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## 13. TERMINATION OF PARENTAL RIGHTS

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**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

For the purposes of this chapter, except as may be specifically provided otherwise, the term—

(1) “child custody proceeding” shall mean and include—

(ii) “termination of parental rights” which shall mean any action resulting in the termination of the parent-child relationship;

(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 . . .

### 25 U.S.C. § 1912. Pending court proceedings

#### (a) Notice; time for commencement of proceedings; additional time for preparation

In any involuntary proceeding in a State court, where the court knows or has reason to know that an Indian child is involved, the party seeking the foster care placement of, or termination of parental rights to, an Indian child shall notify the parent or Indian custodian and the Indian child’s tribe, by registered mail with return receipt requested, of the pending proceedings and of their right of intervention. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, such notice shall be given to the Secretary in like manner, who shall have fifteen days after receipt to provide the requisite notice to the parent or Indian custodian and the tribe. No foster care placement or termination of parental rights proceeding shall be held until at least ten days after receipt of notice by the parent or Indian custodian and the tribe or the Secretary: *Provided*, That the parent or Indian custodian or the tribe shall, upon request, be granted up to twenty additional days to prepare for such proceeding.

#### (b) Appointment of counsel

In any case in which the court determines indigency, the parent or Indian custodian shall have the right to court-appointed counsel in any removal, placement, or termination proceeding. The court may, in its discretion, appoint counsel for the child upon a finding that such appointment is in the best interest of the child. Where State law makes no provision for appointment of counsel in such proceedings, the court shall promptly notify the Secretary upon appointment of counsel, and the Secretary, upon certification of the presiding judge, shall pay reasonable fees and expenses out of funds which may be appropriated pursuant to section 13 of this title.

#### (c) Examination of reports or other documents

Each party to a foster care placement or termination of parental rights proceeding under State law involving an Indian child shall have the right to examine all reports or other documents filed with the court upon which any decision with respect to such action may be based.

#### (d) Remedial services and rehabilitative programs; preventive measures

Any party seeking to effect a foster care placement of, or termination of parental rights to, an Indian child under State law shall satisfy the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful.

**(e) Foster care placement orders; evidence; determination of damage to child**

No foster care placement may be ordered in such proceeding in the absence of a determination, supported by clear and convincing evidence, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

**(f) Parental rights termination orders; evidence; determination of damage to child**

No termination of parental rights may be ordered in such proceeding in the absence of a determination, supported by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

**25 U.S.C. § 1913. Parental rights; voluntary termination**

**(a) Consent; record; certification matters; invalid consents**

Where any parent or Indian custodian voluntarily consents to a foster care placement or to termination of parental rights, such consent shall not be valid unless executed in writing and recorded before a judge of a court of competent jurisdiction and accompanied by the presiding judge’s certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The court shall also certify that either the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood. Any consent given prior to, or within ten days after, birth of the Indian child shall not be valid.

**(c) Voluntary termination of parental rights or adoptive placement; withdrawal of consent; return of custody**

In any voluntary proceeding for termination of parental rights to, or adoptive placement of, an Indian child, the consent of the parent may be withdrawn for any reason at any time prior to the entry of a final decree of termination or adoption, as the case may be, and the child shall be returned to the parent.

**25 U.S.C. § 1914. Petition to court of competent jurisdiction to invalidate action upon showing of certain violations**

Any Indian child who is the subject of any action for foster care placement or termination of parental rights under State law, any parent or Indian custodian from whose custody such child was removed, and the Indian child’s tribe may petition any court of competent jurisdiction to invalidate such action upon a showing that such action violated any provision of sections 1911, 1912, and 1913 of this title.

