1. APPLICATION

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—

> (i) "foster care placement" which shall mean 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;
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> (ii) "termination of parental rights" which shall mean any action resulting in the termination of the parent-child relationship;
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> (iii) "preadoptive placement" which shall mean 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
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> (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.
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> 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.

(4) "Indian child" means any unmarried person who is under age eighteen and is either (a) a member of an Indian tribe or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian 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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1.1 When does the ICWA apply?

Only two prerequisites must be satisfied for the Indian Child Welfare Act (ICWA) to apply. The first requirement is the presence of an Indian child as defined by § 1903(4). That section defines an Indian child as an "unmarried person who is under age eighteen and is either (a) a member of an Indian tribe or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe . . . ." The second requirement is that the child custody proceeding be one as defined by § 1903(1); that is, a "foster care placement"; "termination of parental rights"; "pre-adoptive placement"; or "adoptive placement."

Practice Tip:
Practitioners should review state law and intergovernmental agreements as they may expand the protection of the ICWA, such as by expanding the definition of an Indian child. MINN. STAT. § 257.0651 (1992); IOWA CODE § 232.7 (2003).

1.2 What are the exceptions to ICWA's application?

After defining those proceedings to which the ICWA does apply, the Act states: "[s]uch 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. § 1903(1). Thus, ICWA expressly provides for only two exceptions to its applicability: certain juvenile criminal proceedings based on a status crime, such as underage drinking which only a minor can commit, and divorce cases. There are no other exceptions.

Even so, a Montana court excluded an intra-family custody dispute finding that it was not a "child custody proceeding" because the "Act is not directed at disputes between Indian families regarding custody of Indian children; rather, its intent is to preserve Indian cultural values under circumstances in which an Indian child is placed in a foster home or other protective institution." *In re Bertelson*, 617 P.2d 121 (Mont. 1980). *See also In re Sengstock*, 477 N.W.2d 310 (Wis. Ct. App. 1991); *Comanche Nation v. Fox*, 128 S.W.3d 745 (Tex. App. 2004). Other courts have expressly rejected the *Bertelson* analysis as contrary to the express provision of the Act enumerating which proceedings are excluded; that is, certain juvenile crimes and divorce cases. All other proceedings involving the custody of an Indian child fall within the ambit of the Act. *Comanche Indian Tribe of Okla. v. Hovis* (*Hovis I*), 847 F. Supp. 871 (W.D. Okla. 1994); *D.J. v. P.C.*, 36 P.3d 663 (Alaska 2001); *J.W. v. R.J.*, 951 P.2d 1206 (Alaska 1998); *In re D.A.C.*, 933 P.2d 993 (Utah Ct. App. 1997); *In re Q.G.M.*, 808 P.2d 684 (Okla. 1991); *In re A.K.H.*, 502 N.W.2d 790 (Minn. Ct. App. 1993); *In re S.B.R.*, 719 P.2d 154 (Wash. Ct. App. 1986); *In re Jennifer A.*, 127 Cal. Rptr. 2d 54 (Ct. App. 2002); *In re Lindsay C.*, 280 Cal. Rptr. 194 (Ct. App. 1991); *In re Crystal K.*, 276 Cal. Rptr. 619 (Ct. App. 1990). Another court applied ICWA without deciding the intra-family issue because of the parties' implicit assumption that ICWA applied to the situation. *In re Anderson*, 31 P.3d 510 (Or. Ct. App. 2001).

Practice Tip:
Counsel should be aware that although a case may start as a delinquency proceeding, ICWA may apply to subsequent child placements (i.e. foster care) based upon a determination that a return to the child's home would be inappropriate.

1.3 What is the so-called Existing Indian Family exception (EIF)?

The Existing Indian Family exception (EIF) is a judicially-created exception to the ICWA that originated in *In re Baby Boy L.*, 643 P.2d 168 (Kan. 1982). In that case, the court held that the ICWA did not apply to "an illegitimate infant who has never been a member of an Indian home or culture, and probably never would be." The court interpreted the ICWA as being only concerned with "removal of Indian children from an existing Indian family unit." *Id*. at 175. Although narrowly interpreted in subsequent cases, a Washington court required that in addition to an Indian child being removed from an Indian family, the child was to be returned to an existing Indian family unit or environment. *In re Crews*, 825 P.2d 305, 310 (Wash. 1992). The *Crews* decision appears to have been statutorily superseded. *See* WASH. REV. CODE §§ 26.10.034(1), 26.33.040(1), 13.34.040(3) (2004).

