harmful consequences of the unwarranted removal of Indian children from their families "by nontribal public and private agencies," and their "alarmingly high" placements "in non-Indian foster and adoptive homes and institutions." 25 U.S.C. § 1901(4). State court child custody proceedings involving an adoptive placement of an Indian child, whether privately arranged or conducted by a state agency, are subject to the ICWA. 25 U.S.C. § 1903(1)(iv); *Miss. Band of Choctaw Indians v. Holyfield*, 490 U.S. 30, 39 (1989).

18.4 When does an adoption of an Indian child become final?

It depends on state law if a state court handles the adoption, and tribal law if the adoption occurs in tribal court. In state court, an adoption becomes final upon entry of a formal decree or order of adoption. Each state specifies the time period between the termination of parental rights and adoptive placement and the final decree of adoption. For example, Mississippi adoption law provides for a six month waiting period between the filing of the adoption petition and final decrees of adoption, but grants the state court discretionary authority to waive that requirement and immediately enter a final decree of adoption. *Miss. Band of Choctaw Indians v. Holyfield*, 490 U.S. 30, 38 (1989) (state court entered final decree of adoption less than one month after the babies' birth). The waiting period between the filing of the petition and the final decree of adoption in Minnesota is ninety days and is six months in North Dakota. *See* MINN. STAT. § 259.53(2) (1999); N.D. CENT. CODE § 14-15-13(3)(a) (2003).

If the adoption occurs in tribal court when allowed under tribal law, and whether under tribal statutory or customary law, the timing and process of finalization of the adoption will depend on tribal law.

Practice Tip:
The practitioner should research the law of adoption for the particular tribe involved, including the law of customary adoption. The practitioner also should seek guidance from a knowledgeable tribal person, such as an elder or a medicine man, who is familiar with that particular tribe's customary law.

18.5 Can you have an adoption without termination of parental rights?

Yes. Under certain circumstances. Adoption without termination of parental rights implements some of the purposes of the ICWA because it allows an Indian child to maintain contact with their family and tribal culture. The Administration for Children and Families within the federal Department of Health and Human Services has issued a bulletin concluding that the adoption of an Indian child can occur without the necessity of terminating parental rights, because of respect for tribal culture and tradition. *Title IV-E Adoption Assistance (Eligibility & Ancillary Policies)*, POL'Y ANNOUNCEMENT (U.S. Dep't of Health & Human Servs. Admin. for Children, Youth & Families, Washington, D.C.), Jan. 23, 2001. Some tribal laws also allow adoption without termination of parental rights. Most state laws require termination of parental rights as a matter of state law before (or at the time) an adoption decree can be entered, and this state law may inhibit an adoption without termination of parental rights.

18.6 Can an adoption of an Indian child be challenged and, if so, for how long after the final adoption decree is entered?

Yes. There are two principal ways in which an adoption may be challenged under the ICWA. The first is when the adoption was obtained through fraud or duress. In these circumstances, the adoption is subject to challenge for two years after the final decree of adoption has been entered. 25 U.S.C. § 1913(d). After two years, the adoption may not be invalidated unless permitted by state law.

The second is pursuant to § 1914, which permits "any parent or Indian custodian from whose custody [an Indian] child was removed," and the child's tribe to "petition any court of competent jurisdiction to invalidate" a foster care placement or termination of parental rights for the violation of any provision of § 1911 (jurisdiction), § 1912 (notice, appointment of counsel, determination of damage to child), or § 1913 (consent, withdrawal of consent, voluntary termination of parental rights). Numerous issues may arise under this provision.

One issue concerns the person from whose custody the child was removed. A non-custodial parent may challenge an adoptive placement under § 1914. *Morrow v. Winslow*, 94 F.3d 1386, 1394 (10th Cir.1996); *cf. In re Child of Indian Heritage* (*Indian Child II*), 543 A.2d 925, 937-38 (N.J. 1988). Another issue involves the type of custodial relationship the parent or Indian custodian maintains with the child. The prevailing view is that § 1914 permits a parent or Indian custodian who has legal custody to challenge an adoptive placement. *Indian Child II*, 543 A.2d at 937-38; *cf. In re Baby Boy L.*, 643 P.2d 168 (Kan. 1982). A further issue pertains to the proper court to hear the challenge. Federal and state courts generally have authority to review alleged violations of the ICWA. *Doe v. Mann* (*Mann II*), 415 F.3d 1038 (9th Cir. 2005).

While challenges pursuant to § 1914 are probably subject to regular state appellate time limitations, no time limits apply to jurisdictional challenges to a state court adoption that was issued in violation of the exclusive jurisdiction of the tribal court. *See Miss. Band of Choctaw Indians v. Holyfield*, 490 U.S. 30, 41 (1989); *In re Halloway*, 732 P.2d 962, 963 (Utah 1986).

