

# Indian Child Welfare Act

## When does ICWA apply to your case?

Jill Holt, Indian Child Welfare Act Specialist

The Ponca Tribe of Nebraska's Indian Child Welfare Act (ICWA) Program regularly receives requests for information about when the ICWA applies to court proceedings. We would like to share with Ponca members the following information that will also soon be available on the Ponca Tribe's website under the Department of Social Services program information.

The Indian Child Welfare Act (ICWA) is a federal law passed in 1978 to regulate placement proceedings involving Indian children. The ICWA was passed in order to reestablish tribal authority over foster care placement and/or adoption of Native American children with the goal of strengthening and preserving Native American families, tribes, and culture.

To be eligible for services through the PTN's ICWA Program, the child must be:

- Unmarried and under the age of 18 **AND**
- A member of the Ponca Tribe **OR**
- Eligible for membership in the Ponca Tribe **AND** the biological child of a member of a federally recognized Indian tribe.

### Proceedings covered (25 U.S.C. § 1903; NEB. REV. STAT. § 43-1503):

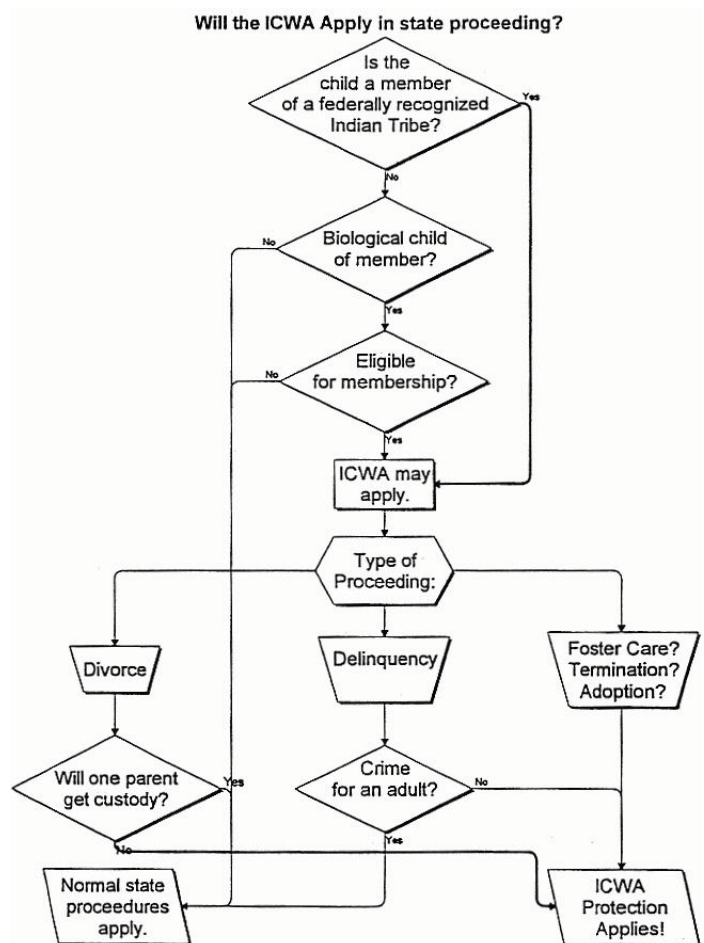
- **Foster care placements:** any action removing an Indian child from its parent or Indian custodian for temporary placement in a foster home or institution or the home of a guardian or conservator where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated;
- **Termination of parental rights:** any action resulting in the termination of the parent-child relationship;
- **Preadoptive placement:** the temporary placement of an Indian child in a foster home or institution after the termination of parental rights, but prior to or in lieu of adoptive placement; and
- **Adoptive placement:** the permanent placement of an Indian child for adoption, including any action resulting in a final decree of adoption.

### Proceedings not covered:

- Custody to one parent as part of a divorce or legal custody agreement
- Placement based on an act which would be a crime if committed by an adult
- Paternity and child support issues
- Protection orders

Please contact Jill Holt, ICWA Specialist, in the Omaha office if you have any questions or need additional information: 402-734-5275.

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Retrieved 2/10/2012 from: <http://www.icwlc.org/chartpg231.html>

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### Additional Resources and Information

Full text of the ICWA: [http://www.nicwa.org/Indian\\_Child\\_Welfare\\_Act/ICWA.pdf](http://www.nicwa.org/Indian_Child_Welfare_Act/ICWA.pdf)

NARF - A Practical Guide to the ICWA: <http://www.narf.org/icwa/>

NARF – additional resources: <http://www.narf.org/nill/resources/indianchildwelfare.htm>

Flowchart and glossary for the ICWA: [http://www.nicwa.org/Indian\\_Child\\_Welfare\\_Act/glossary.pdf](http://www.nicwa.org/Indian_Child_Welfare_Act/glossary.pdf)

More information about the ICWA: [http://www.nicwa.org/Indian\\_Child\\_Welfare\\_Act/#familyresources](http://www.nicwa.org/Indian_Child_Welfare_Act/#familyresources)

How Child Welfare Works with American Indian Families: <http://www.cwla.org/childwelfare/fg08.pdf>