The EIF exception has been raised to a constitutional level by two appellate districts of California (Second and Fourth). *In re Bridget R.*, 49 Cal. Rptr. 2d 507 (Ct. App. 1996); *In re Santos Y.*, 112 Cal. Rptr. 2d 692 (Ct. App. 2001); *In re Alexandria Y.*, 53 Cal. Rptr. 2d 679 (Ct. App. 1996). These cases hold that the child and his or her parents, and maybe even the extended family when involved, must have a significant social, political and cultural relationship to their tribal culture to uphold the constitutionality of the ICWA under federal law.

The EIF, however, has been implicitly and explicitly rejected by courts and legislatures in a number of states that have addressed the issue.

States rejecting the EIF exception by decision

Alabama: *S.H. v. Calhoun County Dep't of Human Res.*, 798 So. 2d 684 (Ala. Civ. App. 2001)
Alaska: *J.W. v. R.J.*, 951 P.2d 1206 (Alaska 1998); *In re T.N.F.*, 781 P.2d 973 (Alaska 1989); *A.B.M. v. M.H.*, 651 P.2d 1170 (Alaska 1982)
(continued on next page)

Arizona: *Michael J., Jr. v. Michael J., Sr.*, 7 P.3d 960 (Ariz. Ct. App. 2000)
California: four of six appellate districts: *In re Lindsay C.*, 280 Cal. Rptr. 194 (Ct. App. 1991) (1st Dist.); *In re Junious M.*, 193 Cal. Rptr. 40 (Ct. App. 1983) (certified for partial publication) (1st Dist.); *In re Crystal K.*, 276 Cal. Rptr. 619 (Ct. App. 1990) (3d Dist.); *In re Hannah S.*, 48 Cal. Rptr. 3d 605 (Ct. App. 2006) (3d Dist.); *In re Desiree F.*, 99 Cal. Rptr. 2d 688 (Ct. App. 2000) (5th Dist.); *In re Alicia S.*, 76 Cal. Rptr. 2d 121 (Ct. App. 1998) (5th Dist.); *In re Vincent M.*, 59 Cal. Rptr. 3d 321 (Ct. App. 2007) (6th Dist.)
Colorado: *In re N.B.*, No. 06CA1325 (Colo. Ct. App. Sept. 6, 2007)
Idaho: *In re Baby Boy Doe* (*Baby Boy Doe I*), 849 P.2d 925 (Idaho 1993)
Illinois: *In re S.S.*, 657 N.E.2d 935 (Ill. 1995)
Indiana: *In re D.S.*, 577 N.E.2d 572 (Ind. 1991)
Iowa: *In re R.E.K.F.*, 698 N.W.2d 147 (Iowa 2005)
Michigan: *In re Elliott*, 554 N.W.2d 32 (Mich. Ct. App. 1996)
Montana: *In re Riffle* (*Riffle II*), 922 P.2d 510 (Mont. 1996)
New Jersey: *In re Child of Indian Heritage* (*Indian Child II*), 543 A.2d 925 (N.J. 1988)
New York: *In re Baby Boy C.*, 805 N.Y.S.2d 313 (App. Div. 2005)
North Carolina: *In re A.D.L.*, 612 S.E.2d 639 (N.C. Ct. App. 2005)
North Dakota: *In re A.B.*, 2003 ND 98, 663 N.W.2d 625
Oklahoma: *In re Baby Boy L.*, 2004 OK 93, 103 P.3d 1099
Oregon: *Quinn v. Walters* (*Quinn II*), 881 P.2d 795 (Or. Ct. App. 1994)
South Dakota: *In re Baade*, 462 N.W.2d 485 (S.D. 1990)
Texas: *In re W.D.H., III*, 43 S.W.3d 30 (Tex. App. 2001); *Doty-Jabbaar v. Dallas County Child Protective Servs.*, 19 S.W.3d 870 (Tex. App. 2000)
Utah: *In re D.A.C.*, 933 P.2d 993 (Utah Ct. App. 1997)

