

DEFINITIONS RELATED TO TRIBES AND INDIAN CHILDREN
Wisconsin Department of Children and Families

“Adoptive placement” means the permanent placement of an Indian child for adoption.
[*Ref. s. 48.028(2)(a)*]

“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; and

(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. [*Ref. 25 USC 1903(1)*]

“Child custody proceeding” includes:

(1) Foster care placement, which shall mean any action removing an Indian child from his or her 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;

(2) Termination of parental rights, which shall mean any action resulting in the termination of the parent-child relationship;

(3) 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;

(4) Adoptive placement, which shall mean the permanent placement of an Indian child for adoption, including any action resulting in a final decree of adoption; and

(5) Other tribal placements made in accordance with the placement preferences of the Act, including the temporary or permanent placement of an Indian child in accordance with tribal children's codes and local tribal custom or tradition;

(6) The above terms shall not include a placement based upon an act which, if committed by an adult, would be deemed a crime in the jurisdiction where the act occurred or upon an award, in a divorce proceeding, of custody to one of the parents. [*Ref. 25 CFR 23.2*]

“Extended family member” means a person who is defined as a member of an Indian child’s extended family by the law or custom of the Indian child’s tribe or, in the absence of such a law or custom, a person who has attained the age of 18 years and who is the Indian child’s

grandparent, aunt, uncle, brother, sister, brother-in-law, sister-in-law, niece, nephew, first cousin, 2nd cousin, or stepparent. [Ref. s. 48.028(2)(am)]

“Extended family member” means a person who is defined as a member of an Indian juvenile’s extended family by the law or custom of the Indian juvenile’s tribe or, in the absence of such a law or custom, a person who has attained the age of 18 years and who is the Indian juvenile’s grandparent, aunt, uncle, brother, sister, brother-in-law, sister-in-law, niece, nephew, first cousin, 2nd cousin, or stepparent. [Ref. s. 938.028(2)(a)]

“Extended family member” shall be as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, shall be a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent. [Ref. 25 USC 1903(2)]

“Extended family member” shall be as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, shall be a person who has reached the age of 18 and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent. [Ref. 25 CFR 23.2]

“Fact-finding hearing” means a hearing to determine if the allegations in a petition under s. 48.13 or 48.133 or a petition to terminate parental rights are proved by clear and convincing evidence. In the case of a petition to terminate parental rights to an Indian child, “fact-finding hearing” means a hearing to determine if the allegations in the petition, other than the allegations under s. 48.42(1)(e) relating to serious emotional or physical damage, are proved by clear and convincing evidence and if the allegations under s. 48.42(1)(e) relating to serious emotional or physical damage are proved beyond a reasonable doubt as provided in s. 48.028(4)(e)1., unless partial summary judgment on the grounds for termination of parental rights is granted. [Ref. s. 48.31(1)]

“Former Indian custodian” means a person who was the Indian custodian of an Indian child before termination of parental rights to and adoption of the Indian child. [Ref. s. 48.028(2)(b)]

“Former parent” means a person who was the parent of an Indian child before termination of parental rights to and adoption of the Indian child. [Ref. s. 48.02(2)(c)]

“Indian” means any person who is a member of an Indian tribe or who is an Alaska native and a member of a regional corporation, as defined in 43 USC 1606. [Ref. s. 48.02(8d); s. 938.02(8d)]

“Indian” means any person who is a member of an Indian tribe, or who is an Alaska Native and a member of a Regional Corporation as defined in 1606 of title 43. [Ref. 25 USC 1903(3)]

“Indian” means any person who is a member of an Indian tribe, or who is an Alaska Native and a member of a Regional Corporation as defined in section 7 of the Alaska Native Claims Settlement Act, 43 U.S.C. 1606. [Ref. 25 CFR 23.2]

“Indian child” means any unmarried person who is under the age of 18 years and is affiliated with an Indian tribe in any of the following ways:

- (a) As a member of the Indian tribe.
- (b) As a person who is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe. *[Ref. s. 48.02(8g)]*

“Indian child” means any unmarried person who is under age eighteen and is either

