



## At a Glance: What Is the Indian Child Welfare Act?

### What is the Indian Child Welfare Act?

The Indian Child Welfare Act (ICWA) is a federal law that was passed in 1978.

### When does ICWA apply?

ICWA applies to child custody cases where an Indian child is being taken away from a parent or Indian custodian, or where parental rights are being “terminated” (ended). These include:

- foster care “placements” (placing a child in the custody of foster parents)
- Child Protective Services (CPS) removals
- guardianships (in juvenile court and probate court) and adoptions (in juvenile court and family court)
- certain juvenile delinquency cases (for example, truancy cases)

ICWA **does not** apply to custody cases between parents who are divorced or are getting divorced.

### Which children does ICWA apply to?

For ICWA to apply, the child must be considered an “Indian child.” This means that the child is not married, under age 18, and either:

- a member of a federally recognized tribe **or**
- the biological child of a member of a federally recognized tribe **and** eligible for tribal membership.


### Why is ICWA needed?

ICWA was passed to protect Indian families and preserve the ties between Indian children and their tribes. Protecting this connection is in the best interest of Indian children. It is also necessary for the continued survival of tribes. ICWA was passed to address the following problems:

- A high number of Indian children were being removed from their families by state courts and county social services agencies and put in non-Indian homes and institutions.
- Often, state and county officials did not understand, ignored, or rejected the cultural or

social customs of the child's tribal community.

- Indian children who were cut off from their tribal communities and cultures had high rates of behavioral and emotional problems.

 **TIP:** For more detailed information, see CILS' ACORN Community Legal Education Guide, "What Is the Indian Child Welfare Act?"



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### Disclaimer

This information is intended to assist you with your legal problem. Each area of the law is complex and changing. Your case may have special factors that could affect the applicability of this information. CILS does not guarantee that this information is sufficient to resolve your legal problem. If you have any questions, you should seek the advice and counsel of an attorney.

### ACORN Community Legal Education Series

The Advocacy, Collaboration, and Referral Network (ACORN) is a project of CILS. ACORN's mission is to expand access to legal resources that increase Indian self-sufficiency. This guide is part of our Community Legal Education Series, providing Indians and Indian tribes with user-friendly information and self-help assistance pertaining to their legal status and rights. ACORN Community Legal Education guides, and more information about CILS and California Indian issues, are available on our website at [www.calindian.org](http://www.calindian.org).

### California Indian Legal Services

Central Office:

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Phone: (510) 835-0284 ♦ Fax: (510) 835-8045 ♦ Email: [contactCILS@calindian.org](mailto:contactCILS@calindian.org)

### Do you have a legal problem? For assistance, contact your local CILS office:

Bishop: (760) 873-3581, or (800) 736-3582

Escondido: (760) 746-8941, or (800) 743-8941

Eureka: (707) 443-8397, or (800) 347-2402

Oakland: (510) 835-0284, or (800) 829-0284

Santa Rosa: (707) 573-8016, or (866) 251-8016

