17. VOLUNTARY PROCEEDINGS

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;

(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; or

(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.

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.

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.

(b) Foster care placement; withdrawal of consent

Any parent or Indian custodian may withdraw consent to a foster care placement under State law at any time and, upon such withdrawal, the child shall be returned to the parent or Indian custodian.

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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Frequently Asked Questions

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17.1 What types of voluntary proceedings are covered by the ICWA?

The ICWA covers three types of voluntary proceedings: foster care placements, termination of parental rights proceedings, and adoption proceedings.

The voluntary proceeding provisions of the ICWA primarily apply to the giving of consent by a parent or Indian custodian in a voluntary foster care placement, termination of parental rights, or adoptive placement proceeding. Voluntary foster care placement proceedings include giving temporary custody to another person or to a tribal, state or private social services agency, guardianships, conservatorships, institutional placements and any other temporary custody arrangements. Voluntary termination of parental rights proceedings may take place independently or as part of an adoption proceeding, depending upon the law of different states. Adoptive proceedings include any action resulting in a final decree of adoption, and include proceedings such as step-parent adoptions. A child-custody proceeding may be voluntary as to one parent and involuntary as to the other parent.

There is a discrepancy in use of the term "foster care placement" under the ICWA as it affects voluntary proceedings. Foster care placement is defined by the ICWA at § 1903 (1)(i) as any temporary placement of an Indian child where the parent or Indian custodian cannot have the child returned upon demand. The voluntary foster placement provision of the ICWA states that a parent or Indian custodian has a right to withdraw consent to a foster care placement at any time, at which time the child shall be returned to the parent or Indian custodian.

Any provision in a voluntary foster care placement consent, attempting to limit the parent or Indian custodian's right to withdraw his or her consent, would be invalid under the ICWA. Educational placement agreements may be voluntary foster care placements under the ICWA if they contain a restriction on immediate return of the child to his or her family.

The "existing Indian family" judicial exception to application of the ICWA, applied in a few states, has primarily been applied in the context of voluntary adoption proceedings under the ICWA. See also FAQ 1-3, Application.

17.2 Can there be an open adoption?

Yes. Nothing in the ICWA precludes an open adoption. An open adoption can further the purposes of the ICWA. One of the primary purposes of the ICWA is to foster or maintain an Indian child's connection to his or her family, tribe and culture, and an open adoption can advance those purposes even when an Indian child cannot remain with his or her parents or Indian custodians. For an Indian child who is adopted by non-Indians, an open adoption is a way to address some of the concerns of the child's Indian tribe and extended family that the child will be separated from his or her Indian culture and identity.

17.3 What is a voluntary proceeding under the ICWA?

The ICWA does not specifically define involuntary and voluntary proceedings. Section 1912 of the ICWA addresses involuntary proceedings, and § 1913 addresses voluntary proceedings. A voluntary proceeding under the ICWA is a proceeding where the parent or Indian custodian consents to the foster care or adoptive placement of an Indian child, or voluntarily consents to termination of parental rights. In some cases the proceeding is initiated by the parent or Indian custodian, and in others the proceeding is initiated by the proposed custodian or a social services agency. The common thread is that the parent or Indian custodian agrees with or approves of the proposed custodial arrangement. The ICWA does not prohibit voluntary placements, but imposes conditions on voluntary proceedings to ensure the purposes and intent of the ICWA are followed.

A child custody proceeding under the ICWA is voluntary even if the proceeding takes place instead of, or to head off an involuntary proceeding, such as when a parent voluntarily consents to termination of parental rights to avoid a termination of parental rights trial. A voluntary ICWA proceeding may become involuntary after a period of time if, for example, a voluntary custody arrangement is entered into with the State in order to allow a parent to work on parenting issues and at the end of the voluntary placement period the State believes the parent has not made enough progress and the child is in danger, or if the parent attempts to end the arrangement without completing the services agreed to. In an Alaska case, a parent did not show up at the end of a voluntary six month foster care placement agreement to reclaim her child, and the State initiated an involuntary emergency placement proceeding under § 1922 of ICWA. *D.E.D. v. State*, 704 P.2d 774 (Alaska 1985).

