



ICWA MIFPA MAAFPCWDA

HOW ARE THEY DIFFERENT?

	ICWA	MIFPA	MAAFPCWDA
Purpose	<p>Recognizes inherent rights of political status and protects the best interests of Tribal Nations, American Indian and Alaska Native children and families, emphasizing cultural integrity, family unity and Tribal connections. Tribes determine eligibility and/or membership.</p> <p>Child Welfare Action: Recognizes Tribal sovereignty by ensuring all decisions uphold Tribal engagement, cultural integrity, and family unity.</p>	<p>Strengthens ICWA and provides for higher standards within Minnesota, enhancing protections for American Indian and Alaska Native children and their families.</p> <p>Child Welfare Action: Protects the long-term interests, as defined by Tribes, of American Indian and Alaska Native children, and their families, as defined by Tribal law and customs.</p>	<p>Prevents unnecessary out of home placements and family disruptions to populations that have been disproportionately affected by the child welfare system through specific statutory requirements</p> <p>Child Welfare Action: Integrate culturally relevant practices and engage with community resources.</p>
Scope & Applicability	<p>Federal law provides minimal standards applicable across the U.S. for American Indian and Alaska Native children in state child welfare proceedings.</p> <p>Child Welfare Action: Apply ICWA requirements in all relevant cases involving American Indian and Alaska Native children.</p>	<p>State law specific to Minnesota, strengthening ICWA protections and applying to American Indian and Alaska Native children in Minnesota.</p> <p>Child Welfare Action: Implement both ICWA and Minnesota-specific provisions in applicable cases.</p>	<p>State law applicable in Minnesota, focusing on African American and other disproportionately represented children.</p> <p>Child Welfare Action: Follow MAAFPCWDA guidelines for cases involving these populations in Minnesota.</p>

Indian Child Welfare Act (ICWA)

Minnesota Indian Family Preservation Act (MIFPA)

Minnesota African American Family Preservation and Child Welfare Disproportionality Act (MAAFPCWDA)

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Active Efforts Requirements	<p>Requires “active efforts,” as defined under ICWA, to prevent removal and support reunification, requiring higher agency efforts to engage Tribal and family involvement.</p> <p>Child Welfare Action: Engage in rigorous, proactive, intensive efforts to support families, including involving decisions made with child’s Tribe(s), child and family if placement is absolutely necessary. Required higher burden of proof for removal for placement agency.</p>	<p>Strengthens ICWA and provides a higher standard with specific actions to support whether active efforts are met.</p> <p>Child Welfare Action: Apply active efforts with attention to both ICWA and MIFPA requirements, meeting the specific needs and culturally appropriate services defined by the child’s Tribe(s), family and child.</p>	<p>Requires “active efforts” to prevent removal and support reunification, emphasizing engagement with parents, relatives, and families. Active efforts include cultural considerations specific to African American and other disproportionately represented children.</p> <p>Child Welfare Action: Implement active efforts, as defined under MAAFPCWDA, tailored to the cultural needs of African American and other disproportionately represented families.</p>
Placement Preferences	<p>Efforts to follow specific order of placement required through Tribal-established order, extended family, and other American Indian and Alaska Native families. Qualified expert witness (QEW) needed for placement of an Indian child.</p> <p>Child Welfare Action: Prioritize the least restrictive placement and engagement with the child’s Tribe to establish best and most culturally appropriate placement.</p>	<p>Follows ICWA placement preferences with state-specific higher standards such as placement with non-custodial parent. Qualified expert witness (QEW) needed for placement of an Indian child.</p> <p>Child Welfare Action: Adhere to ICWA placement preferences with additional state-specific criteria for Minnesota.</p>	<p>Prioritizes placement with relatives and underscores importance for culturally appropriate settings.</p> <p>Child Welfare Action: Follow active effort requirements to identify relatives.</p>
Judicial Oversight	<p>Courts must ensure all provisions are met by child placing agencies including active efforts made before removal and continued placement of American Indian and Alaska Native children. Qualified expert witness is needed.</p> <p>Child Welfare Action: Prepare thorough documentation showing efforts made to meet minimum federal requirements and protections for American Indian/ Alaska Native children and families.</p>	<p>Provides federal and state-specific guidelines to enhance judicial oversight of ICWA/MIFPA cases. Qualified expert witness is needed.</p> <p>Child Welfare Action: Ensure compliance with both ICWA and Minnesota-specific judicial oversight requirements.</p>	<p>Courts must ensure active efforts are made before removal or continued placement of African American and other disproportionately represented children.</p> <p>Child Welfare Action: Counties document and demonstrate active efforts clearly to the court as part of the process.</p>

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Protection Against Termination of Parental Rights	<p>Requires clear and convincing evidence of harm before terminating parental rights.</p> <p>Child Welfare Action: Gather and present standard of evidence with clear and convincing evidence beyond a reasonable doubt including testimony of one or more qualified expert witnesses if termination of parental rights is pursued.</p>	<p>Aligns with ICWA and provides additional state-specific protections.</p> <p>Child Welfare Action: Follow ICWA standards with additional Minnesota-specific protections when considering termination, such as agency’s due diligence in following the order or obtaining a qualified expert witness to support termination.</p>	<p>Sets guidelines to prevent unwarranted termination of parental rights, with emphasis on disproportionality considerations.</p> <p>Child Welfare Action: Apply guidelines carefully to avoid unwarranted terminations, considering disproportionality issues.</p>
Advisory and Oversight Bodies	<p>No specific advisory body; Tribal governments play a key role.</p> <p>Child Welfare Action: Work closely, include and continuous consultation with child’s Tribal representatives and respect to Tribal oversight role.</p>	<p>Established through Minn. Stat. 260.835 Indian Child Welfare Advisory Council and the Tribal-State Agreement (TSA).</p> <p>Child Welfare Action: Eleven MN Tribal Nations collaboratively with the state to help formulate policies and procedures relating to Indian children and families.</p>	<p>There are advisory councils but no statutory authorized oversight.</p> <p>Child Welfare Action: Engage with the Advisory Council for guidance and feedback on cases involving African American children.</p>
Data Collection & Reporting	<p>Emphasizes compliance but does not mandate detailed data collection.</p> <p>Child Welfare Action: Ensure compliance with ICWA but be prepared for more detailed data collection if required such as AFCARS data collections on ICWA eligible children.</p>	<p>Enhances data collection and reporting requirements within Minnesota.</p> <p>Child Welfare Action: Follow state-specific guidelines for data collection and reporting related to ICWA/MIFPA cases.</p>	<p>Mandates detailed data collection, annual reviews, and corrective actions for disparities.</p> <p>Child Welfare Action: Implement detailed data collection practices and address any identified disparities.</p>
Emergency Removal Provisions	<p>Provides emergency removal with a focus on protecting American Indian and Alaska Native children’s rights.</p> <p>Child Welfare Action: Follow procedures for emergency removal while safeguarding the rights of American Indian and Alaska Native children.</p>	<p>Offers state-specific enhancements to emergency removal protocols.</p> <p>Child Welfare Action: Adhere to enhanced state protocols for emergency removal involving American Indian and Alaska Native children.</p>	<p>Contains requirements for the emergency removal and continued placement of African American children, including judicial review within 72 hours.</p> <p>Child Welfare Action: Ensure compliance with emergency removal guidelines, including timely judicial review.</p>

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