



Indian Child Welfare Jurisdictional Provisions

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ICWA Background



“Indian Child”

25 U.S.C. § 1903(4)

- **Members of federally recognized Indian tribes, or**
- **Children who are eligible for membership in a federally recognized tribe with a parent who is a member of a federally recognized tribe**



**“Child welfare
proceedings”**

25 U.S.C. § 1903(1)

- **Foster care placements**
- **Termination of parental rights**
- **Adoptive placements**
- **Preadoptive placements**



Court jurisdiction

25 U.S.C. §§ 1911(a), (b)

- **Tribal Court Jurisdiction Exclusive – Indian child domiciled on an Indian reservation**
- **Tribal Court Jurisdiction Presumptive – Indian child domiciled outside of an Indian reservation**

A purple-tinted photograph of a young child, possibly a girl, looking down at a book. The book is open, and the word 'INDIAN' is visible on the page. The child's face is in the foreground, and the book is in the lower part of the frame. The overall mood is contemplative and educational.

Where ICWA Jurisdictional Provisions are Working

Successful Jurisdictional Provisions

- **Tribal Court Jurisdiction — Enhanced tribal court and tribal services capacities**
- **Authorization for cooperative agreements**
- **Full faith and credit provision**
- **State law providing greater protection for Indian parents**

A purple-tinted photograph of a young child, possibly a toddler, looking down at a book. The child's face is in the upper left, with their hands near their mouth. The book is open, and the word 'INDIAN' is visible on the page. The background is dark and out of focus.

Where ICWA Needs Improvement

Recommendations

- **Enforcement mechanisms needed:**
 - 1. Interlocutory Opinions**
 - 2. Attorney Fees**
 - 3. Additional Tribal Resources**
- **Codify Regulations on Tribal Court Transfer and Indian Child Definition**
- **Tie State Compliance to Title IV-E Money**