

## **Notice Requirements of the Indian Child Welfare Act and the Michigan Indian Family Preservation Act**

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### **Notice--Who**

- MCL 712B.3(k):
  - "Indian child" means an unmarried person who is under the age of 18 and is either of the following:
    - (i) A member of an Indian tribe.
    - (ii) Eligible for membership in an Indian tribe as determined by that Indian tribe.
- Broader Definition than ICWA

## Notice--What

- ICWA
  - 25 U.S.C. 1912(a)
- MIFPA
  - MCL 712B.9
- Same Requirements: Notification of the pending proceeding and the right of the tribe to intervene, sent to the *tribe*, return receipt requested.

## Notice--When

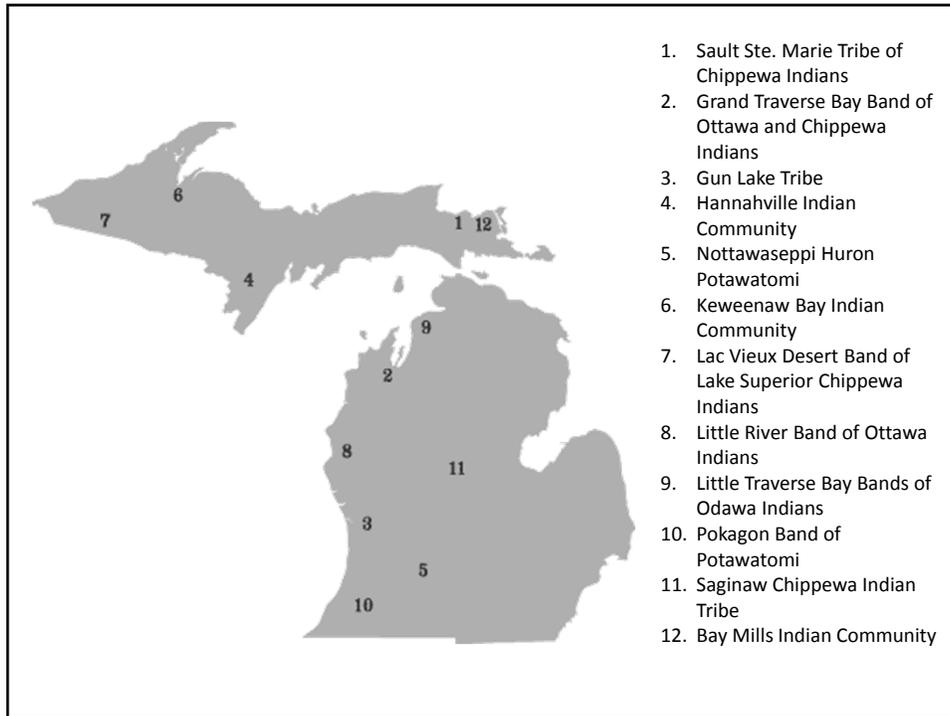
- MIFPA 712B.9(3):
  - In a child custody proceeding, if the court knows or has reason to know that an Indian child is involved, the petitioner shall notify the parent or Indian custodian *and* the Indian child's tribe.
- Broader application than ICWA

## Inquiry at Initial Contact

- MCL 712B.9(3):
  - The department shall actively seek to determine whether a child at initial contact is an Indian child.
- Because complete notice usually takes around 21 days, it is best practices to start the notice process immediately upon removal.

## Know or Reason to Know

- MCL 7.12B.9(4)
- (4) Circumstances under which a court, the department, or other party to a child custody proceeding has reason to believe a child involved in a child custody proceeding is an Indian include, but are not limited to, any of the following:
  - (a) Any party to the case, Indian tribe, Indian organization, or public or private agency informs the court that the child is an Indian child.
  - (b) Any public or state-licensed agency involved in child protection services or family support has discovered information that suggests that the child is an Indian child.
  - (c) The child who is the subject of the proceeding gives the court reason to believe he or she is an Indian child.
  - (d) The residence or the domicile of the child, his or her biological parents, or the Indian custodian is known by the court to be or is shown to be a predominantly Indian community.
  - (e) An officer of the court involved in the proceeding has knowledge that the child may be an Indian child.



<https://www.federalregister.gov/articles/2012/08/01/2012-18594/indian-child-welfare-act-designated-tribal-agents-for-service-of-notice>

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- Eastern Band of Cherokee Indians, Barbara Jones—Program Manager, Family Support Services, 508 Goose Creek Road, P.O. Box 507, Cherokee, North Carolina 28719,  
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- United Keetoowah Band of Cherokee Indians in Oklahoma, Joyce Fourkiller-Hawk, P.O. Box 746, Tahlequah, Oklahoma 74465,  
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**Additional MIFPA/ICWA videos are available at the following site:**

<http://webcast.you-niversity.com/youtools/companies/viewArchives.asp?affiliateId=128>

**Supporting documentation for all MIFPA/ICWA webcasts can be found in the “Index of Training Materials” at the following site:**

<http://courts.mi.gov/administration/scao/officesprograms/cws/childwelfareservicetraining/pages/default.aspx>

**The archive of the March 8, 2013 training “Michigan Indian Family Preservation Act: New Indian Child Welfare Legislation” is available at the following site:**

<http://webcast.you-niversity.com/youtools/companies/viewArchives.asp?affiliateId=133>