**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.**



**Frequently Asked Questions**

- 13.1 Do parents have a fundamental liberty interest in the care, custody, and management of their children which is protected by the United States Constitution?**
- 13.2 What is the burden of proof for termination of parental rights to an Indian child under the ICWA?**
- 13.3 Who has the burden of proof to demonstrate that parental rights should be terminated?**
- 13.4 What must be proved under § 1912(f) to show that continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child?**
- 13.5 May bonding be considered a ground for termination?**
- 13.6 Can parental rights be terminated without attempts to remediate the problems?**
- 13.7 Is there a duty toward a father before paternity has been established?**

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- 13.8 What are active efforts under § 1912(d)?
- 13.9 Must there be remedial measures when conditions exist which, under the Adoption and Safe Families Act (ASFA) would not require them?
- 13.10 Does ASFA affect standards for termination of parental rights?
- 13.11 What role does state law play in regard to termination of parental rights?
- 13.12 What burden of proof is required of state grounds for termination in ICWA cases?
- 13.13 Does § 1921 require standards in state statutes applicable to child custody proceedings to apply in termination of parental rights proceedings under ICWA if those standards are higher?
- 13.14 Can a parent of an Indian child revoke his or her consent to the termination of parental rights after the final order terminating his or her rights is entered?

#### 13.1 Do parents have a fundamental liberty interest in the care, custody, and management of their children which is protected by the United States Constitution?

Yes. The United States Supreme Court has held that parents have a fundamental liberty interest in the care, custody, and management of their children which is protected by the Due Process clause of the Constitution. *Santosky v. Kramer*, 455 U.S. 745, 753 (1982). See also *In re P.B.*, 371 N.W.2d 366, 372 (S.D. 1985).

#### 13.2 What is the burden of proof for termination of parental rights to an Indian child under the ICWA?

The Indian Child Welfare Act (ICWA) § 1912(f) provides that “[n]o termination of parental rights may be ordered in such proceedings in the absence of a determination, supported by evidence beyond a reasonable doubt, including the testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.” *In re O.S.*, 2005 SD 86, ¶¶ 4-7, 701 N.W.2d 421, 424; *In re A.N.*, 2005 MT 19, ¶¶ 16-23, 325 Mont. 379, 383-85, 106 P.3d 556, 560.

#### 13.3 Who has the burden of proof to demonstrate that parental rights should be terminated?

The party petitioning to have parental rights terminated has the burden of proof. *K.N. v. State*, 856 P.2d 468 (Alaska 1993); *D.W.H. v. Cabinet For Human Res.*, 706 S.W.2d 840, 842-43, (Ky. Ct. App. 1986).

#### 13.4 What must be proved under § 1912(f) to show that continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child?

It must be shown, beyond a reasonable doubt, that the conduct of the parents or Indian custodian, is likely to harm the child and that the parent, or Indian custodian, is unlikely to change the harmful conduct. Indian Child Custody Proceedings, 44 Fed. Reg. 67,584, 67,593 (Bureau of Indian Affairs Nov. 26, 1979) (guidelines for state courts); *E.A. v. State*, 46 P.3d 986, 992 (Alaska 2002); *In re J.W.*, 921 P.2d 604, 607 (Alaska 1996).

#### Practice Tips:

In addition to proving the ICWA standard, state law may require the party to prove other factors, which may give the parents more protection, prior to termination of parental rights.

Note that ICWA applies to a termination of parental rights proceeding even when it is the non-Indian parent whose rights are at issue. See, e.g., *C.J. v. State*, 18 P.3d 1214, 1217 (Alaska 2001); *In re T.N.F.*, 781 P.2d 973, 975, 978 (Alaska 1989) (holding ICWA applied to adoption of child by Indian father and his wife, even though child’s biological mother was not Indian); *In re N.S.*, 474 N.W.2d 96 (S.D. 1999).