18.7 May a parent petition for the return of an adopted Indian child if the adoption is vacated?

Following a vacated final adoption decree, § 1916(a) permits either the parent or Indian custodian to petition the court for custody of the child, notwithstanding the prior voluntary consent to adoption, "and the court shall grant such petition unless there is a showing, in a proceeding subject to the provision of section 1912 of [the ICWA], that such return of custody is not in the best interests of the child." *A.B.M. v. M.H.*, 651 P.2d 1170, 1174–75 (Alaska 1982). See also, FAQ 16.10, Placement.

18.8 What legal status do step-parents have under the ICWA?

The ICWA includes step-parents in the definition of "extended family member," § 1903(2), to whom preference is given in foster care and adoptive placements. 25 U.S.C. § 1915(a)-(b). Although not included in the ICWA's definition of "parent," § 1903(9), an Indian step-parent may qualify as an "Indian custodian," which means any Indian person who has "legal custody of an Indian child under tribal law or custom or under State law or to whom temporary physical care, custody, and control has been transferred by the parent of such child." 25 U.S.C. § 1903(6). This status affords a step-parent certain legal rights and standing similar to those of a parent. *See, e.g.,* 25 U.S.C. §§ 1911(c), 1912(e).

18.9 May an Indian child adoption be arranged prior to the birth of the child?

A voluntary placement may be planned prior to the birth of an Indian child. No legal action, however, may be taken until more than ten days after the birth of the child, at which time the child's parents may consent to the child's placement. 25 U.S.C. § 1913(a). The consent must be validly given according to the ICWA's consent requirement.

18.10 What are the procedural requirements for executing consent to an adoptive placement?

To effectuate a valid consent to a voluntary termination of parental rights or adoption, the ICWA requires that the consent be (1) in writing, (2) recorded before a judge of a court of competent jurisdiction, (3) certified to by the presiding judge that the consequences of the consent were fully explained, (4) certified to by the court that the parent or custodian understood the explanation in English or had the explanation translated into a language understood by the parent, and (5) executed after the child is more than ten days old. 25 U.S.C. § 1913(a). The Bureau of Indian Affairs (BIA) Guidelines indicate that the consent should be executed in open court unless confidentiality is requested. Indian Child Custody Proceedings, 44 Fed. Reg. 67,584, 67,593 (Nov. 26, 1979) (guidelines for state courts). The Guidelines also specify the basic information to be provided in the consent. *Id.*

18.11 What type of notice does the Act require for an adoptive placement?

In involuntary proceedings, the ICWA requires that notice be given to the parent or Indian custodian and the child's tribe by registered mail, return receipt requested, "where the court knows or has reason to know that an Indian child is involved . . . ." 25 U.S.C. § 1912(a). An adoptive placement effected after an involuntary termination of parental rights is an involuntary proceeding and notice to the tribe of both the termination and the adoption is required.

Some courts hold that notice is not required to be sent to a tribe in voluntary adoptive placements. *Catholic Soc. Servs., Inc. v. C.A.A.*, 783 P.2d 1159 (Alaska 1990). Several practical reasons dictate that notice be given to a tribe in voluntary child custody proceedings. For one, once parental rights have been terminated, particularly in a matter involving a child who resides or is domiciled on the reservation, the tribe's interest in the child becomes paramount, and the ICWA anticipates tribal involvement in voluntary foster care placement and termination of parental rights proceedings through transfer and intervention petitions, § 1911(b)-(c), and in placement decisions. 25 U.S.C. § 1915; *Miss. Band of Choctaw Indians v. Holyfield*, 490 U.S. 30, 49 (1989). For another, it not uncommon that voluntary placements later convert to involuntary child custody proceedings in which notice is required.

Practice Tips:
Several states have enacted more stringent requirements and require that notice be given to tribes in both voluntary and involuntary Indian child custody proceedings. IOWA CODE § 232B.5(8) (2003) (providing notice to tribes in voluntary proceedings); MINN. STAT. § 260.761(3) (1999) (providing notice to tribes in voluntary adoptive and pre-adoptive proceedings); OKLA. STAT. tit. 10, § 40.4 (2006); OR. REV. STAT. § 109.309 (2005). See also, FAQ 4, Notice, especially FAQ 4.16, and FAQ 17.4, Voluntary Proceedings, concerning the need for notice in voluntary proceedings.

Notice is also advisable, and may be mandated, in a voluntary proceeding where the domicile of the child and parents is unclear, or the wardship status of the child is unclear, because the state court has a responsibility to determine its jurisdiction under the ICWA, even in voluntary proceedings, and notice to the tribe may be the best way to determine if the parent or parents consenting to a voluntary placement or termination are domiciled on a reservation or if the child is a ward of a tribal court. *See Miss. Band of Choctaw Indians v. Holyfield*, 490 U.S. 30 (1989). There may also be situations where the parent or parents consenting are unsure of the Indian status of the child and the state court may be compelled to notify the tribe to ascertain the child's status with the tribe to assure compliance with the ICWA.