17.4 Is notice required under voluntary placement?

The notice provisions of the ICWA in § 1912(a) apply on their face only to involuntary foster care placement and termination of parental rights proceedings (including involuntary termination of parental rights proceedings that are part of an adoption proceeding). Because Indian tribes and extended family members have substantial rights under the ICWA in voluntary proceedings, especially regarding placement of an Indian child (the child's tribe may adopt a modified placement preference order by resolution, § 1915(c), which must be followed in the absence of good cause to the contrary extended family members who would be willing to take custody of an Indian child must be considered before good cause to avoid the placement preferences can be found), and because of the Tribe's right to intervene in any proceeding for foster care placement of an Indian child or termination of parental rights to an Indian child, a number of courts have implicitly required that the Indian tribe and extended family members be notified of any voluntary placement proceedings under the ICWA. *Miss. Band of Choctaw Indians v. Holyfield*, 490 U.S. 30 (1989); *In re M.E.M.*, 725 P.2d 212 (Mont. 1986); *In re Baby Girl Doe*, 865 P.2d 1090 (Mont. 1993); *In re Junious M.*, 193 Cal. Rptr. 40 (Ct. App. 1983) (certified for partial publication); *In re J.R.S.*, 690 P.2d 10 (Alaska 1984). The only explicit requirement of notice is that in § 1912(a), relating to involuntary proceedings. *Cherokee Nation v. Nomura*, 2007 OK 40, 160 P.3d 967, while dealing with a state statute requiring notice in voluntary proceedings also noted that the purposes of the federal act cannot be met without notice to the tribe in voluntary proceedings.

Several state courts have ruled that while notice of an ICWA voluntary proceeding is not required under the language of the ICWA itself, intervention by the Indian child's tribe is allowed or required under the permissive or mandatory intervention court rules of the State (the equivalent of Rule 24 of the Federal Rules of Civil Procedure). *See J.R.S.*, 690 P.2d 10. If these state court rules are applied, notice is required so the relevant tribe can properly exercise its right of intervention. Some courts have held that Indian tribes are not entitled to notice under the ICWA or under state court rules of voluntary ICWA proceedings. *See Navajo Nation v. Superior Court*, 47 F. Supp. 2d 1233 (E.D. Wash. 1999), *aff'd on other grounds sub nom. Navajo Nation v. Norris*, 331 F.3d 1041 (9th Cir. 2003); *Catholic Soc. Servs., Inc. v. C.A.A.*, 783 P.2d 1159 (Alaska 1989). This ruling has occurred for the most part with regard to voluntary adoption proceedings. See FAQ 4.16, Notice, and FAQ 18.11 Adoption, for further discussion of the need for notice in voluntary proceedings. Some states require such notice by statute. *See, e.g.,* IOWA CODE § 232B.5(8) (2003) (providing for notice to tribes in voluntary proceedings); MINN. STAT. § 260.761(3) (1999) (providing for notice to tribes in voluntary adoptive and pre-adoptive proceedings); OKLA. STAT. tit. 10, § 40.4 (2006) (providing for notice to tribes in voluntary proceedings).

Under § 1915(c), a consenting parent may request anonymity with regard to the ICWA's placement

preferences, and the court or agency effecting placement of an Indian child may give weight to such desire in applying the placement preferences of the ICWA. A few courts have ruled that a parent's request for anonymity with regard to their Indian child means the child's tribe does not get notice of the pending ICWA proceeding. Other courts have ruled that a parent cannot adversely impact an Indian tribe's right to notice under the ICWA, and that notice to the Tribe will not compromise the parent's anonymity. *See Baby Girl Doe*, 865 P.2d 1090.