States upholding ICWA's constitutionality, including those rejecting the EIF exception

Arizona: *In re Pima County Juvenile Action No. S-903*, 635 P.2d 187 (Ariz. Ct. App. 1981)
California: *In re Vincent M.*, 59 Cal. Rptr. 3d 321 (Ct. App. 2007) (6th Dist.)
Colorado: *In re N.B.*, No. 06CA1325 (Colo. Ct. App. Sept. 6, 2007)
Illinois: *In re Armell*, 550 N.E.2d 1060 (Ill. App. Ct. 1990

Maine: *In re Marcus S.*, 638 A.2d 1158 (Me. 1994)
Michigan: *In re Miller*, 451 N.W.2d 576 (Mich. Ct. App. 1990)
Montana: *In re Riffle* (*Riffle II*), 922 P.2d 510 (Mont. 1996)
North Dakota: *In re A.B.*, 2003 ND 98, 663 N.W.2d 625
Oklahoma: *In re Baby Boy L.*, 2004 OK 93, 103 P.3d 1099
Oregon: *In re Angus*, 655 P.2d 208 (Or. Ct. App. 1982)
South Dakota: *In re D.L.L.*, 291 N.W.2d 278 (S.D. 1980)

States rejecting the EIF exception by statute

California: CAL. WELF. & INST. CODE § 224(a)(1) (2006); CAL. R. CT. 5.664
Iowa: Iowa Indian Child Welfare Act, IOWA CODE § 232B.5(2) (2003)
Minnesota: Minnesota Indian Family Preservation Act, MINN. STAT. §§ 260.751, .755, .761, .765, .771 (1999)
Oklahoma: Oklahoma Indian Child Welfare Act, OKLA. STAT. tit. 10 §§ 40.1-.3 (1994)
Washington: WASH. REV. CODE §§ 26.10.034(1), 26.33.040(1), 13.34.040(3) (2004) (superseding *In re Crews*, 825 P.2d 305 (Wash. 1992))

States adopting the EIF exception by decision

California: two of six appellate districts: *In re Bridget R.*, 49 Cal. Rptr. 2d 507 (Ct. App. 1996) (2d Dist.); *In re Santos Y.*, 112 Cal. Rptr. 2d 692 (Ct. App. 2001) (2d Dist.); *In re Derek W.*, 86 Cal. Rptr. 2d 742 (Ct. App. 1999) (2d Dist.); *In re Alexandria Y.*, 53 Cal. Rptr. 2d 679 (Ct. App. 1996) (4th Dist.)
Kansas: *In re Baby Boy L.*, 643 P.2d 168 (Kan. 1982)
Kentucky: *Rye v. Weasel*, 934 S.W.2d 257 (Ky. 1996)
Louisiana: *Hampton v. J.A.L.*, 27-869 (La. App. 2 Cir. 7/6/95); 658 So. 2d 331
Missouri: *C.E.H. v. L.M.W.*, 837 S.W.2d 947 (Mo. Ct. App. 1992); *In re S.A.M.*, 703 S.W.2d 603 (Mo. Ct. App. 1986)
Tennessee: *In re Morgan*, No. 02A01-9608-CH-00206, 1997 WL 716880 (Tenn. Ct. App. Nov. 19, 1997)
(continued on next page)

Washington: *In re Crews*, 825 P.2d 305 (Wash. 1992), *superseded by* WASH. REV. CODE §§ 26.10.034(1) 26.33.040(1), 13.34.040(3) (2004)

The EIF exception still has vitality in the two California appellate districts (Second and Fourth) that have adopted a constitutionally-based EIF exception and one division within the Second District that has adopted it as an interpretation of ICWA. The exception is followed in Kentucky, Missouri and Tennessee (an unreported decision) which have no federally recognized tribes. In Kansas and Louisiana, whose courts have refused to apply the EIF exception following the one decision upholding it, the validity of the exception may be in doubt. *In re S.M.H.*, 103 P.3d 976 (Kan. Ct. App. 2005); *In re J.J.G.*, 83 P.3d 1264 (Kan. Ct. App. 2004); *In re A.P.*, 961 P.2d 706 (Kan. Ct. App. 1998); *In re H.A.M.*, 961 P.2d 716 (Kan. Ct. App. 1998); *In re H.D.*, 729 P.2d 1234 (Kan. Ct. App. 1986); *Owens v. Willock*, 29-595 (La. App. 2 Cir. 2/26/97); 690 So. 2d 948.

