

Indian Child Welfare Act

322.1 PURPOSE AND SCOPE

Indian Child Welfare Act (ICWA) of 1978 is a federal law codified in the United States Code at 25 U.S.C. 1901 et seq. It was created to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families by the establishment of minimum Federal standards for the removal of Indian children from their families and the placement of such youth in foster or adoptive homes which will reflect the unique values of Indian culture, and by providing for assistance to Indian tribes in the operation of child and family service programs (Title 25 U.S.C. Sec. 1902).

322.2 POLICY

It is the policy of the San Diego County Probation Department to comply with the ICWA, inquire about a youth's Indian status (as defined) and when Indian youth are identified, include the family and tribe throughout the juvenile justice process.

322.3 APPLICABILITY

The inquiry directives apply to all Youth Development and Community Support Services youth. The remaining sections of the policy apply to Indian youth, or individuals who may be Indian youth.

322.4 DEFINITIONS

Indian: Any person who is a member of an Indian tribe, or who is Alaska Native and a member of a Regional Corporation as defined in 1606 of title 43.

Indian Child: Any unmarried person who is under the age of 18 and is either (a) a member of a federally recognized Indian tribe, or (b) is eligible for membership in a federally recognized Indian tribe and is the biological child of a member of an Indian tribe.

Indian Custodian: 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 a child.

Indian Tribe: Any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians, including any Alaska Native village as defined in section 1602(C) of title 43.

Tribal Court: A court with jurisdiction over child custody proceedings and which is either a Court of Indian Offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings.

Active Efforts: Link to definition (WIC 224.1(f)): [Active Efforts](#)

Note: Unless indicated otherwise, all definitions are taken from Title 25 U.S.C. Sec. 1912

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322.5 REFERENCES

Title 25 U.S.C. Sec. 1901 et seq.; 25 Code of Federal Regulations (CFR) part 23; Welfare and Institutions Code Section (WIC) 361; WIC § 224.1(f); WIC § 224.2; WIC § 224.3; California Rules of Court (CRC) 5.485; CRC 5.785

322.6 ATTACHMENTS

1. Probation Departments Requirements Indian Child Welfare Act, Federal ICWA Regulations & Guidelines, California Statutes & Rules of Court
2. ICWA-010(A)
3. ICWA-020
4. ICWA-030