

SENATE FILE NO. SF0094

Federal Indian Child Welfare Act codification.

Sponsored by: Senator(s) Ellis, Case and Salazar and
Representative(s) Larsen, L and Penn

A BILL

for

1 AN ACT relating to domestic relations; codifying the
2 federal Indian Child Welfare Act as state law; specifying
3 requirements and procedures for the placement of Indian
4 children in shelter care or for adoption; making conforming
5 amendments; specifying applicability; requiring rulemaking;
6 and providing for an effective date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 14-6-701 through 14-6-715 are created
11 to read:

12

13 **14-6-701. Short title; purpose.**

14

1 (a) This act shall be known and may be cited as the
2 "Wyoming Indian Child Welfare Act."

3

4 (b) The purpose of this act is to codify the federal
5 Indian Child Welfare Act of 1978 into state law.

6

7 **14-6-702. Definitions.**

8

9 (a) As used in this act:

10

11 (i) "Child custody proceeding" means any action
12 concerning the custody or care of an Indian child,
13 including a shelter care placement, the termination of
14 parental rights, preadoptive placement or adoptive
15 placement. "Child custody proceeding" shall not include a
16 placement based upon an act that, if committed by an adult,
17 would be deemed a crime and shall not include an award of
18 custody to a parent in a divorce proceeding;

19

20 (ii) "Extended family member" means as defined
21 by the law or custom of the Indian child's tribe. In the
22 absence of tribal law or custom, "extended family member"
23 means a person who has reached age eighteen (18) and who is

1 the Indian child's grandparent, aunt, uncle, brother,
2 sister, brother-in-law, sister-in-law, niece, nephew, first
3 cousin, second cousin or stepparent;

4

5 (iii) "Indian" means a person who is a member of
6 an Indian tribe, or who is an Alaska native and a member of
7 a regional corporation as defined in section 7 of the
8 federal Alaska Native Claims Settlement Act;

9

10 (iv) "Indian child" means any unmarried person
11 under age eighteen (18) and is either:

12

13 (A) A member of an Indian tribe; or

14

15 (B) Is eligible for membership in an Indian
16 tribe and is the biological child of a member of an Indian
17 tribe.

18

19 (v) "Indian child's tribe" means the Indian
20 tribe in which an Indian child is a member or eligible for
21 membership or, in the case of an Indian child who is a
22 member of or eligible for membership in more than one (1)

1 tribe, the Indian tribe with which the Indian child has the
2 more significant contacts;

3

4 (vi) "Indian custodian" means any Indian person
5 who has legal custody of an Indian child under tribal law
6 or custom or under state law or to whom temporary physical
7 care, custody and control has been transferred by the
8 parent of an Indian child;

9

10 (vii) "Indian organization" means any group,
11 association, partnership, corporation or other legal entity
12 owned or controlled by Indians or a majority of whose
13 members are Indians;

14

15 (viii) "Indian tribe" means any Indian tribe,
16 band, nation or other organized group or community of
17 Indians recognized as eligible for the services provided to
18 Indians by the United States secretary of the interior
19 because of their status as Indians, including any Alaska
20 native village as defined in section 3(c) of the federal
21 Alaska Native Claims Settlement Act;

22

1 (ix) "Parent" means a biological parent or the
2 parents of an Indian child or any Indian person who has
3 lawfully adopted an Indian child, including adoptions under
4 tribal law or custom. "Parent" shall not include a father
5 whose paternity has not been acknowledged or established
6 under law;

7
8 (x) "Reservation" means Indian country as
9 defined by 18 U.S.C. 1151 and any lands where title is held
10 by the United States in trust for the benefit of any Indian
11 tribe or person or held by any Indian tribe or person
12 subject to a restriction by the United States against
13 alienation;

14
15 (xi) "Shelter care" means as defined by W.S.
16 14-3-402(a)(xvii) and shall include foster care;

17
18 (xii) "Tribal court" means a court with
19 jurisdiction over child custody proceedings and that is
20 either a court of Indian offenses, a court established and
21 operated under the code or custom of an Indian tribe or any
22 other administrative body of a tribe that is vested with
23 authority over child custody proceedings;

1

2 (xiii) "This act" means W.S. 14-6-701 through
3 14-6-715.