- (a) a member of an Indian tribe or
- (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe. *[Ref. 25 USC 1903(4)]*

“Indian child” means any unmarried person who is under age 18 and is either a member of an Indian tribe, or is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe. *[Ref. 25 CFR 23.2]*

“Indian child custody proceeding” means a proceeding under s. 938.13(4), (6), (6m), or (7) that is governed by the federal Indian Child Welfare Act, 25 USC 1901 to 1963, in which an out-of-home care placement may occur. *[Ref. s. 938.028(2)(b)]*

“Indian child’s tribe” means one of the following:

- (a) The Indian tribe in which an Indian child is a member or eligible for membership.
- (b) In the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian tribe with which the Indian child has the more significant contacts. *[Ref. s. 48.02(8m)]*

“Indian child's tribe” means

- (a) the Indian tribe in which an Indian child is a member or eligible for membership or,
- (b) in the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian tribe with which the Indian child has the more significant contacts. *[Ref. 25 USC 1903(5)]*

“Indian child's tribe” means the Indian tribe in which an Indian child is a member or is eligible for membership or, in the case of an Indian child who is a member of or is eligible for membership in more than one tribe, the Indian tribe with which the Indian child has the more significant contacts, to be determined in accordance with the BIA's “Guidelines for State Courts--Indian Child Custody Proceedings.” *[Ref. 25 CFR 23.2]*

“Indian custodian” means an 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 the child. *[Ref. s. 48.02(8p)]*

“Indian custodian” means an Indian person who has legal custody under tribal law or custom or under state law of an Indian juvenile who is the subject of an Indian juvenile custody proceeding, as defined in s. 938.028(2)(b), or of an Indian juvenile in need of protection or services under s. 938.13(4), (6), (6m), or (7) who is the subject of a temporary

physical custody proceeding under s. 939.19 to 938.21 or to whom temporary physical care, custody, and control has been transferred by the parent of that juvenile. [Ref. s. 938.02(8p)]

“Indian 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. [Ref. 25 USC 1903(6)]

“Indian 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. [Ref. 25 CFR 23.2]

“Indian juvenile” means any unmarried person who is under the age of 18 years and is affiliated with an Indian tribe in any of the following ways:

- (a) As a member of the Indian tribe.
- (b) As a person who is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe. [Ref. s. 938.02(8g)]

“Indian juvenile custody proceeding” means a proceeding governed by the federal Indian Child Welfare Act, 25 USC 1901 to 1963, in which any of the following may occur:

1. An adoptive placement.
2. An out-of-home care placement.
3. A preadoptive placement.
4. A termination of parental rights, as defined in s. 48.40(2) to an Indian child. [Ref. s. 48.028(2)(d)]

“Indian juvenile’s tribe” means one of the following:

- (a) The Indian tribe in which an Indian juvenile is a member or eligible for membership.
- (b) In the case of an Indian juvenile who is a member of or eligible for membership in more than one tribe, the Indian tribe with which the Indian juvenile has the more significant contacts. [Ref. s. 938.02(8m)]

“Indian organization” means any group, association, partnership, corporation, or other legal entity owned or controlled by Indians, or a majority of whose members are Indians. [Ref. 25 USC 1903(7)]

“Indian tribe” means any Indian tribe, band, nation, or other organized group or community of Indians that is recognized as eligible for the services provided to Indians by the U.S. secretary of the interior because of Indian status, including any Alaska native village, as defined in 43 USC 1606(c). [Ref. s. 48.02(8r); s. 938.02(8r)]

“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 because of their status as Indians, including any Alaska Native village as defined in section 1602(c) of title 43. [Ref. 25 USC 1903(8)]

“Indian tribe” means any Indian tribe, band, nation, or other organized group or community of Indians federally recognized as eligible for the services provided to Indians by the

Secretary because of their status as Indians, including any Alaska Native village as defined in section 3 (c) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1602 (c). [Ref. 25 CFR 23.2]

“Indian unborn child” means an unborn child who, when born, may be eligible for affiliation with an Indian tribe in any of the following ways:

