
**EMERGENCY
REMOVAL OF AN
INDIAN CHILD**

If an Indian child is in danger of imminent physical damage or harm, the Michigan Department of Health and Human Services (MDHHS) must provide emergency intervention to ensure the child's safety, including emergency placement.

Note: Active efforts to prevent removal must be provided and documented in non-emergency situations; see NAA 240, Non-Emergency Placement.

**Case Conference
or Family Team
Meeting (FTM)**

A case conference or Family Team Meeting (FTM) must be held within **two** working days of an emergency placement. The caseworker must invite the appropriate tribal or Indian representatives. All efforts must be documented by the caseworker in social work contacts.

**TERMINATION OF
EMERGENCY
PLACEMENT**

MDHHS must carefully evaluate the need for an emergency placement. The emergency removal or placement must end immediately when no longer necessary to prevent imminent physical damage or harm to the Indian child. A child custody proceeding must be initiated immediately to transfer the Indian child to the jurisdiction of the appropriate Indian tribe, or restore the Indian child to the parent or Indian custodian, if appropriate; see NAA 315 Transfer to Tribal Agency.

The emergency placement must not exceed 30 calendar days without a determination by the court to commit the child.

Continued emergency placement of an Indian child must be supported by clear and convincing evidence. There must be testimony from at least one qualified expert witness that custody of the Indian child by the parent or Indian custodian is likely to result in imminent physical damage or harm to the Indian child. MDHHS must document the efforts made to place the Indian child using the placement priorities during the emergency placement period; see also NAA 215, Placement Priorities for Indian Child(ren).

Note: If an Indian child is charged with a status offense, the Indian child must not be removed from a parent or Indian custodian unless the removal is to prevent imminent physical damage or harm to the Indian child; see also NAA 500, Juvenile Justice for Indian Child(ren).

Qualified Expert Witness (QEW)

The Michigan Indian Family Preservation Act (MIFPA), MCL 712B.17(1)(a-b), has defined a QEW as the following:

(a) A member of the Indian child's tribe, or witness approved by the Indian child's tribe, who is recognized by the tribal community as knowledgeable in tribal customs and how the tribal customs pertain to family organization and child-rearing practices.

(b) A person with knowledge, skill, experience, training, or education and who can speak to the Indian child's tribe and its customs and how the tribal customs pertain to family organization and child rearing practices.

Caseworkers must contact the Indian child's tribe to obtain a QEW recommendation when a child custody proceeding is imminent or expected.

Caseworkers and legal representation for department cases must assist the QEW with preparation for the court hearing (For example: Provide sample questions that may be asked of the QEW in the hearing, meet to discuss the case, give overview of court building & parking accommodations, etc...); see State Court Administrative Office Qualified Expert Witness Testimony Training at http://courts.mi.gov/Administration/SCAO/OfficesPrograms/CWS/ChildWelfareServicesTraining/CWS%20Training%20Materials/7-CWS82213_SeriousDamageStandardandQEW.pdf and Native American Affairs website for additional QEW resources at www.michigan.gov/americanindians.

**Emergency-
Removal Trauma**

See the CPS Field Guide (DHS Pub 108), Best Practices When Removing Children section for more information on reducing trauma to a child during a removal.

LEGAL BASIS

Indian Child Welfare Act, 25 USC 1901 et seq.

Michigan Indian Family Preservation Act, MCL 712B. 1 - 41.