At the Federal level, the Supreme Court in *Mississippi Band of Choctaw Indians v. Holyfield,* 490 U.S. 30 (1989), implicitly rejected the EIF exception when it interpreted the ICWA to apply to Indian children who were placed for adoption and who never physically lived in an Indian home or on an Indian reservation prior to being placed with non-Indian prospective adoptive parents. *Id.* at 54. The Court made a threshold determination that the ICWA applied to these children. *Id*. at 42. It found that the state court proceeding at issue was an "adoptive placement" as defined by § 1903(1)(iv) of the Act and that the children involved were "Indian children" as defined by § 1903(4) of the Act even though they had never lived in an Indian home or on an Indian reservation. The Court relied on the plain language of the ICWA in its application to the facts.

1.4 Who is an Indian child under the ICWA?

An Indian child is an "unmarried person who is under age eighteen and is either (a) a member of an Indian tribe or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe . . . ." 25 U.S.C. § 1903(4). A key link to this definition is the meaning of "Indian tribe."

1.5 What is an Indian tribe under ICWA?

"Indian tribe" is defined as "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." 25 U.S.C. § 1903(8). It means only federally recognized tribes. Canadian tribes, and other foreign Indian tribes, and non-federally recognized tribes are therefore excluded from its coverage.

From time to time, the Secretary of the Interior publishes a list of federally recognized tribes eligible for federal services and benefits. Indian Entities Recognized and Eligible to Receive Services From the United States Bureau of Indian Affairs, 72 Fed. Reg. 13,647 (Mar. 22, 2007) (notice). Most courts use this list to determine whether the Indian child's tribe, and thereby its children, are protected by the Act.

The Secretary, from time to time, will federally acknowledge an Indian tribe under the federal acknowledgment regulations contained at 25 C.F.R. Part 83 (2007). A newly-acknowledged tribe will not appear on the list of federally recognized tribes until the Secretary updates the list. If in doubt, a practitioner should contact the Office of Federal Acknowledgment (OFA), Bureau of Indian Affairs (BIA), Washington, D.C. Also, OFA keeps a list of non-federally acknowledged tribes which have filed a letter of intent to file a petition for federal acknowledgment or have filed a petition. The practitioner may want to consult this list to determine if claimed ancestry of the parent or child is to a non-federally recognized tribe.

In addition, Congress will from time to time reaffirm or restore government-to-government relations with a tribe whose relationship was terminated during the termination era of the 1950s when the United States severed its government-to-government relationship with a number of Indian tribes and thereby withdrew eligibility for federal services provided to Indians because of their status as Indians. Also, the Congress will at times federally acknowledge Indian tribes by legislation. *See, e.g.,* Federal Recognition of Mashantucket Pequot Tribe, 25 U.S.C. § 1758 (2000). The practitioner should contact the Assistant Secretary's Office of the Bureau of Indian Affairs, Washington, D.C.

Practice Tip:
Practitioners should review state law and intergovernmental agreements as they may expand the protection of the ICWA, such as by expanding the definition of an Indian tribe.

1.6 Who determines membership or eligibility for membership?

For ICWA purposes, the tribe or Alaskan Native village has the sole power to decide membership. *In re A.G.*, 2005 MT 81, 326 Mont. 403, 109 P.3d 756; *In re A.L.W.*, 32 P.3d 297 (Wash. Ct. App. 2001).