General conditions of poverty cannot suffice to uphold a termination of parental rights. The Bureau of Indian Affairs (BIA) Guidelines specifically state:

“Evidence that only shows the existence of community or family poverty, crowded or inadequate housing, alcohol abuse, or nonconforming social behavior does not constitute clear and convincing evidence that continued custody is likely to result in serious emotional or physical damage to the child.” Indian Child Custody Proceedings, 44 Fed. Reg. 67,584, 67,593 (Nov. 26, 1978) (guidelines for state courts).

**13.5 May bonding be considered a ground for termination?**

This should not be a ground for termination. The court in *In re Phoebe S.*, 664 N.W.2d 470, 484-85 (Neb. Ct. App. 2003) rejects the use of bonding in the termination of parental rights in general, and even more so under ICWA. See also *In re J.W.*, 742 P.2d 1171, 1174 (Okla. Civ. App. 1987) (holding lack of bonding with mother understandable under the circumstances, and not a basis for termination of parental rights); *In re K.L.R.F.*, 515 A.2d 33, 38 (Pa. Super. Ct. 1986) (holding appellant had the right to withdraw consent to placement of child even if doing so will uproot the child). Cf. *Miss. Band of Choctaw Indians v. Holyfield*, 490 U.S. 30 (1989) (holding bonding cannot override jurisdictional provisions). Some courts have found that removing the child from the “only safe, stable, environment the minor child has known would inflict serious emotional injury.” *In re Bluebird*, 411 S.E.2d 820, 824 (N.C. Ct. App. 1992); *A.M. v. State (A.M. I)*, 891 P.2d 815, 826 (Alaska 1995); *In re S.A.*, 912 P.2d 1235, 1241 (Alaska 1996).

**13.6 Can parental rights be terminated without attempts to remediate the problems?**

No. Section 1912(d) provides that “any party seeking to effect a . . . termination of parental rights to, an Indian child under state law shall satisfy the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful.” The duty of showing that active efforts have been made extends to private petitioners and must be demonstrated beyond a reasonable doubt. *D.J. v. P.C.*, 36 P.3d 663 (Alaska 2001).

**Practice Tip:**  
It should be noted that under the Adoption and Safe Families Act (ASFA), 42 U.S.C. §§ 673b, 678, 679b (2000), states are relieved of the obligation to provide reasonable efforts to reunite the family in certain aggravated circumstances. However, these exceptions do not apply to the requirement to provide “active efforts” under the ICWA. *In re J.S.B., Jr.*, 2005 SD 3, 691 N.W.2d 611.

**13.7 Is there a duty toward a father before paternity has been established?**

No. In defining “parent,” § 1903(9) specifically states that it does not include an “unwed father where

paternity has not been acknowledged or established.” See *A.A. v. State*, 982 P.2d 256 (Alaska 1999). However, it should be noted that all parties to a child custody proceeding have a duty to determine if the child is Indian.

**13.8 What are active efforts under § 1912(d)?**

See discussion at FAQ 12.4, Active Efforts Requirements.

**13.9 Must there be remedial measures when conditions exist which, under the Adoption and Safe Families Act (ASFA) would not require them?**

See discussion at FAQs 12.7, Active Efforts Requirements and 19.9, Application of Other Federal Laws.

**13.10 Does ASFA affect standards for termination of parental rights?**

See discussion at FAQs 19.9 and 19.10, Application of Other Federal Laws.

**13.11 What role does state law play in regard to termination of parental rights?**

State law may require proof of matters to justify termination which are independent of the requirements under § 1912(f). *In re D.S.P.*, 480 N.W.2d 234 (Wis. 1992); *In re Roberts*, 732 P.2d 528 (Wash. Ct. App. 1987).