8.12 Do the placement preferences of the Act apply to adoptive placements?

Yes. State courts must follow the ICWA's placement preference in adoptive and pre-adoptive placements. 25 U.S.C. § 1915(a)-(b). This requirement corresponds to the ICWA's goal of placing Indian children "in foster or adoptive homes which will reflect the unique values of Indian culture." 25 U.S.C. § 1902; H.R. REP. NO. 95-1386, at 8 (1978).

18.13 What are the placement preference criteria for adoptive placements?

Section 1915(a) provides, "[i]n any adoptive placement of an Indian child under State law, a preference shall be given, in the absence of good cause to the contrary, to a placement with (1) a member of the child's extended family; (2) other members of the Indian child's tribe; or (3) other Indian families." The ICWA also provides that "in meeting the preference requirements of this section," courts shall apply a standard of "the prevailing social and cultural standards of the Indian community in which the parent or extended family resides or with which the parent or extended family members maintain social and cultural ties." 25 U.S.C. § 1915(d).

It also is important to note that a tribe may establish a different order of preference by tribal law and resolution which must be followed in state court placements "so long as the placement is the least restrictive setting appropriate to the particular needs of the child." 25 U.S.C. § 1915(c). See also FAQ, 16.5, Placement.

Practice Tip:
When a tribe intends to alter the order of preference for placements made by state courts, the tribal resolution adopting the placement preferences should specifically reference § 1915(c). Some courts have not been receptive to general tribal laws or resolutions that have adopted tribe-specific placement preference without reference to § 1915(c). *See In re Laura F.*, 99 Cal. Rptr. 2d 859 (Ct. App. 2000) (certified for partial publication) (holding invalid a tribal resolution barring non-Indians from adopting tribal members as contrary to state policy); *In re T.R.M.*, 525 N.E.2d 298 (Ind. 1988); *In re Q.G.M.*, 808 P.2d 684 (Okla. 1991).

18.14 What constitutes "good cause to the contrary" for a court to deviate from the placement preferences?

Section 1915(a) of the ICWA permits state courts to deviate from the placement preference upon a showing of "good cause to the contrary." In addition, the burden of establishing the existence of good cause not to follow the placement preferences rests with the party seeking the deviation. Indian Child Custody Proceedings, 44 Fed. Reg. 67,584, 67,594, (Bureau of Indian Affairs Nov. 26 1979) (guidelines for state courts). While the term "good cause" is not defined in the ICWA, the BIA Guidelines suggest three grounds to deviate from the preferences. "For the purposes of … adoptive placement, a determination of good cause not to follow the order of preference … shall be based on one or more of the following considerations: (i) The request of the biological parents or the child when the child is of sufficient age. (ii) The extraordinary physical needs of the child as established by testimony of a qualified expert witness. (iii) The unavailability of suitable families for placement after a diligent search has been completed for families meeting the preference criteria." Indian Child Custody Proceedings, 44 Fed. Reg. at 67,594. See also FAQ 16.4 , Placement.

There is a split in authority on what burden of persuasion is required to show good cause. The Minnesota Supreme Court has stated that clear and convincing evidence is required while the Alaska Supreme Court has held that a preponderance of the evidence will suffice. *See In re S.E.G.* (*S.E.G. II*), 521 N.W.2d 357 (Minn. 1994); *In re N.P.S.*, 868 P.2d 934 (Alaska 1994). See also FAQ 16.4, Placement.

18.15 What are the rights of the child to tribal benefits after and during adoption?

Generally, to participate in or be entitled to tribal benefits, a person must be recognized as a member of the tribe, usually through formal enrollment in the tribe. Membership is an internal matter within the tribe's exclusive authority. *Santa Clara Pueblo v. Martinez*, 436 U.S. 49 (1978). An Indian child who has been adopted may become enrolled in a tribe depending on the tribe's membership and enrollment criteria. The membership process may be a complicated process where the birth parents have requested that their identities be kept confidential, the original birth certificates have been modified and the court records are sealed. In an open adoption or customary adoption under tribal law, the child's tribal affiliation may be more readily established.

The ICWA specifically authorizes an adopted Indian child to obtain information about his or her tribal affiliation upon attaining the age of eighteen. Section 1917 permits the individual to receive information about his or her tribal affiliation and "other information as may be necessary to protect any rights flowing from the individual's tribal relationship." See FAQ 15, Access to Adoption Records.