1.7 Who has the burden to prove an Indian child is involved?

The party seeking to establish the application of the ICWA has the initial burden to establish a prima facie case that an Indian child may be involved, although all parties and the court have a continuing obligation to inquire as to the status of the child. *See, e.g.,* COLO. REV. STAT. § 19-1-126 (2002); IOWA CODE § 232B.4 (2000). There is no one proof of membership, although courts generally agree that an Indian child's enrollment in an Indian tribe is conclusive proof of membership. Tribal enrollment however, is not the only means of establishing membership. *In re T.L.G.*, 108 P.3d 156 (Wash. Ct. App. 2005). Some tribes automatically include a person as a member if the person descended from a tribal member who was listed on the tribal rolls as of a specific date. *In re Arianna R.G.*, 2003 WI 11, 259 Wis. 2d 563, 657 N.W.2d 363. Thus, in some instances, courts have remanded for proper notice even where the parent offered no proof of membership and was not enrolled in a tribe. *In re Gerardo A.*, 14 Cal. Rptr. 3d 798 (Ct. App. 2004); *Dwayne P. v. Superior Court*, 126 Cal. Rptr. 2d 639 (Ct. App. 2002).

A tribe may determine that a child is not enrollable but later change its determination and enroll the child. *In re E.S.*, 964 P.2d 404 (Wash. Ct. App. 1998). Once membership, or eligibility for membership, is established, and the ICWA is applied and accepted as applicable by all the parties, a party may not later change its mind and take a contrary position on appeal. *In re R.L.*, 961 P.2d 606 (Colo. Ct. App. 1998); *In re N.S.*, 474 N.W.2d 96 (S.D. 1991).

1.8 What if the child's Indian heritage is uncertain?

One purpose of ICWA notice is to enable the tribe or BIA to investigate and determine whether the minor is an "Indian child." *In re Gerardo A.*, 14 Cal. Rptr. 3d 798 (Ct. App. 2004). Some information relating to Indian heritage must be provided to the court or entity seeking placement for notice to be sent to a tribe(s) or BIA area office. If the tribe's identity is unknown, notice must be sent to the BIA as agent for the Secretary of the Interior. *In re Antoinette S.*, 129 Cal. Rptr. 2d 15 (Ct. App. 2002). See also FAQ 4.11. An unsubstantiated belief a child has Indian heritage is not conclusive to establish such heritage. *See, e.g., In re Arianna R.G.*, 2003 WI 11, 259 Wis. 2d 563, 657 N.W.2d 363.

The BIA Guidelines are helpful in determining under what circumstances a court has "reason to know" that a child is an "Indian child" under the ICWA. The Guidelines describe the following circumstances under which a state court has reason to believe a child involved in a child custody proceeding is an Indian child:

> (1) Any party to the case, Indian tribe, Indian organization or public or private agency informs the court that the child is an Indian child.
>
> (2) Any public- or state-licensed agency involved in child protection services or family support had discovered information which suggests that the child is an Indian child.
>
> (3) The child who is the subject of the proceeding gives the court reason to believe he or she is an Indian child.
>
> (4) The residence or domicile of the child, his or her biological parents, or the Indian custodian is known by the court to be or is shown to be a predominantly Indian community.
>
> (5) An officer of the court involved in the proceeding has knowledge that the child may be an Indian child.

Indian Child Custody Proceedings, 44 Fed. Reg. 67,584, 67,586 (Nov. 26, 1979) (guidelines for state courts).

1.9 What if more than one tribe has an interest in the Indian child?

In this situation, a court is called upon to determine which tribe has more significant contacts with the Indian child, although notice should be sent to each tribe regardless of the final determination. The BIA Guidelines are helpful in guiding a court to make its determination. The Guidelines list at least eight factors for a court to consider in determining which tribe has the most significant contacts for the purpose of designating the Indian child's tribe under the ICWA, especially for the purpose of transfer of jurisdiction. *See* Indian Child Custody Proceedings,

44 Fed. Reg. 67,584, 67,587 (Nov. 26, 1979) (guidelines for state courts).

For the tribe that has the lesser contacts, the Guidelines provide that it still could be granted a right of intervention without undermining the right of the tribe with greater contacts. The tribe with lesser contacts could also be afforded the ability to serve as a placement preference under § 1915 the Act.

