

§3953. Emergency removal or placement of Indian child; termination; appropriate action

This Act does not prevent the emergency removal of an Indian child who is a resident of or is domiciled on a reservation, but temporarily located off the reservation, from their parent or Indian custodian or the emergency placement of an Indian child in a foster home or institution, under the laws of this State, in order to prevent imminent physical damage or harm to the Indian child. [PL 2023, c. 359, §5 (NEW).]

1. Termination. An emergency removal or placement of an Indian child in an emergency proceeding must terminate immediately when the removal or placement is no longer necessary to prevent imminent physical damage or harm to the Indian child. An emergency removal or placement of an Indian child may be terminated by, but is not necessarily terminated by, one of the following actions:

A. Initiation of an Indian child custody proceeding subject to the provisions of this Act; [RR 2023, c. 1, Pt. A, §16 (COR).]

B. Transfer of the Indian child to the jurisdiction of the appropriate Indian tribe; or [PL 2023, c. 359, §5 (NEW).]

C. Restoration of the Indian child to the parent or Indian custodian. [PL 2023, c. 359, §5 (NEW).]
[RR 2023, c. 1, Pt. A, §16 (COR).]

2. Procedure applicable to emergency proceedings. In any emergency proceeding in District Court or Probate Court, the court shall:

A. Make a finding on the record, supported by clear and convincing evidence, that the emergency removal or placement is necessary to prevent imminent physical damage or harm to the Indian child; [PL 2023, c. 359, §5 (NEW).]

B. Promptly hold a hearing on whether the emergency removal or placement continues to be necessary whenever new information indicates that the emergency situation has ended; and [PL 2023, c. 359, §5 (NEW).]

C. At any court hearing during the emergency proceeding, determine whether there is clear and convincing evidence demonstrating that the emergency removal or placement remains necessary to prevent imminent physical damage or harm to the Indian child and, if not, immediately terminate or ensure that the petitioning party immediately terminates the emergency proceeding. [PL 2023, c. 359, §5 (NEW).]

[PL 2023, c. 359, §5 (NEW).]

SECTION HISTORY

PL 2023, c. 359, §5 (NEW). RR 2023, c. 1, Pt. A, §16 (COR).

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