**13.12 What burden of proof is required of state grounds for termination in ICWA cases?**

Some courts hold that the state and federal schemes create dual burdens of proof which must be met separately. *In re Bluebird*, 411 S.E.2d 820, 823 (N.C. Ct. App. 1992) (holding state burden of proof applied to state grounds and federal burden of proof to federal grounds); *In re Elliott*, 554 N.W.2d 32, 38 (Mich. Ct. App. 1996) (holding both the state and the federal burdens of proof must be met as to the respective grounds); *In re S.A.E.*, 912 P.2d 1002, 1004-05 (Utah Ct. App. 1996) (holding ICWA burden applies only to the federal grounds, while the state burden continues to apply to the state grounds, and those grounds are not preempted; indeed, § 1921 recognizes viability of differing state standards of protection—both requirements for termination must be met by their respective burdens); *In re D.S.P.*, 480 N.W.2d 234, 238-39 (Wis. 1992) (holding dual burden of proof applies; since § 1921 requires use of

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state law whenever that state law provides a higher standard, “we find it appropriate that where the children’s code provides additional safeguards beyond what is mandated by the ICWA, those additional safeguards should be followed”); *In re Roberts*, 732 P.2d 528, 531 (Wash. Ct. App. 1987) (holding where an Indian child is involved, the ICWA imposes an additional burden on the state, but does not replace state law); *In re Denise F.*, 658 A.2d 1070, 1072 (Me. 1995) (holding a dual burden—state grounds provide a supplemental degree of protection).

As noted, some courts view the state provisions as providing an extra degree of protection that is in harmony with § 1921’s requirement that higher state standards should be applied. Some courts have held, however that the state standards conflict with the ICWA. *See In re W.D.H., III*, 43 S.W.3d 30, 35-37 (Tex. App. 2001) (“[I]t was error for the trial court to make any findings under the Family code because the provisions providing for the involuntary termination of parental rights are in conflict with the ICWA.”). The court specifically held that the requirement under state law of finding a termination to be in the best interests of the child under the standards contained in the state’s Family Code, standards of the dominant culture, conflicted with the meaning of that term under the ICWA, which places priority on maintaining the child’s relationship with the Indian tribe, culture, and family. *Id.* at 36. Some courts seem to apply the ICWA burden of proof to state grounds for termination. *See In re T.H.*, 2005 OK CIV APP 5, 105 P.3d 354. *See also* FAQ Expert Witnesses regarding burdens of proof.

#### **13.13 Does § 1921 require standards in state statutes applicable to child custody proceedings to apply in termination of parental rights proceedings under ICWA if those standards are higher?**

Yes. If they provide a higher level of protection for Indian parents or custodians. *See* discussion in FAQ 13.12.

#### **13.14 Can a parent of an Indian child revoke his or her consent to the termination of parental rights after the final order terminating his or her rights is entered?**

No. Section 1913(c) provides that:

In any voluntary proceeding for termination of parental rights to, or adoptive placement of, an Indian child, the consent of the parent

may be withdrawn for any reason at any time prior to the entry of a final decree of termination or adoption, as the case may be, and the child shall be returned to the parent.

25 U.S.C. § 1913(c). *In re J.R.S.*, 690 P.2d 10, 13-14 (Alaska 1984) held that a consent to termination of parental rights cannot be withdrawn after the termination of such rights became final. It rejected the argument that such consent could be withdrawn at any time before a final decree of adoption was entered, noting that “[i]f Congress had intended consents to termination to be revocable at any time before entry of a final decree of adoption, the words ‘as the case may be’ would not appear in the statute.” The right to withdraw consent ends when the order terminating parental rights is final. *See also In re Kiogima*, 472 N.W.2d 13 (Mich. Ct. App. 1991); *B.R.T. v. Executive Dir. of Soc. Servs. Bd.*, 391 N.W.2d 594 (N.D. 1986) (holding right to withdraw consent under § 1913 expired when the order terminating parental rights became final).



\*\* Access to the full-text of opinions and additional materials is at [www.narf.org/icwa](http://www.narf.org/icwa) \*\*

The following list is representative of cases that discuss the topic. However, the list is not exhaustive. The practitioner is encouraged to conduct their own independent research.