- (a) As a member of the Indian tribe.
- (b) As a person who is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe. [Ref. s. 48.981(1)(ct)]

“Off-reservation trust land” means land in this state that is held in trust by the federal government for the benefit of an Indian tribe or individual and that is located outside the boundaries of an Indian tribe’s reservation. [Ref. s. 938.02(12m)]

“Out-of-home care placement” means the removal of an Indian child from the home of his or her parent or Indian custodian for temporary placement in a foster home, treatment foster home, group home, residential care center for children and youth, or shelter care facility, in the home of a relative other than a parent, or in the home of a guardian, from which placement the parent or Indian custodian cannot have the child returned upon demand. “Out-of-home care placement” does not include an adoptive placement, a preadoptive placement, or holding an Indian child in custody under ss. 48.19 to 48.21. [Ref. s. 48.028(2)(e)]

“Out-of-home care placement” means the removal of an Indian juvenile from the home of his or her parent or Indian custodian for temporary placement in a foster home, treatment foster home, group home, residential care center for children and youth, or shelter care facility, in the home of a relative other than a parent, or in the home of a guardian, from which placement the parent or Indian custodian cannot have the child returned upon demand. “Out-of-home care placement” does not include holding an Indian juvenile in custody under ss. 938.19 to 938.21. [Ref. s. 938.028(2)(c)]

“Parent” means a biological parent, a husband who has consented to the artificial insemination of his wife under s. 891.40, or a parent by adoption. If the child is a nonmarital child who is not adopted or whose parents do not subsequently intermarry under s. 767.803, “parent” includes a person acknowledged under s. 767.805 or a substantially similar law of another state or adjudicated to be the biological father. “Parent” does not include any person whose parental rights have been terminated. For purposes of the application of s. 48.028 and the federal Indian Child Welfare Act, 25 USC 1901 to 1963, “parent” means a biological parent, an Indian husband who has consented to the artificial insemination of his wife under s. 891.40, or an Indian person who has lawfully adopted an Indian child, including an adoption under tribal law or custom, and includes, in the case of a nonmarital child who is not adopted or whose parents do not subsequently intermarry under s. 767.803, a person acknowledged under s. 767.805, a substantially similar law of another state, or tribal law or custom to be the biological father or a person adjudicated to be the biological father, but does not include any person whose parental rights have been terminated. [Ref. s. 48.02(13)]

“Parent” means a biological parent, a husband who has consented to the artificial insemination of his wife under s. 891.40, or a parent by adoption. If the juvenile is a nonmarital child who is not adopted or whose parents do not subsequently intermarry under s. 767.803, “parent” includes a person acknowledged under s. 767.805 or a substantially similar law of another state or adjudicated to be the biological father. “Parent” does not include any person whose parental rights have been terminated. For purposes of the application of s. 938.028 and the federal Indian Child Welfare Act, 25 USC 1901 to 1963, “parent” means a biological parent, an Indian husband who has consented to the artificial insemination of his wife under s. 891.40, or an Indian person who has lawfully adopted an Indian juvenile, including an adoption under tribal law or custom, and includes, in the case of a nonmarital child who is not adopted or whose parents do not subsequently intermarry under s. 767.803, a person acknowledged under s. 767.805, a substantially similar law of another state, or tribal law or custom to be the biological father or a person adjudicated to be the biological father, but does not include any person whose parental rights have been terminated. *[Ref. s. 938.02(13)]*

“Parent” means any biological parent or parents of an Indian child or any Indian person who has lawfully adopted an Indian child, including adoptions under tribal law or custom. It does not include the unwed father where paternity has not been acknowledged or established. *[Ref. 25 USC 1903(9)]*

“Parent” means the biological parent or parents of an Indian child or any Indian person who has lawfully adopted an Indian child, including adoptions under tribal law or custom. The term does not include the unwed father where paternity has not been acknowledged or established. *[Ref. 25 CFR 23.2]*

“Preadoptive placement” means the temporary placement of an Indian child in a foster home, treatment foster home, group home, or residential care center for children and youth, in the home of a relative other than a parent, or in the home of a guardian after a termination of parental rights but prior to or in lieu of an adoptive placement. *[Ref. s. 48.028(2)(f)]*

“Qualified expert witness” means a person who is any of the following:

1. A member of the Indian child’s [juvenile’s] tribe recognized by the Indian child’s [juvenile’s] tribal community as knowledgeable regarding the tribe’s customs relating to family organization or child-rearing practices.

