The background features a dark blue gradient with intricate white and light blue circular patterns. On the left side, there is a large circular scale with numerical markings from 140 to 260 in increments of 10. Several smaller circles, some solid and some dashed, are scattered across the background, some containing arrows. The overall aesthetic is technical and modern.

WHEN ICWA APPLIES TO CUSTODY, PINS & PRIVATE ADOPTION PROCEEDINGS

CARRIE E. GARROW, CHIEF JUDGE, SAINT REGIS MOHAWK TRIBE
HEATHER LAFORME, NYS OFFICE FOR CHILDREN AND FAMILY SERVICES

PINS



18 or under who does not attend school, or behaves in a way that is dangerous or out of control, or often disobeys his or her parents, guardians or other authorities, may be found to be a Person In Need of Supervision or "PINS".



ICWA Applies



Why? Child cannot be returned upon demand

The background is a gradient from dark purple at the top to dark blue at the bottom, featuring a starry space pattern. On the right side, there are several technical diagrams, including a large circular gauge with numerical markings from 0 to 210 and a smaller circular diagram below it. On the left side, there are faint circular diagrams and arrows.

CLE Code

ICWA1978

CPS OPENS CASE BUT DOES NOT FILE PETITION

Prevention actions and/or custody issues/changes

ICWA Applies

Important to remember still need to do notification

Key – State/county is intervening



CHILD CUSTODY WITH NON- PARENT

ICWA 2016 Regulations - ICWA applies to intra-family disputes

If dispute meets definition of child custody proceeding and involves an Indian child.

Example – nonparent applies to court for guardianship of Indian child against wishes of parent

Example – custodial parent attempts to terminate the parental rights of noncustodial parent to commence a stepparent adoption

VOLUNTARY PROCEEDINGS

§ 1913 provides basic due process

Right to have consent explained by a judge in language parents understand

Invalid 10 days prior to or 10 days after birth

Withdraw consent to foster care at any time

Right to revoke consent any time prior to entry of final decree

If consent obtained through fraud or duress - 2 years to petition the court to vacate adoption

§ 1914 - parent and Tribe have right to invalidate any action that violates §1913

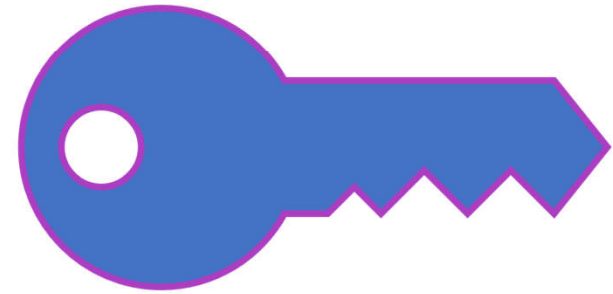
Notice only applies to involuntary - BUT

The background is a dark blue gradient with a starry space pattern. On the right side, there are several technical diagrams, including a large circular gauge with numerical markings from 0 to 210 and a smaller circular diagram below it. The text is centered in white.

CLE Code

Indian Child 1

NOTICE IS THE
KEY



WHOSE RESPONSIBILITY?

DSS if involved

Attorneys

Court – always ask and send notice

MORE
QUESTIONS?

