

## RÉSUMÉ DIGEST

**ACT 296 (HB 182)**

**2018 Regular Session**

**Johnson**

New law (Ch.C. Art. 103.1) provides that the Indian Child Welfare Act supersedes the Children's Code when a child may be removed from a parent. New law also lists the child custody proceedings to which the Indian Child Welfare Act applies.

Existing law (Ch.C. Art. 116) provides for definitions.

New law retains existing law and defines "Indian child" and "Indian tribe".

Existing law (Ch.C. Art. 612) requires Department of Children and Family Services (DCFS) to investigate reports of abuse.

New law retains existing law and requires DCFS to inquire whether a child is an Indian child during their investigation.

Existing law (Ch.C. Art. 624) provides for a continued custody hearing in a child in need of care proceeding.

New law retains existing law and in accordance with the Indian Child Welfare Act, requires the court to ask whether there is reason to know that the child may be an Indian child.

New law (Ch.C. Art. 624.1) lists the factors from the federal regulations that give the court reason to know that a child is an Indian child and, if so, requires the court to proceed as such in accordance with the Indian Child Welfare Act.

Existing law (Ch.C. Art. 634) provides for the contents of a child in need of care petition.

New law retains existing law and additionally requires the petitioner to state whether he knows or has reason to know that the child is an Indian child.

New law (Ch.C. Art. 661.1) provides that prior to adjudication of a child in need of care proceeding, the court is required to inquire as to whether the child is an Indian child, and if the child is not, the court may proceed with the adjudication. However, if there is reason to know that the child is an Indian child, the court shall immediately proceed in accordance with the Indian Child Welfare Act.

New law further provides that if a tribe receiving notice of a proceeding fails to respond, the court may determine that the child is not an Indian child and proceed to adjudication.

New law adds a Comment to existing law (Ch.C. Art. 680) to clarify that if the court knows that the child is an Indian child, it must proceed in accordance with the Indian Child Welfare Act which requires notice to the tribe, active efforts to prevent removal of the child, the appointment of experts, and strict standards of evidence.

Existing law (Ch.C. Art. 749) provides for the contents of a families in need of services petition.

New law retains existing law and additionally requires the petition to state whether the petitioner knows or has reason to know that the child is an Indian child.

New law (Ch.C. Art. 767.1) provides that prior to adjudication of a families in need of services proceeding, the court is required to inquire as to whether the child is an Indian child, and if the child is not, the court may proceed with the adjudication. However, if there is reason to know that the child is an Indian child, the court shall immediately proceed in accordance with the Indian Child Welfare Act.

New law further provides that if a tribe receiving notice of a proceeding fails to respond, the court may determine that the child is not an Indian child and proceed to adjudication.

New law (Ch.C. Art. 767.2) lists the factors from the federal regulations that give the court reason to know that a child is an Indian child, and, if so, requires the court to proceed as such in accordance with the Indian Child Welfare Act.

Existing law (Ch.C. Art. 1019) provides for the contents of a petition for adoption.

New law retains existing law and additionally requires the petitioner to state whether he knows or has reason to know that the child is an Indian child.

New law (Ch.C. Art. 1034.1) provides that at the termination of parental rights hearing, the court is required to inquire as to whether the child is an Indian child, and if the child is not, the court may proceed with termination. However, if there is reason to know that the child is an Indian child, the court shall immediately proceed in accordance with the Indian Child Welfare Act.

New law further provides that if a tribe receiving notice of a proceeding fails to respond, the court may determine that the child is not an Indian child and proceed to termination.

New law (Ch.C. Art. 1034.2) lists the factors from the federal regulations that give the court reason to know that a child is an Indian child, and, if so, requires the court to proceed as such in accordance with the Indian Child Welfare Act.

Existing law (Ch.C. Art. 1122) provides for the surrender of parental rights form.

New law retains existing law and requires the petitioner to state whether the child is an Indian child.

Existing law (Ch.C. Art. 1515) provides for a petition for voluntary transfer of custody.

New law retains existing law and requires the petitioner to state whether the child is an Indian child.

Existing law (Ch.C. Art. 1518) authorizes the court to render orders it deems necessary to protect the best interests of a child in a voluntary transfer of custody proceeding.

New law retains existing law and, in accordance with the Indian Child Welfare Act, requires the court to appoint counsel for an indigent parent or custodian of an Indian child.

Existing law provides a form for the voluntary transfer of custody. New law adds to this form a question regarding if a child is an Indian child for the purposes of complying with the federal Indian Child Welfare Act.

New law makes technical changes.

Effective August 1, 2018.

(Amends Ch.C. Arts. 612(A)(2), 624(D), (E), (F), and (G), 634(A), 749(A) and (B), 1019(A) and (B), 1122(A)(3), and 1515(B); Adds Ch.C. Arts. 103.1, 116(6.1) and (6.2), 624(H), 624.1, 661.1, 767.1, 767.2, 1034.1, 1034.2, 1515(A)(8) and (C) and 1518(C); Provides Comments to Ch.C. Art. 680)