17.5 What procedures are required for voluntary consent?

The ICWA requires that specific procedures be complied with whenever any parent or custodian of an Indian child consents to a foster care placement or to termination of parental rights to an Indian child.

A voluntary consent is not valid under the ICWA unless the following conditions are met:

(1) The consent must be in writing;

(2) The consent must be recorded before a judge of a court of competent jurisdiction;

(3) The consent must be 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;

(4) The court must 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;

(5) Any consent cannot be given before or within ten days after birth of the Indian child, or it will not be valid.

Many States allow for consents to be executed in front of a notary public or in a lawyer's office. Such consents are not valid under the ICWA. The consent does not necessarily have to be executed in open court, especially where the parent or Indian custodian requests anonymity regarding a proposed placement. For an Indian child who is domiciled or who resides on an Indian reservation, or is a ward of a tribal court, the only court that is competent to receive the parent's or Indian custodian's consent is the tribal court, except in Public Law 280 States, where the State has concurrent jurisdiction with the tribal court. *See Doe v. Mann* (*Mann II*), 415 F.3d 1038 (9th Cir. 2005). See also FAQ 18.10, Adoption.

17.6 Under what circumstances may a parent withdraw consent?

The circumstances under which a parent may withdraw consent depend on whether the consent given was for a foster care placement, consent to voluntary termination of parental rights, or consent to an adoptive placement.

For a voluntary foster care placement under the ICWA, § 1913(b) allows the parent to withdraw his or her consent to such placement at any time during such placement.

For voluntary consent to termination of parental rights, the parent under § 1913(c) may withdraw his or her consent for any reason at any time prior to the entry of a final decree of termination of parental rights. The time between when the consent is given and a final decree of termination of parental rights is entered varies from state to state. In some States voluntary termination of parental rights is a separate proceeding and a decree terminating parental rights is entered soon after the consent is given. In other States parental rights are terminated at the same time an adoption decree is entered, and some time may pass between execution of a consent to termination of parental rights and entry of a decree terminating parental rights. Once a termination decree has been entered, the consent to termination can no longer be withdrawn. Some States have laws that provide that a consent to termination of parental rights becomes irrevocable when executed according to specific procedures. Such consents are preempted by the ICWA, and the parent of an Indian child can still withdraw their consent to termination up to the time a decree terminating parental rights is "entered" by a court. *Quinn v. Walters*, 845 P.2d 206 (Or. Ct. App. 1993), *rev'd on other grounds*, 881 P.2d 795 (Or. 1994).

In some states, where parental rights are not terminated in a separate proceeding, a parent may execute a consent to adoptive placement of an Indian child. Such consents are typically executed in favor of specific adoptive parents, or to an adoptive agency. Under the ICWA, the parent of an Indian child may withdraw such adoptive consent at any time for any reason up to the time the final decree of adoption is entered by a court. If a parent who has executed a consent to adoptive placement has their parental rights terminated before the adoptive placement is finalized and the specified adoptive

placement is not consummated, the weight of opinion is that the parent no longer has the legal right to withdraw their consent to adoptive placement because they are no longer a parent of the Indian child under the law. The Idaho Supreme Court in *In re Baby Boy Doe* (*Baby Boy Doe II*), 902 P.2d 477 (Idaho 1995), held that when a parent executed a consent to adoptive placement of an Indian child, that consent and any termination of parental rights was "conditional," and the consent could be withdrawn under the ICWA if the child were not going to be placed in the adoptive placement specified by the parent.

17.7 Under what circumstances may a voluntary adoption become invalidated?

Under most state laws, an adoption decree cannot be invalidated once it is finalized, or can be invalidated only in extremely limited circumstances. The ICWA provides slightly broader grounds for invalidation of an adoption decree once finalized. A parent or Indian custodian may withdraw a consent to adoption after the entry of a final decree of adoption if it petitions the court and proves that the consent was obtained through fraud or duress. There is a two year limit under § 1913(d) for an Indian parent to invalidate an adoption decree for these reasons, unless otherwise permitted under State law.