### STATES CASES

#### Alabama

*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.H. v. State*, 10 P.3d 1156 (Alaska 2000)  
*A.J. v. State*, 62 P.3d 609 (Alaska 2003)  
*A.M. v. State (A.M. II)*, 945 P.2d 296 (Alaska 1997)  
*A.M. v. State (A.M. I)*, 891 P.2d 815 (Alaska 1995)  
*C.J. v. State*, 18 P.3d 1214 (Alaska 2001)  
*Carl N. v. State*, 102 P.3d 932 (Alaska 2004)  
*Catholic Soc. Servs., Inc. v. C.A.A.*, 783 P.2d 1159 (Alaska 1989)  
*D.E.D. v. State*, 704 P.2d 774 (Alaska 1985)  
*D.H. v. State*, 929 P.2d 650 (Alaska 1996)  
*D.H. v. State*, 723 P.2d 1274 (Alaska 1986)  
*D.J. v. P.C.*, 36 P.3d 663 (Alaska 2001)  
*E.A. v. State*, 46 P.3d 986 (Alaska 2002)  
*E.M. v. State*, 959 P.2d 766 (Alaska 1998)  
*J.A. v. State*, 50 P.3d 395 (Alaska 2002)  
*J.J. v. State*, 38 P.3d 7 (Alaska 2001)  
*In re J.M.*, 718 P.2d 150 (Alaska 1986)  
*In re J.R.B.*, 715 P.2d 1170 (Alaska 1986)  
*In re J.R.S.*, 690 P.2d 10 (Alaska 1984)  
*J.S. v. State*, 50 P.3d 388 (Alaska 2002)  
*In re J.W.*, 921 P.2d 604 (Alaska 1996)  
*K.N. v. State*, 856 P.2d 468 (Alaska 1993)  
*In re Keith M.W.*, 79 P.3d 623 (Alaska 2003)  
*In re L.A.M.*, 727 P.2d 1057 (Alaska 1986)  
*L.G. v. State*, 14 P.3d 946 (Alaska 2000)  
*State v. M.L.L.*, 61 P.3d 438 (Alaska 2002)  
*N.A. v. State*, 19 P.3d 597 (Alaska 2001)  
*In re S.A.*, 912 P.2d 1235 (Alaska 1996)  
*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)  
*V.S.B. v. State*, 45 P.3d 1198 (Alaska 2002)  
*Wendell C., II v. State*, 118 P.3d 1 (Alaska 2005)

#### Arizona

*In re Maricopa County Juvenile Action No. JS-8287*, 828 P.2d 1245 (Ariz. Ct. App. 1991)

#### Arkansas

*Burks v. Ark. Dep't of Human Servs.*, 61 S.W.3d 184 (Ark. Ct. App. 2001)

#### California

*In re A.U.*, 45 Cal. Rptr. 3d 854 (Ct. App. 2006) (depublished)  
*In re Alexandria Y.*, 53 Cal. Rptr. 2d 679 (Ct. App. 1996)  
*In re Alicia S.*, 76 Cal. Rptr. 2d 121 (Ct. App. 1998)

