INDIAN CHILD WELFARE POLICIES AND PROCEDURES

10. Voluntary Relinquishment of Parental Rights

Original Date: January 2, 2024
Sunset Review Date: January 31, 2028
Approved by: Frank Ordway, Chief of Staff

Purpose

The purpose of this policy is to provide guidance when parents voluntarily offers to relinquish their parental rights for children placed in out-of-home care and there is reason to know the children are or may be Indian children.

Scope

This policy applies to caseworkers.

Laws

Chapter 13.38 RCW	Washington State Indian Child Welfare Act
Chapter 26.33 RCW	Adoption
25 U.S.C. § 190 -1923	Indian Child Welfare Act

Policy

When parents offer to voluntarily relinquish their parental rights and there is reason to know children are or may be Indian children, caseworkers must:

1. Make efforts to coordinate with any known tribes with whom the children are or may be a member with.
2. Complete the Voluntary Relinquishment of Parental Rights process in court before judicial officers.

Procedure

When parents offer to voluntarily relinquish their parental rights to children and there is reason to know the children are or may be Indian children, caseworkers must complete the following:

1. Follow applicable policies, including but not limited to:
    a. Child Welfare Voluntary Termination of Parental Rights
    b. Indian Child Welfare Act (ICWA) Notice to Tribes
2. Determine if the children are:
    a. Wards of a tribal court, immediately contact known tribes and the Assistant Attorney General (AAG) if a Washington State court has the authority to accept an Indian Child Welfare (ICW) voluntary relinquishment of parental rights. If:
        i. Accepted, proceed with the voluntary relinquishment in state court.
        ii. Not accepted, provide documentation to the tribes and transfer the case to tribal court.
    b. Not wards of a tribal court, complete the following:

DRAFT

        i. Invite known tribes to any shared planning meeting that may be held.
        ii. Collaborate with known tribes and:
            A. Determine with the tribe if an ICW voluntary relinquishment of parental rights is in the child's best interests.
            B. Follow the Chapter 20. Placement Preferences policy and determine if the potential adoptive placement, if known, is in alignment with ICWA placement preferences and the tribe's preference.
        iii. Consult with their supervisor and AAG before filing a termination of parental rights (TPR) petition if the tribe isn't in agreement with the voluntary relinquishment of parental rights, even if the tribe previously agreed to a TPR.
    c. Are at least ten days old. If they are
        i. Follow this policy.
        ii. Not, parents cannot relinquish their rights.
3. Verify that:
    a. Parents have signed the Consent by Indian Child's Parent for Termination of Parental Rights and or Adoption JU 03.0930 form after the children are at least ten days old.
    b. Parents have appeared personally before the court to sign the in-court declaration section of the Consent by Indian Child's Parent for Termination of Parental Rights and or Adoption JU 03.0930 form.
4. If a TPR petition has:
    c. Been filed, verify that the ICWA Notice has been sent to the tribes. If it wasn't sent:
        i. Collaborate with the Indian Child Welfare (ICW) Legal Unit and AAG.
        ii. Send the ICWA Notice Referral DCYF 09-103 form, per the ICWA Notice to Tribes policy.
    d. Not been filed, verify the ICWA Notice was sent to the tribes and filed with the court.
5. If an Indian child's tribe:
    a. Intervenes in a case and requests transfer, follow the Chapter 26. Transferring Cases to Tribal Court policy.
    b. Agrees to a TPRs or believe that a voluntary relinquishment is in the best interest of the children:
        i. Follow Chapter 20. Placement Preferences.
        ii. Obtain the parent's signature on the Consent by Indian Child's Parent for Termination of Parental Rights and or Adoption JU 03.0930 form.
        iii. Coordinate with the local AAG to:
            A. File a Voluntary Relinquishment of Parental Rights petition on the parent's behalf, if necessary.
            B. Follow Chapter 13. Reason to Know policy and request the court determine that the child is or is not an Indian child, if not already established.
6. Follow the Chapter 25. Impasse Procedures policy if there are disagreements with the tribes about whether ICW voluntary relinquishment of parental rights is appropriate, even if the tribe previously agreed to a TPR.
7. Inform the parents of their ability to withdraw consent prior to the issuance of a final court order terminating their parental rights.
8. Verify with the AAG that copies of the following documents were filed with the court:
    a. Indian Child Welfare Act Notice JU 03.0900 form and certified mail return receipts.

DRAFT

b. Tribal responses to the Indian Child Welfare Act Notice JU 03.0900, if any.
c. Notice and Summons/Order JU 03.0200 form.
d. Voluntary Relinquishment of Parental Rights Petition or Petition to Terminate Parental Rights JU 04.0100 form.

9. Follow the Child Welfare Documentation policy and:
   a. Upload a signed copy of the Consent by Indian Child's Parent for Termination of Parental Rights and for Adoption JU 03.0930 form in the legal section of the case file in FamLink.
   b. Document the following in FamLink case notes:
      i. Tribal inquiry and ICWA notice efforts.
      ii. Tribal collaboration on the ICW voluntary relinquishment of parental rights.
      iii. ICWA placement preferences efforts.
      iv. Information provided to the parents about their ability to withdraw consent prior to the issuance of a final court order terminating their parental rights.

Forms

Consent by Indian Child's Parent for Termination of Parental Rights and for Adoption (CON) RJU 03.0930
ICWA Notice Referral DCYF 09-103
Indian Child Welfare Act Notice JU 03.0900
Notice and Summons/Order JU 03.0200.
Voluntary Relinquishment of Parental Rights Petition or Petition to Terminate Parental Rights JU 04.0100

Resources

25 CFR Part 23 Bureau of Indian Affairs ICWA Proceedings
Child Welfare Dependency Petition Process policy
Child Welfare Shared Planning Meeting policy
Child Welfare Voluntary Termination of Parental Rights policy
Chapter 7. Dependency Cases policy
Chapter 13. Reason to Know policy
Chapter 14. Tribal Inquiry policy
Chapter 20. Placement Preferences policy
Chapter 25. Impasse Procedures policy

DRAFT