4

5 **14-6-703. Indian tribe jurisdiction over Indian child**
6 **custody proceedings.**

7

8 (a) An Indian tribe shall have exclusive jurisdiction
9 over any child custody proceeding involving an Indian child
10 who resides or is domiciled within the reservation of the
11 tribe, except where jurisdiction is vested in the state
12 under federal law. The Indian tribe shall retain exclusive
13 jurisdiction if the Indian child is a ward of a tribal
14 court, notwithstanding the residence or domicile of the
15 child.

16

17 (b) In any state court proceeding for the shelter
18 care placement of, or termination of parental rights to, an
19 Indian child not domiciled or residing within the
20 reservation of the Indian child's tribe, the state court,
21 upon the petition of either parent, the Indian custodian or
22 the Indian child's tribe and absent good cause to the
23 contrary or an objection by either parent, shall transfer

1 the proceeding to the jurisdiction of the appropriate
2 tribe. Nothing in this subsection shall limit the tribal
3 court's authority to decline a transfer to the tribal court
4 under this subsection.

5
6 (c) The Indian custodian of an Indian child and the
7 Indian child's tribe shall have the right to intervene in
8 any state court proceeding for the shelter care placement
9 of, or termination of parental rights to, an Indian child.

10
11 (d) The state of Wyoming shall give full faith and
12 credit to the public acts, records and judicial proceedings
13 of any Indian tribe applicable to Indian child custody
14 proceedings to the same extent that the tribe gives full
15 faith and credit to the public acts, records and judicial
16 proceedings of the state of Wyoming.

17
18 **14-6-704. Pending court proceedings.**

19
20 (a) In any involuntary proceeding in a state court
21 where the court knows or has reason to know that an Indian
22 child is involved, the party seeking the shelter care
23 placement of, or termination of parental rights to, an

1 Indian child shall notify the parent or Indian custodian
2 and the Indian child's tribe, by registered mail with
3 return receipt requested, of the pending proceedings and of
4 their right to intervention under this act. If the identity
5 or location of the parent or Indian custodian and the tribe
6 cannot be determined, notice shall be given to the United
7 States secretary of the interior. No shelter care placement
8 or termination of parental rights proceeding shall be held
9 until at least ten (10) days after receipt of the notice by
10 the parent or Indian custodian and the tribe or the
11 secretary of the interior. A parent, Indian custodian or
12 the tribe shall, upon request to the state court, be
13 granted not more than twenty (20) additional days to
14 prepare for a shelter care placement or parental rights
15 termination proceeding.

16

17 (b) In any case in which a state court determines
18 indigency, the parent or Indian custodian shall have the
19 right to court-appointed counsel in any shelter care
20 placement or termination proceeding. The court may, in its
21 discretion, appoint counsel for the child upon a finding
22 that the appointment is in the child's best interests.

23

1 (c) Each party to a shelter care placement or
2 termination of parental rights proceeding under state law
3 involving an Indian child shall have the right to examine
4 all reports or other documents filed with the court upon
5 which any decision with respect to the action may be based.

6

7 (d) Any party seeking to establish a shelter care
8 placement of, or termination of parental rights to, an
9 Indian child under state law shall establish to the court's
10 satisfaction that active efforts have been made to provide
11 remedial services and rehabilitative programs designed to
12 prevent the breakup of the Indian family and that these
13 efforts have proved unsuccessful.

14

15 (e) No shelter care placement of an Indian child
16 shall be ordered in a proceeding unless the court
17 determines by clear and convincing evidence that the
18 continued custody of the child by the parent or Indian
19 custodian is likely to result in serious emotional or
20 physical damage to the child.

21

22 (f) No termination of parental rights over an Indian
23 child shall be ordered unless the court determines beyond a

1 reasonable doubt that the continued custody of the child by
2 the parent or Indian custodian is likely to result in
3 serious emotional or physical damage to the child.

4

5 (g) For purposes of subsections (e) and (f) of this
6 section, the testimony of qualified expert witnesses may be
7 used to meet the evidentiary burden specified in those
8 subsections.

9

10 **14-6-705. Parental rights; voluntary termination.**

11

12 (a) Where any parent or Indian custodian voluntarily
13 consents to a shelter care placement or the termination of
14 parental rights involving an Indian child, the consent
15 shall not be valid unless executed in writing and recorded
16 before a court of competent jurisdiction and accompanied by
17 the court's certification that the terms and consequences
18 of the consent were fully explained in detail and were
19 fully understood by the parent or Indian custodian. The
20 court shall also certify that either the parent or Indian
21 custodian fully understood the explanation in English or
22 that it was interpreted into a language that the parent or
23 Indian custodian understood. Any consent under this

1 subsection given prior to or within ten (10) days after the
2 birth of the Indian child shall not be valid.

