
NOTICE

In any child custody proceeding, that an Indian child is involved, the DHS-120, American Indian/Alaska Native (AI/AN) Child Case Notification form, and MDHHS-5598, American Indian/Alaska Native (AI/AN) Child Tribal Enrollment/Eligibility Verification form; and all other required notice attachments (petition, mailing recipient contact information, etc.) must be sent **by registered mail with return receipt** for every hearing to **all** of the following (25 CFR 23.111):

- Parent(s).
- Indian custodian(s) (if any).
- Tribe(s) [Addressed to the [ICWA Designated Tribal Agent for Service of Notice](#) identified per Federal Register (81 FR 10887) and [BIA ICWA Final Rule 25 CFR 23](#)], when known or upon receipt of verification from the Midwest Bureau of Indian Affairs of the Indian ancestry of that tribe.
- Midwest Bureau of Indian Affairs (as designated for Michigan by the Secretary of the Interior); for all court hearings or if specific tribe is undetermined and/or multiple tribes are noticed.
- Bureau of Indian Affairs Regional Office specific to the tribe/state; for all court hearings or if tribe is not located in the Midwest Bureau of Indian Affairs region.
- If a specific tribe is undetermined, notification must also be sent [Addressed to the ICWA Designated Tribal Agent for Service of Notice per Federal Register (81 FR 10887)] to:
 - Tribe(s) located in the county where the offense against the child occurred, in which the offense committed by the juvenile occurred, **and** in which the minor is physically present; **or**
 - The tribe(s) located in the county the incident occurred and in which the minor is physically present.
- The parent(s) or Indian custodian(s) and the child's tribe or Secretary of the Interior must receive the notice **10 calendar days before** the date of the hearing. A copy of the DHS-120, MDHHS 5598, other required notice attachments, and return receipt must be filed in the Indian child's case record and court

of jurisdiction. Failure to complete proper notice may jeopardize and nullify the court proceedings.

Non-respondent - Tribal Notice

If a tribe does not respond to the DHS-120 and required notice attachments (MDHHS-5598, petition, mailing recipient contact list, etc. or subsequent follow up phone, email, in-person, and/or faxed inquiries regarding a court proceeding with the ICWA Designated Tribal Agent at the child's tribe), caseworkers must document active efforts and due-diligence in collaboration attempts and implement ICWA/MIFPA requirements until a court makes a finding; see [NAA 200, Identifying an Indian Child\(ren\), Non-Respondent - Tribal Enrollment/Eligibility Verification](#), and 25 CFR 23.111.

ICWA/MIFPA Child Custody Proceedings

Initiate a child custody proceeding/petition for:

- Children's Protective Services (CPS).
- Foster Care placement.
 - Out of home placement.
- Interstate compact for the placement of children.
- New dependency under probate code (Human Trafficking).
- Safe Delivery of Newborns Law.
- Ongoing Foster Care placement.
- Guardianship or Limited Guardianship placement (Estates and Protected Individuals Code[EPIC]).
- Juvenile Guardianship placement.
- Pre-adoption and Adoption placement.
- Juvenile Justice placement (status offense).

And, if:

- The child is a member or eligible for membership or citizenship in a U.S. federally recognized Indian tribe (Indian Child Welfare Act, 25 USC 1903(4) and Michigan Indian Family Preservation Act MCL 712B. 1 - 41).

TIMEFRAMES

Within **three** business days of assignment in cases where the department initiates a child custody proceeding/petition in court, caseworkers must make thorough efforts to identify any Indian child(ren); see [NAA 200, Identification of Indian Child\(ren\)](#).

Obtaining the involvement of the tribe or an Indian organization must occur at the earliest point possible.

TRIBAL INTERVENTION

An Indian child's tribe has the legal right to intervene at any point in all child custody proceedings for an Indian child.

TRIBAL AFFILIATION

When there is reason to believe a child may be Indian, the caseworker must follow ICWA/MIFPA requirements, pending verification of the child's Indian status.

DOCUMENTATION Active Efforts and Petitions

Caseworkers must demonstrate active efforts were provided to prevent the breakup of an Indian family in all petitions; see Indian Child Welfare Case Management policy and the Active Efforts and Petition Writing Job Aid on the NAA website at www.michigan.gov/americanindians.

For court cases, involvement of the tribe and/or Indian organization must be actively sought and documented utilizing the DHS-120 form and uploaded into MiSACWIS ICWA details (MCL 712B.3).

Qualified Expert Witness Testimony

A qualified expert witness (QEW) is the petitioner's burden of proof and testifies in a removal, placement, and termination of parental rights proceeding pertaining to the child-rearing practices of the

child's tribe and whether or not continued custody of the child with respective parent(s) or Indian custodian(s) is likely to result in serious harm or damage to the child. Courts may also ask a QEW if active efforts were made as applicable to their expertise and case involvement.

Efforts must be made to assist the QEW with preparation for the court hearing; see the MDHHS QEW Job Aid on the NAA website.

Case Record

Caseworkers must upload all department forms for Indian child welfare case management (DHS-120 and MDHHS-5598 forms, etc.), the registered mail/return receipt, and any written correspondence received from the tribe to the court into the Michigan Statewide Automated Child Welfare Information System (MiSACWIS) in the client's case record.

Caseworkers must attach and send copies or originals (depending on court preference for original documentation) of all department forms for Indian child welfare case management (DHS-120 and MDHHS-5598 forms, etc.), the registered mail return receipt documentation, and any tribal correspondence received by the department to the court of jurisdiction.

Document the results of all attempts to gather each of the items above in the MiSACWIS reasonable efforts section of the service plan and report narrative; and all applicable ICWA details sections.

Note: All supporting documentation and completed forms are critical to ensure proper ICWA/MIFPA documentation.

LEGAL BASIS

Bureau of Indian Affairs (BIA) ICWA Final Rule, 25 CFR 23.

Child Protection Law, 1975 PA 238, as amended; MCL 722.621 et seq.

Indian Child Welfare Act, 25 USC 1901 et seq.

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