

Cherokee Nation Code Annotated
Title 10: Children
Chapter 1B: Indian Child Welfare Act
§ 40.2. Definitions
Cite as: 10 CNCA § 40.2

For the purposes of the Cherokee Nation Indian Child Welfare Act:

1. **"Child custody proceeding"** means:

a. **"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;

b. **"Termination of parental rights"** which shall mean any action resulting in the termination of the parent-child relationship;

c. **"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

d. **"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.

2. **"Custodian"** means any Indian person who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody and control has been transferred by the parent of such child.

3. **"Indian"** means a person who is either:

- a. a member of an Indian tribe; or
- b. eligible for membership in an Indian tribe.

4. **"Indian child"** means any unmarried or unemancipated person who is under the age of eighteen (18) and is either:

- a. a member of an Indian tribe; or
- b. eligible for membership in an Indian tribe.

5. **"Indian-operated institution"** means a residential care facility, group home or crisis foster care facility operated under a governing body or Board of Directors consisting of a minimum fifty percent (50%) whose board members are members of a federally-recognized Indian tribe.

6. **"Indian tribe"** means 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 of the Interior because of their status as Indians.

7. **"Involuntary custody proceeding"** means any action removing an Indian child from its parent or custodian for temporary placement in a foster home or institution or the home of a guardian or conservator where the parent or custodian cannot have the child returned upon demand, but where parental rights have not been terminated.

Historical Data

Amended LA 26–07, eff. June 15, 2007; LA 24–12, eff. July 24, 2012.