In South Dakota, a state court determined jurisdiction by looking at the child's domicile and the tribe with whom the child had the most significant contacts. The state court found jurisdiction vested in the tribe on whose reservation the child was domiciled and with whom the child had the most contacts, and not the tribe in which the child was enrolled. *Cf. In re T.I.*, 2005 SD 125, 707 N.W.2d 826.

Practice Tip for tribal courts:
If the situation is not an emergency, two tribes that would have jurisdiction over a case, because the child is a tribal member or eligible for tribal membership in either tribe, should talk with each other about which tribal court should accept transfer jurisdiction under the Act to hear the case. At times, as for example in Alaska, a cooperative agreement can be worked out between the tribal courts to form a joint tribal court panel.

In emergencies, the tribal court that begins to handle a case should be recognized by the other tribal court to have priority jurisdiction until the tribal courts can sort out which court has primary jurisdiction.

**** 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

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

Circuit Courts of Appeals
Boozer v. Wilder, 381 F.3d 931 (9th Cir. 2004)
Comanche Indian Tribe of Okla. v. Hovis (*Hovis II*), 53 F.3d 298 (10th Cir. 1995)
Confederated Tribes of the Colville Reservation v. Superior Court, 945 F.2d 1138 (9th Cir. 1991)
DeMent v. Oglala Sioux Tribal Court, 874 F.2d 510 (8th Cir. 1989)
Kiowa Tribe of Okla. v. Lewis, 777 F.2d 587 (10th Cir. 1985)
In re Larch, 872 F.2d 66 (4th Cir. 1989)
Native Village of Venetie I.R.A. Council v. Alaska (*Venetie II*), 944 F.2d 548 (9th Cir. 1991)
Navajo Nation v. Norris, 331 F.3d 1041 (9th Cir. 2003)
United States v. Lawrence, 51 F.3d 150 (8th Cir. 1995)

District Courts
Comanche Tribe of Okla. v. Hovis (*Hovis I*), 847 F. Supp. 871 (W.D. Okla. 1994)
Fletcher v. Florida, 858 F. Supp. 169 (M.D. Fla. 1994)
Navajo Nation v. Superior Court, 47 F. Supp. 2d 1233 (E.D. Wash. 1999)

STATE CASES

Alabama
S.A. v. E.J.P., 571 So. 2d 1187 (Ala. Civ. App. 1990)
S.H. v. Calhoun County Dep't of Human Res., 798 So. 2d 684 (Ala. Civ. App. 2001)

Alaska
A.A. v. State, 982 P.2d 256 (Alaska 1999)
A.B.M. v. M.H., 651 P.2d 1170 (Alaska 1982)
D.E.D. v. State, 704 P.2d 774 (Alaska 1985)
D.J. v. P.C., 36 P.3d 663 (Alaska 2001)
Gilbert M. v. State, 139 P.3d 581 (Alaska 2006)
J.W. v. R.J., 951 P.2d 1206 (Alaska 1998)
John v. Baker, 982 P.2d 738 (Alaska 1999)
T.F. v. State, 26 P.3d 1089 (Alaska 2001)
In re T.N.F., 781 P.2d 973 (Alaska 1989)
V.F. v. State, 666 P.2d 42 (Alaska 1983)

Arizona
Ariz. Dep't of Econ. Sec. v. Bernini, 48 P.3d 512 (Ariz. Ct. App. 2002)
In re Coconino County Juvenile Action No. J-10175, 736 P.2d 829 (Ariz. Ct. App. 1987)
Goclanney v. Desrochers, 660 P.2d 491 (Ariz. Ct. App. 1982)
In re Maricopa County Juvenile Action No. A-25525, 667 P.2d 228 (Ariz. Ct. App. 1983)
In re Maricopa County Juvenile Action No. JD-500200, 788 P.2d 1208 (Ariz. Ct. App. 1989)
In re Maricopa County Juvenile Action No. JS-7359, 766 P.2d 105 (Ariz. Ct. App. 1988)
Michael J., Jr. v. Michael J., Sr., 7 P.3d 960 (Ariz. Ct. App. 2000)
In re Pima County Juvenile Action No. S-903, 635 P.2d 187 (Ariz. Ct. App. 1981)