2. A member of another tribe who is knowledgeable regarding the customs of the Indian child’s [juvenile’s] tribe relating to family organization or child-rearing practices.

3. A professional person having substantial education and experience in the person’s professional specialty and having substantial knowledge of the customs, traditions, and values of the Indian child’s [juvenile’s] tribe relating to family organization and child-rearing practices of the Indian child’s tribe.

4. A layperson have substantial experience in the delivery of juvenile and family services to Indians and substantial knowledge of the prevailing social and cultural standards and child-rearing practices of the Indian child’s tribe. *[Ref. s. 48.028(2)(g); s. 938.028(2)(d)]*

“Relative” means a parent, stepparent, brother, sister, stepbrother, stepsister, half brother, half sister, brother-in-law, sister-in-law, first cousin, 2nd cousin, nephew, niece, uncle, aunt,

stepuncle, steppaunt, or any person of a preceding generation as denoted by blood, marriage, or legal adoption, or the spouse of any person named in this subsection, even if the marriage is terminated by death or divorce. For purposes of the application of s. 48.028 [938.028] and the federal Indian Child Welfare Act, 25 USC 1901 to 1963, “relative” includes an extended family member, as defined in s. 48.028(2)(am) [938.028(2)(a)], whether by blood, marriage, or adoption, including adoption under tribal law or custom. [Ref. s. 48.02(15); 938.02(15)]

“Reservation” means Indian country, as defined in 18 USC 1511, or any land not covered under that section to which title is either held by the United States in trust for the benefit of an Indian tribe or individual or held by an Indian tribe or individual, subject to a restriction by the United States against alienation. [Ref. s. 48.028(2)(b)]

“Reservation,” except as otherwise provided in s. 938.028(2)(e), means land in this state within the boundaries of the reservation of a tribe. [Ref. s. 938.02(15c)]

“Reservation” means Indian country, as defined in 18 USC 1511, or any land not covered under that section to which title is either held by the United States in trust for the benefit of an Indian tribe or individual or held by an Indian tribe or individual, subject to a restriction by the United States against alienation.” [Ref. s. 938.02(e)]

“Reservation” means Indian country as defined in section 1151 of title 18 and any lands, not covered under such section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation. [Ref. 25 USC 1903(10)]

“Reservation” means Indian country as defined in 18 U.S.C. 1151 and any lands not covered under such section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation. [Ref. 25 CFR 23.2]

“State court” means any agent or agency of a state, including the District of Columbia or any territory or possession of the United States, or any political subdivision empowered by law to terminate parental rights or to make foster care placements, preadoptive placements, or adoptive placements. [Ref. 25 CFR 23.2]

“Tribal agent” means the person designated under 25 CFR 23.12 by an Indian tribe to receive notice of involuntary child custody proceedings under the federal Indian Child Welfare Act, 25 USC 1901 to 1963. [Ref. s. 48.981(1)(i)]

“Tribal court” means a court that has jurisdiction over juvenile custody proceedings, and that is either a court of Indian offenses or a court established and operated under the code or custom of an Indian tribe, or any other administrative body of an Indian tribe that is vested with authority over Indian juvenile custody proceedings. [Ref. s. 938.02(18j)]

“Tribal court” means a court that has jurisdiction over Indian child custody proceedings, and that is either a court of Indian offenses or a court established and operated under the code or custom of an Indian tribe, or any other administrative body of an Indian tribe that is vested with authority over Indian child custody proceedings. [Ref. s. 48.02(18j)]

“Tribal court” means a court with jurisdiction over child custody proceedings and which is either a Court of Indian Offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings. *[Ref. 25 USC 1903(12); 25 CFR 23.2]*

“Tribal government” means the federally recognized governing body of an Indian tribe. *[Ref. 25 CFR 23.2]*