Section 1914 of the ICWA mandates the invalidation of any state court proceeding that violates the enumerated provisions of the ICWA, including violation of the voluntary consent provisions of § 1913. No statute of limitations is provided by § 1914. The United States Supreme Court invalidated the adoption of an Indian child that had been final for many years when it determined that the state court was without jurisdiction to grant the adoption to begin with. *Miss. Band of Choctaw Indians v. Holyfield*, 490 U.S. 30 (1989). However, the Alaska Supreme Court held that the State of Alaska's one year statute of limitations applied to further limit the time under which an adoption decree can be invalidated under the ICWA for failure to comply with the Act's consent requirements. *In re T.N.F.*, 781 P.2d 973 (Alaska 1989).

17.8 Who can intervene/participate in a voluntary process?

The ICWA provides at § 1911(c) that the Indian child's tribe has a right to intervene in any foster care placement or termination of parental rights proceeding, including voluntary proceedings. A number of state courts have held that Indian tribes also have a right to intervene in voluntary proceedings involving an Indian child under state court rules governing intervention of interested parties, even where intervention is not required by the ICWA. *See, e.g., In re J.R.S.*, 690 P.2d 10 (Alaska 1984). Most courts have applied the policies of the ICWA to conclude that Indian tribes are clearly interested parties with regard to the custody of tribal children, justifying tribal intervention.

The Montana Supreme Court held in *In re M.E.M.*, 725 P.2d 212 (Mont. 1986), that the aunt of an Indian child who had asked for custody of her nephew was entitled to participate in a placement proceeding involving that Indian child.

An unwed father is entitled to intervene and participate in a voluntary proceeding after he has established or acknowledged paternity pursuant to the ICWA. *See In re Child of Indian Heritage* (*Indian Child II*), 543 A.2d 925 (N.J. 1988); *In re Baby Boy Doe* (*Baby Boy Doe I*), 849 P.2d 925 (Idaho 1993).

17.9 What happens to the child when consent is withdrawn? Or placement dismissed?

When the parent or custodian of an Indian child withdraws his or her consent to voluntary foster care placement of the child, "the child shall be returned to the parent or Indian custodian." 25 U.S.C. § 1913(b).

When the parents of an Indian child withdraw their consent to termination of parental rights (before a final court decree terminating their parental rights is entered) or withdraw their consent to adoptive placement (before a final court decree of adoption is entered), "the child shall be returned to the parent."

Despite this language, an Indian child is not always returned to the parent or Indian custodian when consent to foster placement, termination of parental rights, or adoption is withdrawn. For example, if a state social services agency determines that it would be dangerous to return an Indian child to his or her parents after consent to foster care placement is withdrawn, the State may initiate an involuntary proceeding pursuant to the ICWA and ask that custody of the child be legally removed from the parents. The same option can be exercised when consent to termination of parental rights or consent to adoptive placement is withdrawn.

In some cases, the person or family who has voluntary placement of an Indian child does not want to return the child after the parents have withdrawn consent. Section 1920 of the ICWA states that where

a petitioner in a state court Indian child custody proceeding has improperly retained custody of an Indian child after a visit or temporary relinquishment of custody, the court shall decline jurisdiction over the proceeding and will forthwith return the child to his or her parent or Indian custodian. The sole exception to this requirement is if returning the child to his or her parent or Indian custodian would subject the child to a substantial and immediate danger or threat of such danger. Legislative history to the ICWA states that the person or family that is improperly refusing to return custody of the Indian child to his or her parents is not permitted to make the showing that returning the child to the parents would be dangerous, establishing a "clean hands" doctrine of custody. H.R. REP. NO. 95-1386, at 25 (1978).