Arkansas
In re A.M.C., 368 Ark. 369 (2007)

California
In re A.U., 45 Cal. Rptr. 3d 854 (Ct. App. 2006) (depublished)
In re Aaliyah G., 135 Cal. Rptr. 2d 680 (Ct. App. 2003) (certified for partial publication)
In re Aaron R., 29 Cal. Rptr. 3d 921 (Ct. App. 2005)
In re Alexandria Y., 53 Cal. Rptr. 2d 679 (Ct. App. 1996)
In re Alicia S., 76 Cal. Rptr. 2d 121 (Ct. App. 1998)
In re Amber F., 58 Cal. Rptr. 3d 874 (Ct. App. 2007)
In re Antoinette S., 129 Cal. Rptr. 2d 15 (Ct. App. 2002)
In re Asia L., 132 Cal. Rptr. 3d. 733 (Ct. App. 2003)
In re Bridget R., 49 Cal. Rptr. 2d 507 (Ct. App. 1996)
In re Crystal K., 276 Cal. Rptr. 619 (Ct. App. 1990)
Crystal R. v. Superior Court, 69 Cal. Rptr. 2d 414 (Ct. App. 1997)
In re Derek W., 86 Cal. Rptr. 2d 742 (Ct. App. 1999)
In re Desiree F., 99 Cal. Rptr. 2d 688 (Ct. App. 2000)
Dwayne P. v. Superior Court, 126 Cal. Rptr. 2d 639 (Ct. App. 2002)
In re E.H., 46 Cal. Rptr. 3d 787 (Ct. App. 2006)
In re Gerardo A., 14 Cal. Rptr. 3d 798 (Ct. App. 2004)
In re Glorianna K., 24 Cal. Rptr. 3d 582 (Ct. App. 2005)
In re Hannah S., 48 Cal. Rptr. 3d 605 (Ct. App. 2006)
In re Jaclyn S., 58 Cal. Rptr. 3d 321 (Ct. App. 2007) (certified for partial publication)
In re Jennifer A., 127 Cal. Rptr. 2d 54 (Ct. App. 2002)
In re John V., 7 Cal. Rptr. 2d 629 (Ct. App. 1992)
In re Jonathon S., 28 Cal. Rptr. 3d 495 (Ct. App. 2005) (certified for partial publication)
In re Joseph P., 45 Cal. Rptr. 3d 591 (Ct. App. 2006)
In re Junious M., 193 Cal. Rptr. 40 (Ct. App. 1983) (certified for partial publication)
In re Justin S., 59 Cal. Rptr. 3d 376 (Ct. App. 2007)
In re K.W., 51 Cal. Rptr. 3d 130 (Ct. App. 2006) (certified for partial publication)
In re Levi U., 92 Cal. Rptr. 2d 648 (Ct. App. 2000)
In re Lindsay C., 280 Cal. Rptr. 194 (Ct. App. 1991)
In re Mary G., 59 Cal. Rptr. 3d 703 (Ct. App. 2007)
In re Merrick V., 19 Cal. Rptr. 3d 490 (Ct. App. 2004)
In re Miguel E., 15 Cal. Rptr. 3d 530 (Ct. App. 2004)
In re O.K., 130 Cal. Rptr. 2d 276 (Ct. App. 2003)
In re Rebecca R., 49 Ca. Rptr. 3d 951 (Ct. App. 2006)
In re Robert A., 55 Cal. Rptr. 3d 74 (Ct. App. 2007) (certified for partial publication)
In re S.B., 30 Cal. Rptr. 3d 726 (Ct. App. 2005) (certified for partial publication)
In re Santos Y., 112 Cal. Rptr. 2d 692 (Ct. App. 2001)
In re Suzanna L., 127 Cal. Rptr. 2d 860 (Ct. App. 2002) (certified for partial publication)
In re Vincent M., 59 Cal. Rptr. 3d 321 (Ct. App. 2007)
In re Wanomi P., 264 Cal. Rptr. 623 (Ct. App. 1989)

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