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*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 Edward H.*, 122 Cal. Rptr. 2d 242 (Ct. App. 2002) (certified for partial publication)  
*In re H.A.*, 128 Cal. Rptr. 2d 12 (Ct. App. 2002)  
*In re Hannah S.*, 48 Cal. Rptr. 3d 605 (Ct. App. 2006)  
*In re I.G.*, 35 Cal. Rptr. 3d 427 (Ct. App. 2005) (certified for partial publication)  
*In re Jasmine G.*, 26 Cal. Rptr. 3d 394 (Ct. App. 2005)  
*In re Jeffrey A.*, 127 Cal. Rptr. 2d 314 (Ct. App. 2002)  
*In re Jonathan D.*, 111 Cal. Rptr. 2d 628 (Ct. App. 2001)  
*In re Kahlen W.*, 285 Cal. Rptr. 507 (Ct. App. 1991) (certified for partial publication)  
*In re Krystle D.*, 37 Cal. Rptr. 2d 132 (Ct. App. 1994)  
*In re Laura F.*, 99 Cal. Rptr. 2d 859 (Ct. App. 2000) (certified for partial publication)  
*Letitia V. v. Superior Court*, 97 Cal. Rptr. 2d 303 (Ct. App. 2000)  
*In re Lindsay C.*, 280 Cal. Rptr. 194 (Ct. App. 1991)  
*In re Marinna J.*, 109 Cal. Rptr. 2d 267 (Ct. App. 2001) (certified for partial publication)  
*In re Matthew Z.*, 95 Cal. Rptr. 2d 343 (Ct. App. 2000) (certified for partial publication)  
*In re Michael G.*, 74 Cal. Rptr. 2d 642 (Ct. App. 1998)  
*In re Pedro N.*, 41 Cal. Rptr. 2d 819 (Ct. App. 1995)  
*In re Riva M.*, 286 Cal. Rptr. 592 (Ct. App. 1991) (certified for partial publication)  
*In re Robert T.*, 246 Cal. Rptr. 168 (Ct. App. 1988)  
*In re Suzanna L.*, 127 Cal. Rptr. 2d 860 (Ct. App. 2002) (certified for partial publication)  
*In re William G.*, 107 Cal. Rptr. 2d 436 (Ct. App. 2001) (certified for partial publication)

#### **Colorado**

*In re A.E.*, 749 P.2d 450 (Colo. Ct. App. 1987)  
*In re A.N.W.*, 976 P.2d 365 (Colo. Ct. App. 1999)  
*In re C.A.J.*, 709 P.2d 604 (Colo. Ct. App. 1985)  
*In re K.D.*, 155 P.3d 634 (Colo. Ct. App. 2007)

#### **Connecticut**

*In re Elizabeth I.*, 2 Conn. L. Rptr. 564 (Conn. Super. Ct. 1990)  
*In re Jessica T.*, 1993 WL 566662 (Conn. Super. Ct. Dec. 20, 1993)

#### **Idaho**

*In re Baby Boy Doe (Baby Boy Doe II)*, 902 P.2d 477 (Idaho 1995)  
*In re Baby Boy Doe (Baby Boy Doe I)*, 849 P.2d 925 (Idaho 1993)

#### **Illinois**

*In re Cari B.*, 763 N.E.2d 917 (Ill. App. Ct. 2002)

#### **Indiana**

*In re D.S.*, 577 N.E.2d 572 (Ind. 1991)  
*In re T.R.M.*, 525 N.E.2d 298 (Ind. 1988)

#### **Iowa**

*In re A.R.*, 690 N.W.2d 699 (Iowa Ct. App. 2004) (unpublished table decision) *available at* No. 04-0745, 2004 WL 2002834 (Iowa Ct. App. Sept. 9, 2004)  
*In re B.M.*, 532 N.W.2d 504 (Iowa Ct. App. 1995)  
*In re H.N.B.*, 619 N.W.2d 340 (Iowa 2000)  
*In re J.D.B.*, 584 N.W.2d 577 (Iowa Ct. App. 1998)  
*In re J.W.*, 528 N.W.2d 657 (Iowa Ct. App. 1995)  
*In re J.Y.*, 670 N.W.2d 433 (Iowa Ct. App. 2003) (unpublished table decision) *available at* No. 03-0983, 2003 WL 22017245 (Iowa Ct. App. Aug. 27, 2003)

*In re L.N.W.*, 457 N.W.2d 17 (Iowa Ct. App. 1990)  
*In re R.C.*, 671 N.W.2d 533 (Iowa Ct. App. 2003) (unpublished table decision) *available at* No. 03-1134, 2003 WL 22092677 (Iowa Ct. App. Sept. 10, 2003)  
*In re R.E.K.F.*, 698 N.W.2d 147 (Iowa 2005)  
*In re R.L.F.*, 437 N.W.2d 599 (Iowa Ct. App. 1989)  
*In re S.M.*, 508 N.W.2d 732 (Iowa Ct. App. 1993)