17.10 Can an "on-reservation" parent place his or her child for adoption in a state court, and bypass tribal court?

No. The ICWA is in large part a jurisdictional law that confirmed pre-existing United States Supreme Court rulings. Where an Indian child is "domiciled" or resides on an Indian reservation, the only court with jurisdiction over that child is the tribal court. The tribal court has exclusive jurisdiction over the child. For example, the only court that can entertain a parental consent to foster care placement or termination of parental rights to an Indian child who is domiciled or resides on an Indian reservation is the tribal court. The United States Supreme Court ruled in *Mississippi Band of Choctaw Indians v. Holyfield*, 490 U.S. 30 (1989), that domicile of an Indian child under the ICWA is to be determined according to federal common law.

There is an exception to this rule in Public Law 280 states. The exclusive jurisdiction provision of the ICWA at § 1911(a) provides an exception where jurisdiction is otherwise vested in a state pursuant to Public Law 280. In *Doe v. Mann* (*Mann II*), 415 F.3d 1038 (9th Cir. 2005), the Ninth Circuit Court of Appeals held that Public Law 280 vests those states where Public Law 280 applies with concurrent jurisdiction over ICWA proceedings. In a Public Law 280 state, therefore, a parent residing on a reservation can exercise a choice between tribal and state court when deciding where to place their child for adoption, unless the tribe has reassumed exclusive jurisdiction under § 1918 of the ICWA.

17.11 What if the parent or tribe disagrees on the voluntary placement?

If one parent consents to voluntary placement of an Indian child and the other parent disagrees with that placement, the proceeding is voluntary as to the consenting parent and an involuntary ICWA proceeding as to the non-consenting parent. If an ICWA involuntary proceeding is not commenced and the ICWA burden of proof is not met, the non-consenting parent is entitled to custody of the Indian child. *In re S.B.R.*, 719 P.2d 154 (Wash. Ct. App. 1986).

If the parents and the Indian tribe disagree about the voluntary placement of an Indian child, the Indian tribe can intervene and participate in the voluntary proceeding, advocating that the placement preferences of the ICWA be followed or its own conforming alternative placement preferences. The tribe has less legal protection, however, than when it advocates that other provisions of the ICWA have not been followed, because the invalidation section of the ICWA at § 1914 does not require invalidation of state actions that violate the placement section of the ICWA. The Tribe therefore may not be able under the ICWA to overturn a decision to place an Indian child in violation of the placement preferences of the ICWA. The Tribe can attempt to transfer the proceeding to tribal court pursuant to § 1911(b), but if the parents disagree with the Tribe's placement choice and participation, they are likely to object to the transfer request.

If the parents disagree among themselves about the placement of the Indian child, or if the Indian tribe disagrees with the parents about their choice of placement, the parents may withdraw their consent and reassume custody of the child. This action cannot be successfully opposed unless it can be shown that it would be dangerous to return custody to the consenting parent. In *In re Baby Boy Doe* (*Baby Boy Doe II*), 902 P.2d 477 (Idaho 1995), the Idaho Supreme Court held that the mother's desire that specific adoptive parents adopt her child was sufficient justification to override the Tribe's wishes as to placement.

17.12 Does the Interstate Compact for the Placement of Children apply in voluntary procedures?

Yes. The Interstate Compact for the Placement of Children (ICPC) does not directly apply to Indian tribes. The ICPC generally applies whenever an Indian child is being placed across state boundaries,

whether the proceeding is voluntary or involuntary. It therefore applies when an Indian child is being placed from a reservation to an off-reservation placement in another State. It applies when a child is being moved from one State to another State. The ICPC may not apply when an Indian child is being moved to another tribal placement in another State. See also FAQ 19.14, Application of Other Federal Laws.

17.13 Do placement preferences apply in voluntary procedures even if the tribe does not intervene?

Yes. Application of the ICWA is not dependent upon participation of the Indian tribe. The placement preferences apply in all ICWA proceedings, unless good cause to not follow those preferences is determined. The United States Supreme Court called the placement preference section of the ICWA the "most important substantive requirement" of the ICWA. *Miss. Band of Choctaw Indians v. Holyfield*, 490 U.S. 30 (1989). Advocacy for following the placement preferences of the ICWA is of course not likely to be as vigorous if the tribe does not participate in the proceeding, however.