Practice Tip:
Enrolling an Indian child in his or her tribe before an adoption is finalized, or requiring the child's enrollment as a requirement of finalizing the adoption decree, avoids later problems in unsealing adoption records and obtaining original birth certificates necessary to protections of tribal membership and association with his or her tribal culture without interruption.

**** Access to the full-text of opinions and additional materials is at www.narf.org/icwa ****

The following list is representative of cases that discuss the topic. The list is not exhaustive. The practitioner should conduct independent research.

FEDERAL CASES

United States Supreme Court
Miss. Band of Choctaw Indians v. Holyfield, 490 U.S. 30 (1989)

Circuit Courts of Appeal
Doe v. Mann (*Mann II*), 415 F.3d 1038 (9th Cir. 2005)
Morrow v. Winslow, 94 F.3d 1386 (10th Cir. 1996)

STATE CASES

Alaska
A.B.M. v. M.H., 651 P.2d 1170 (Alaska 1982)
In re Bernard A., 77 P.3d 4 (Alaska 2003)
Catholic Soc. Servs., Inc. v. C.A.A., 783 P.2d 1159 (Alaska 1989)
C.L. v. P.C.S., 17 P.3d 769 (Alaska 2001)
Doe v. Hughes, 838 P.2d 804 (Alaska 1992)
In re Erin G., 140 P.2d 886 (Alaska 2006)
In re F.H., 851 P.2d 1361 (Alaska 1993)
In re J.M.F., 881 P.2d 1116 (Alaska 1994)
In re J.R.S., 690 P.2d 10 (Alaska 1984)
J.W. v. R.J., 951 P.2d 1206 (Alaska 1998)
In re Keith M.W., 79 P.3d 623 (Alaska 2003)
In re N.P.S., 868 P.2d 934 (Alaska 1994)
In re Sara J., 123 P.3d 1017 (Alaska 2005)
In re T.N.F., 781 P.2d 973 (Alaska 1989)
In re W.E.G., 710 P.2d 410 (Alaska 1985)

California
In re Aaron R., 29 Cal. Rptr. 3d 921 (Ct. App. 2005)
In re Baby Girl A., 282 Cal. Rptr. 105 (Ct. App. 1991) (certified for partial publication)
Fresno County Dep't of Children & Family Servs. v. Superior Court, 19 Cal. Rptr. 3d 155 (Ct. App. 2004)
In re Jullian B., 99 Cal. Rptr. 2d 241 (Ct. App. 2000) (certified for partial publication)
In re Laura F., 99 Cal. Rptr. 2d 859 (Ct. App. 2000) (certified for partial publication)
In re Lindsay C., 280 Cal. Rptr. 194 (Ct. App. 1991)

Florida
Step-parent Adoption Forms, 870 So. 2d 791 (Fla. Supreme Court 2004) (family law forms amendments)

Idaho
In re Baby Boy Doe (*Baby Boy Doe II*), 902 P.2d 477 (Idaho 1995)
In re Baby Boy Doe (*Baby Boy Doe I*), 849 P.2d 925 (Idaho 1993)

Indiana
In re T.R.M., 525 N.E.2d 298 (Ind. 1988)

Iowa
In re H.N.B., 619 N.W.2d 340 (Iowa 2000)

Kansas
In re Baby Boy L., 643 P.2d 168 (Kan. 1982)

Louisiana
Hampton v. J.A.L., 27-869 (La. App. 2 Cir. 7/6/95); 658 So. 2d 331

Minnesota
In re M.T.S., 489 N.W.2d 285 (Minn. Ct. App. 1992)
In re S.E.G. (*S.E.G. II*), 521 N.W.2d 357 (Minn. 1994)

Nebraska
In re Kenten H., 725 N.W.2d 548 (Neb. 2007)

New Jersey
In re Child of Indian Heritage (*Indian Child II*), 543 A.2d 925 (N.J. 1988)
In re Child of Indian Heritage (*Indian Child I*), 529 A.2d 1009 (N.J. Super. Ct. App. Div. 1987)
In re Mellinger, 672 A.2d 197 (N.J. Super. Ct. App. Div. 1996)

New York
In re Christopher, 662 N.Y.S.2d 366 (N.Y. Fam. Ct. 1997)

Oklahoma
In re Baby Boy L., 2004 OK 93, 103 P.3d 1099
Cherokee Nation v. Nomura, 2007 OK 40, 160 P.3d 967
In re J.T., 2002 OK CIV APP 2, 38 P.3d 245
In re Q.G.M., 808 P.2d 684 (Okla. 1991)
In re R.L.A., 2006 OK CIV APP 138, 147 P.3d 306

Oregon
Carson v. Carson, 13 P.3d 523 (Or. Ct. App. 2000)

South Dakota
In re Baade, 462 N.W.2d 485 (S.D. 1990)

Utah
In re Halloway, 732 P.2d 962 (Utah 1986)