

232B.8 Return of custody — improper removal of child from custody — protection of rights of parent or Indian custodian.

1. If a final decree of adoption of an Indian child has been vacated or set aside or the adoptive parents voluntarily consent to the termination of their parental rights to the child, a biological parent or prior Indian custodian may petition for return of custody and the court shall grant the petition unless there is a showing, in a proceeding subject to the provisions of this chapter, that the return of custody is not in the best interest of the child.

2. If an Indian child is removed from a foster care home or institution for the purpose of further foster care, preadoptive, or adoptive placement, the placement shall be in accordance with the provisions of this chapter, except when an Indian child is being returned to the parent or Indian custodian from whose custody the child was originally removed.

3. If a petitioner in an Indian child custody proceeding before a state court has improperly removed the child from the custody of the parent or Indian custodian or has improperly retained custody after a visit or other temporary relinquishment of custody, the court shall decline jurisdiction over the petition and shall immediately return the child to the child's parent or Indian custodian unless returning the child to the parent or Indian custodian would subject the child to a substantial and immediate danger or threat of such danger.

4. If another state or federal law applicable to a child custody proceeding held under state or federal law provides a higher standard of protection to the rights of the parent or Indian custodian of an Indian child than the rights provided under this chapter, the court shall apply the higher standard.

2003 Acts, ch 153, §9