

Cherokee Nation Code Annotated

Title 10: Children

Chapter 1B: Indian Child Welfare Act

§ 40.3. Application of act—Exemptions—Determination of Indian status

Cite as: 10 CNCA § 40.3

A. The Cherokee Nation Indian Child Welfare Act applies to all child custody proceedings involving any Indian child who is subject to the jurisdiction of Cherokee Nation under federal, state or tribal law, except the following:

1. A child custody proceeding arising from a divorce proceeding; or
2. A child custody proceeding arising from an adjudication of delinquency, unless there has been a request for termination of parental rights.

B. The Cherokee Nation Indian Child Welfare Act applies to a child who is a member of an Indian tribe or who is eligible for membership in an Indian tribe.

C. The Court shall seek a determination of the Indian status of the child in accordance with the preceding standard in the following circumstances:

1. The Court has been informed by an interested party, an officer of the Court, a tribe, an Indian organization or a public or private agency that the child is Indian; or
2. The child who is the subject of the proceeding gives the Court reason to believe he is an Indian child; or
3. The Court has reason to believe the residence or domicile of the child is a predominantly Indian community.

D. The Court shall seek verification of the Indian status of the child from the Indian tribe. A determination of membership by an Indian tribe shall be conclusive.

E. The determination of the Indian status of a child shall be made as soon as practicable in order to ensure compliance with the notice requirements of 10 CNCA § 40.5.

Historical Data

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