17.14 Are active efforts required in voluntary proceedings?

The requirement of active efforts under the ICWA appears in § 1912, which generally applies to involuntary proceedings. Nevertheless, there are several situations in which active efforts to keep the Indian family together could be an issue in voluntary proceedings, as follows:

(1) In some cases, a parent may voluntarily agree to termination of parental rights in an involuntary proceeding to avoid the burden of going to trial. While the case law treats termination in this situation as a voluntary termination proceeding, active efforts must have been made and must continue to be made up to the time the voluntary termination of parental rights decree is entered.

(2) In some voluntary proceedings, the proceeding is voluntary as to one parent (the consenting parent) and involuntary as to the other parent (the non-consenting parent), such as in a proposed step-parent adoption where the non-custodial parent does not agree to the adoption. In such case, active efforts must be provided to the non-consenting parent and the petitioner(s) must meet the ICWA standard of proof before the non-custodial parent's parental rights can be terminated.

(3) In a purely voluntary proceeding, where both parents are consenting to placement or to termination of parental rights, an argument can be made that active efforts should be provided to the parents that would remedy the conditions (poverty, drug use, etc.) that have led the parents to agree to give up their children, before the parents are allowed to consent to placement or to termination of parental rights. *But see In re B.R.T. v. Executive Dir. of Soc. Servs. Bd.*, 391 N.W.2d 594 (N.D. 1986).

**** 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

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

Circuit Courts of Appeal
Doe v. Mann (*Mann II*), 415 F.3d 1038 (9th Cir. 2005)
Navajo Nation v. Norris, 331 F.3d 1041 (9th Cir. 2003)

District Courts
Navajo Nation v. Superior Court, 47 F. Supp. 2d 1233 (E.D. Wash. 1999)

STATE CASES

Alaska
A.B.M. v. M.H., 651 P.2d 1170 (Alaska 1982)
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)
Harvick v. Harvick, 828 P.2d 769 (Alaska 1992)
In re J.R.S., 690 P.2d 10 (Alaska 1984)
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In re T.N.F., 781 P.2d 973 (Alaska 1989)

California
In re Baby Girl A., 282 Cal. Rptr. 105 (Ct. App. 1991) (certified for partial publication)
In re Junious M., 193 Cal. Rptr. 40 (Ct. App. 1983) (certified for partial publication)

Idaho
In re Baby Boy Doe (*Baby Boy Doe II*), 902 P.2d 477 (Idaho 1995)
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Indiana
In re T.R.M., 525 N.E.2d 298 (Ind. 1988)

Iowa
In re H.N.B., 619 N.W.2d 340 (Iowa 2000)

Kansas
In re B.G.J. (*B.G.J. I*), 111 P.3d 651 (Kan. Ct. App. 2005)

Michigan
In re Kiogima, 472 N.W.2d 13 (Mich. Ct. App. 1991)

Missouri
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Montana
In re Baby Girl Doe, 865 P.2d 1090 (Mont. 1993)
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North Dakota
B.R.T. v. Executive Dir. of Soc. Servs. Bd., 391 N.W.2d 594 (N.D. 1986)

Oklahoma
In re Baby Boy L., 2004 OK 93, 103 P.3d 1099

Oregon
Quinn v. Walters (*Quinn II*), 881 P.2d 795 (Or. 1994)
Quinn v. Walters (*Quinn I*), 845 P.2d 206 (Or. Ct. App. 1993)

South Dakota
In re J.J., 454 N.W.2d 317 (S.D. 1990)

Tennessee
In re Morgan, No. 02A01-9608-CH-00206, 1997 WL 716880 (Tenn. Ct. App. 1997)

Washington
In re S.B.R., 719 P.2d 154 (Wash. Ct. App. 1986)