**Kansas**

*In re A.P.*, 961 P.2d 706 (Kan. Ct. App. 1998)  
*In re C.Y.*, 925 P.2d 447 (Kan. Ct. App. 1996)  
*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)  
*In re J.J.G.*, 83 P.3d 1264 (Kan. Ct. App. 2004)

**Kentucky**

*D.W.H. v. Cabinet for Human Res.*, 706 S.W.2d 840 (Ky. Ct. App. 1986)

**Maine**

*In re Annette P.*, 589 A.2d 924 (Me. 1991)  
*In re Denice F.*, 658 A.2d 1070 (Me. 1995)  
*In re Marcus S.*, 638 A.2d 1158 (Me. 1994)

**Massachusetts**

*In re Arnold*, 741 N.E.2d 456 (Mass. App. Ct. 2001)

**Michigan**

*In re Dougherty*, 599 N.W.2d 772 (Mich. Ct. App. 1999)  
*In re Elliott*, 554 N.W.2d 32 (Mich. Ct. App. 1996)  
*In re Kiogima*, 472 N.W.2d 13 (Mich. Ct. App. 1991)  
*In re Kreft*, 384 N.W.2d 843 (Mich. Ct. App. 1986)  
*In re Morgan*, 364 N.W.2d 754 (Mich. Ct. App. 1985)

**Minnesota**

*In re B.W.*, 454 N.W.2d 437 (Minn. Ct. App. 1990)  
*In re Chosa*, 290 N.W.2d 766 (Minn. 1980)  
*In re J.B.*, 698 N.W.2d 160 (Minn. Ct. App. 2005)  
*In re M.S.S.*, 465 N.W.2d 412 (Minn. Ct. App. 1991)  
*In re R.M.M.*, 316 N.W.2d 538 (Minn. 1982)  
*In re T.J.J.*, 366 N.W.2d 651 (Minn. Ct. App. 1985)  
*In re W.R.*, 379 N.W.2d 544 (Minn. Ct. App. 1985)

**Missouri**

*C.E.H. v. L.M.W.*, 837 S.W.2d 947 (Mo. Ct. App. 1992)  
*In re C.F.*, 218 S.W.3d 22 (Mo. Ct. App. 2007)

**Montana**

*In re A.G.*, 2005 MT 81, 326 Mont. 403, 109 P.3d 756  
*In re A.L.R.*, 2002 MT 183, 311 Mont. 76, 54 P.3d 17  
*In re A.N.*, 2005 MT 19, 325 Mont. 379, 106 P.3d 556  
*In re H.M.O.*, 1998 MT 175, 289 Mont. 509, 962 P.2d 1191  
*In re K.H.*, 1999 MT 128, 294 Mont. 466, 981 P.2d 1190  
*In re K.S.*, 75 P.3d 325 (Mont. 2003)  
*In re M.D.M.*, 2002 MT 305, 313 Mont. 51, 59 P.3d 1142  
*In re M.E.M.*, 679 P.2d 1241 (Mont. 1984)  
*In re M.P.M.*, 1999 MT 78, 294 Mont. 87, 976 P.2d 988  
*In re M.R.G.*, 2004 MT 172, 322 Mont. 60, 97 P.3d 1085



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*In re M.R.G.*, 2003 MT 60, 314 Mont. 396, 66 P.3d 312

#### **Nebraska**

*In re C.W.*, 479 N.W.2d 105 (Neb. 1992)

*In re Phoebe S.*, 664 N.W.2d 470 (Neb. Ct. App. 2003)

*In re R.W.*, 509 N.W.2d 237 (Neb. Ct. App. 1993)

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