3

4 (b) Any parent or Indian custodian may withdraw
5 consent to a shelter care placement at any time. Upon
6 withdrawal of consent under this subsection, the Indian
7 child shall be returned to the parent or Indian custodian.

8

9 (c) In any voluntary proceeding for the
10 relinquishment and consent to adoption of an Indian child,
11 the consent of the parent may be withdrawn for any reason
12 at any time before the entry of a final decree of
13 termination or adoption and, upon the withdrawal of
14 consent, the child shall be returned to the parent.

15

16 (d) After the entry of a final decree of adoption of
17 an Indian child in any state court, the parent shall only
18 withdraw consent upon the grounds that the consent was
19 obtained through fraud or duress and may petition the court
20 to vacate the adoption decree on those grounds. Upon
21 finding that the consent was obtained through fraud or
22 duress, the court shall vacate the adoption decree and
23 return the child to the parent. No adoption that has been

1 effective for at least two (2) years shall be invalidated
2 under this subsection unless otherwise permitted by state
3 law.

4

5 **14-6-706. Petition to court of competent jurisdiction**
6 **to invalidate actions upon certain violations.**

7

8 Any Indian child who is the subject of any action for
9 shelter care placement or termination of parental rights
10 under state law, any parent or Indian custodian from whose
11 custody the child was removed and the Indian child's tribe
12 may petition a court of competent jurisdiction to
13 invalidate the action upon a showing that the action
14 violated any provision of W.S. 14-6-703 through 14-6-705.

15

16 **14-6-707. Placement of Indian children.**

17

18 (a) In any adoptive placement of an Indian child
19 under state law, and absent good cause to the contrary,
20 preference shall be given to a placement with, in the
21 following order:

22

1 (i) A member of the Indian child's extended
2 family;

3

4 (ii) Other members of the Indian child's tribe;

5

6 (iii) Other Indian families;

7

8 (iv) Any other placement.

9

10 (b) Any Indian child accepted for shelter care or
11 preadoptive placement shall be placed in the least
12 restrictive setting that most approximates a family and in
13 which the child's special needs, if any, may be met. The
14 child shall also be placed within reasonable proximity to
15 the child's home, taking into account any special needs of
16 the child. In any shelter care or preadoptive placement and
17 in the absence of good cause to the contrary, preference
18 shall be given to a placement with, in the following order:

19

20 (i) A member of the Indian child's extended
21 family;

22

23 (ii) Other members of the Indian child's tribe;

1

2 (iii) Other Indian families;

3

4 (iv) An institution for children approved by an
5 Indian tribe or operated by an Indian organization that has
6 a program suitable to meet the Indian child's needs;

7

8 (v) Any other placement.

9

10 (c) In the case of a placement under subsections (a)
11 or (b) of this section, if the Indian child's tribe
12 establishes a different order of preference by tribal
13 resolution, the agency or court making the placement shall
14 follow the tribal resolution as long as the placement is
15 the least restrictive setting appropriate to the particular
16 needs of the child. For purposes of this section, the
17 preference of the Indian child and parent shall be
18 considered, provided that if a parent consenting to a
19 placement under W.S. 14-6-705 requests anonymity, the court
20 or agency shall consider the parent's request in applying
21 the preferences.

22

1 (d) The standards to be applied in meeting the
2 preference requirements of this section shall be the
3 prevailing social and cultural standards of the Indian
4 community in which the parent or extended family resides or
5 with which the parent or extended family members maintain
6 social and cultural ties.

7
8 (e) A record of each placement of an Indian child
9 shall be maintained by the court or agency making the
10 placement. The record shall show the efforts made to comply
11 with the order of preference specified in this section.
12 Records maintained under this subsection shall be made
13 available at any time upon the request of the Indian
14 child's tribe or the United States secretary of the
15 interior.

16

17 **14-6-708. Return of custody.**

18

19 (a) Notwithstanding any other provision of law, when
20 a final decree of adoption of an Indian child has been
21 vacated or set aside, or the adoptive parents voluntarily
22 consent to the termination of their parental rights to the
23 child, a biological parent or prior Indian custodian may

1 petition for the return of the Indian child to the parent's
2 or Indian custodian's custody. The court shall grant the
3 petition unless there is a showing, subject to W.S.
4 14-6-704, that return of custody is not in the child's best
5 interests.

