

232B.3 Definitions.

For the purposes of this chapter unless the context otherwise requires:

1. “*Adoptive placement*” means the permanent placement of an Indian child for adoption including, but not limited to, any action under chapter 232, 600, or 600A resulting in a final decree of adoption. “*Adoptive placement*” does not include a placement based upon an act by an Indian child 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 child’s parents.

2. “*Best interest of the child*” means the use of practices in accordance with the federal Indian Child Welfare Act, this chapter, and other applicable law, that are designed to prevent the Indian child’s voluntary or involuntary out-of-home placement, and whenever such placement is necessary or ordered, placing the child, to the greatest extent possible, in a foster home, adoptive placement, or other type of custodial placement that reflects the unique values of the child’s tribal culture and is best able to assist the child in establishing, developing, and maintaining a political, cultural, and social relationship with the Indian child’s tribe and tribal community.

3. “*Child custody proceeding*” means a voluntary or involuntary proceeding that may result in an Indian child’s adoptive placement, foster care placement, preadoptive placement, or termination of parental rights.

4. “*Foster care placement*” means the temporary placement of an Indian child in an individual or agency foster care placement or in the personal custody of a guardian or conservator prior to the termination of parental rights, from which the child cannot be returned upon demand to the custody of the parent or Indian custodian but there has not been a termination of parental rights. “*Foster care placement*” does not include a placement based upon an act by an Indian child 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 child’s parents.

5. “*Indian*” means a person who is a member of an Indian tribe, or is eligible for membership in an Indian tribe, or who is an Alaska native and a member of a regional corporation as defined in 43 U.S.C. § 1606.

6. “*Indian child*” or “*child*” means an unmarried Indian person who is under eighteen years of age or a child who is under eighteen years of age that an Indian tribe identifies as a child of the tribe’s community.

7. “*Indian child’s family*” or “*extended family member*” means an adult person who is an Indian child’s family member or extended family member under the law or custom of the Indian child’s tribe or, in absence of such law or custom, an adult person who has any of the following relationships with the Indian child:

- a. Parent.
- b. Sibling.
- c. Grandparent.
- d. Aunt or uncle.
- e. Cousin.
- f. Clan member.
- g. Band member.
- h. Brother-in-law.
- i. Sister-in-law.
- j. Niece.
- k. Nephew.
- l. Stepparent.

8. “*Indian child’s tribe*” means a tribe in which an Indian child is a member or eligible for membership.

9. “*Indian custodian*” means an Indian person who under tribal law, tribal custom, or state law, has legal or temporary physical custody of an Indian child.

10. “*Indian organization*” means any of the following entities that is owned or controlled by Indians, or a majority of the members are Indians:

- a. A group.
- b. An association.
- c. A partnership.

- d. A corporation.
- e. Other legal entity.

11. “*Indian tribe*” or “*tribe*” means an Indian tribe, band, nation, or other organized Indian group, or a community of Indians, including any Alaska native village as defined in 43 U.S.C. § 1602(c) recognized as eligible for services provided to Indians by the United States secretary of the interior because of the community members’ status as Indians.

12. “*Parent*” means a biological parent of an Indian child or a person who has lawfully adopted an Indian child, including adoptions made under tribal law or custom. “*Parent*” does not include an unwed father whose paternity has not been acknowledged or established. Except for purposes of the federal Indian Child Welfare Act as codified in 25 U.S.C. § 1913(b), (c), and (d), 1916, 1917, and 1951, “*parent*” does not include a person whose parental rights to that child have been terminated.

13. “*Preadoptive placement*” means the temporary placement of an Indian child in an individual or agency foster care placement after the termination of parental rights, but prior to or in lieu of an adoptive placement. “*Preadoptive placement*” does not include a placement based upon an act by an Indian child 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 child’s parents.

14. “*Reservation*” means Indian country as defined in 18 U.S.C. § 1151 or land that is not covered under that definition but the title to which is either held by the United States in trust for the benefit of an Indian tribe or Indian person or held by an Indian tribe or Indian person subject to a restriction by the United States against alienation.

15. “*Secretary of the interior*” means the secretary of the United States department of the interior.

16. “*Termination of parental rights*” means any action resulting in the termination of the parent-child relationship. “*Termination of parental rights*” does not include a placement based upon an act by an Indian child 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 child’s parents.

17. “*Tribal court*” means a court or body vested by an Indian tribe with jurisdiction over child custody proceedings, including but not limited to a federal court of Indian offenses, a court established and operated under the code or custom of an Indian tribe, or an administrative body of an Indian tribe vested with authority over child custody proceedings.

2003 Acts, ch 153, §4

Referred to in §232.7, 600.1, 600A.3