

NY Court Rule

- §205.51 Proceedings Involving Custody of a Native American Child
 - In any proceeding in which the custody of a child is to be determined, the petition shall set forth whether the child is a Native American child subject to the Indian Child Welfare Act of 1978 (25 U.S.C. § §1901-1963) and the Court shall proceed further, as appropriate, in accordance with the provisions of that Act.

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NY Court Rule

- §202.68 Proceedings Involving Custody of an Indian Child
 - In any proceeding in which the custody of a child is to be determined, the court, when it has reason to believe that the child is an Indian child within the meaning of the Indian Child Welfare Act of 1978 (92 St. 3069), shall require the verification of the child's status in accordance with that Act and, proceed further, as appropriate, in accordance with the provisions of that Act.

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Is this a State action that is covered by ICWA?

- Foster care placement under Art. 10
- Transfer between foster care placements
- PINS and child is being placed
- "Voluntary" placement under SSL
- Surrenders
- Termination of parental rights
- Pre-Adoptive placement
- Adoption-including private adoptions
- Custody to a non-parent

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The Key Questions

- Is this an ICWA child?
- Is this an ICWA action?
- What is the proper jurisdiction?
- Who needs to be noticed?
- What are the placement preferences?

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