6

7 (b) When an Indian child is removed from a shelter
8 care placement or institution for the purpose of further
9 shelter care, preadoptive placement or adoptive placement,
10 the placement shall be in accordance with this act unless
11 an Indian child is being returned to the parent or Indian
12 custodian from whose custody the child was originally
13 removed.

14

15 14-6-709. Tribal affiliation information; other
16 information of protection of rights from tribal
17 relationships; application of subject of adoptive
18 placement; disclosure by court.

19

20 Upon application by an Indian person who has reached age
21 eighteen (18) and who was the subject of an adoption, the
22 court that entered the final decree shall inform the person
23 of the tribal affiliation, if any, of the person's

1 biological parents and provide any other information as may
2 be necessary to protect any rights resulting from the
3 person's tribal relationship.

4

5 **14-6-710. Agreements between the state and Indian**
6 **tribes.**

7

8 (a) The state, through the governor and in
9 consultation with the department of family services, is
10 authorized to enter into agreements with Indian tribes
11 concerning the care and custody of Indian children and
12 jurisdiction over child custody proceedings, including
13 agreements that may provide for the orderly transfer of
14 jurisdiction on a case-by-case basis and agreements that
15 provide for concurrent jurisdiction between the state and
16 Indian tribes.

17

18 (b) Any agreement made under this section may be
19 revoked by either party upon notice of not less than one
20 hundred eighty (180) days to the other party. Any
21 revocation of an agreement under this section shall not
22 affect any action or proceeding over which a court has

1 already assumed jurisdiction unless the agreement provides
2 otherwise.

3

4 **14-6-711. Improper removal of Indian child from**
5 **custody; declination of jurisdiction; return of child;**
6 **exception.**

7

8 If any petitioner in an Indian child custody proceeding
9 before a state court has improperly removed the child from
10 custody of the parent or Indian custodian or has improperly
11 retained custody after a visit or other temporary
12 relinquishment of custody, the court shall decline
13 jurisdiction over the petitioner's petition and shall
14 forthwith return the child to his parent or Indian
15 custodian unless the return would subject the child to a
16 substantial and immediate danger or threat thereof.

17

18 **14-6-712. Application of higher federal standard.**

19

20 In any case where federal law applicable to an Indian child
21 custody proceeding provides a higher standard of protection
22 to the rights of the parent or Indian custodian than state

1 law provides, the court shall apply the higher standard of
2 protection as provided by federal law.

3

4 **14-6-713. Emergency removal or placement of child;**
5 **termination; appropriate action.**

6

7 Nothing in this act shall be construed to prevent the
8 emergency removal of an Indian child who is a resident of
9 or is domiciled on a reservation, but temporarily located
10 off the reservation, from his parent or Indian custodian or
11 the emergency placement of the child in temporary
12 protective custody or shelter care under state law in order
13 to prevent imminent physical damage or harm to the child.
14 The applicable state agency involved shall ensure that the
15 emergency removal or placement terminates immediately when
16 the removal or placement is no longer necessary to prevent
17 imminent physical damage or harm to the child and shall
18 expeditiously initiate a child custody proceeding subject
19 to this act, transfer the child to the jurisdiction of the
20 appropriate Indian tribe or restore the child to the parent
21 or Indian custodian, as may be appropriate.

22

1 **14-6-714. Reporting requirements; information**
2 **availability; disclosure.**

3

4 (a) Any state court entering a final decree or order
5 in any adoption proceeding concerning an Indian child shall
6 provide the department of family services and the United
7 States secretary of the interior a copy of the decree or
8 order and all other information necessary to show:

9

10 (i) The name and tribal affiliation of the
11 child;

12

13 (ii) The names and addresses of the child's
14 biological parents;

15

16 (iii) The names and addresses of the adoptive
17 parents;

18

19 (iv) The identity of any agency having files or
20 information relating to the adoptive placement.

21

22 (b) If the court's records contain an affidavit of
23 the biological parent stating or requesting that the

1 parent's identity remain confidential, the court shall
2 include the affidavit with the information required under
3 subsection (a) of this section. The court and the
4 department of family services shall ensure that the
5 confidentiality of information is maintained. Records
6 submitted under this section shall remain confidential and
7 shall not be subject to disclosure or inspection under the
8 Public Records Act, except as provided under subsection (c)
9 of this section.

10

11 (c) Upon the request of the adopted Indian child who
12 is age eighteen (18) or older, the adoptive or foster
13 parents of an Indian child or an Indian tribe, the
14 department of family services shall disclose any
15 information that may be necessary for the enrollment of an
16 Indian child in the tribe in which the child may be
17 eligible for enrollment or for determining any rights or
18 benefits associated with that membership. If the documents
19 requested include an affidavit from a parent requesting
20 anonymity, the department shall certify to the Indian
21 child's tribe, if the information warrants, that the
22 child's parentage and other circumstances of birth entitle

1 the child to enrollment under criteria established by the
2 tribe.

3

4 **14-6-715. Rulemaking.**

5

6 The department of family services shall promulgate all
7 rules necessary to implement this act.

8

9 **Section 2.** W.S. 1-22-102 by creating a new subsection
10 (c), 1-22-104(c) by creating a new paragraph (vii) and by
11 creating a new subsection (g), 14-3-201, 14-3-203(c)(v),
12 14-3-401, 14-3-403(a)(intro), 14-3-412(b)(v), 14-6-201 by
13 creating a new subsection (d), 14-6-401,
14 14-6-403(a)(intro), 14-6-412(b)(v), 20-5-204 by creating a
15 new subsection (d) and 21-4-107 are amended to read:

16

17 **1-22-102. Persons subject to adoption; applicability**
18 **of Wyoming Indian Child Welfare Act.**

19

20 (c) If the child to be adopted under this act is an
21 Indian child as defined by W.S. 14-6-702(a)(iv), the court,
22 agency and any party to the adoption proceeding under this
23 act shall comply with the Wyoming Indian Child Welfare Act.

1 If any provision of this act conflicts with the Wyoming
2 Indian Child Welfare Act for the adoption of an Indian
3 child, the Wyoming Indian Child Welfare Act shall control.

4
5 1-22-104. Petition for adoption of minor; by whom
6 filed; requisites, confidential nature; inspection;
7 separate journal to be kept.

8
9 (c) The following documents shall be filed with every
10 petition to adopt a child:

11
12 (vii) If the child to be adopted is an Indian
13 child as defined by W.S. 14-6-702(a)(iv), any documents
14 required to be filed under the Wyoming Indian Child Welfare
15 Act.

16
17 (g) Notwithstanding subsections (d) and (e) of this
18 section, if the adoption concerns an Indian child as
19 defined by W.S. 14-6-702(a)(iv), inspection or disclosure
20 of the confidential adoption file shall only be in
21 accordance with the Wyoming Indian Child Welfare Act and
22 subsections (d) and (e) of this section.

1 **14-3-201. Purpose.**

2

3 (a) The purpose of W.S. 14-3-201 through 14-3-216 is
4 to delineate the responsibilities of the state agency,
5 other governmental agencies or officials, professionals and
6 citizens to intervene on behalf of a child suspected of
7 being abused or neglected, to protect the best interest of
8 the child, to further offer protective services when
9 necessary in order to prevent any harm to the child or any
10 other children living in the home, to protect children from
11 abuse or neglect which jeopardize their health or welfare,
12 to stabilize the home environment, to preserve family life
13 whenever possible and to provide permanency for the child
14 in appropriate circumstances. The child's health, safety
15 and welfare shall be of paramount concern in implementing
16 and enforcing this article.

17

18 (b) If a child suspected of being abused or neglected
19 is an Indian child as defined by W.S. 14-6-702(a)(iv), the
20 state agency and other governmental agencies or officials
21 charged with implementing and enforcing this article shall
22 comply with the Wyoming Indian Child Welfare Act. If any
23 provision of this article conflicts with the Wyoming Indian

1 Child Welfare Act for addressing an allegation of abuse or
2 neglect of an Indian child, the Wyoming Indian Child
3 Welfare Act shall control.

4
5 **14-3-203. Duties of state agency; on-call services.**

6
7 (c) The state agency shall ensure that all child
8 protective service workers are trained:

9
10 (v) To know the provisions of federal and state
11 laws governing child welfare practice, including but not
12 limited to the Adoption and Safe Families Act, Indian Child
13 Welfare Act, the Wyoming Indian Child Welfare Act,
14 Multi-Ethnic Placement Act, the Child Abuse Prevention
15 Treatment Act and the Family First Prevention Services Act,
16 as amended;

17
18 **14-3-401. Short title; applicability.**

19
20 (a) This act shall be known and may be cited as the
21 "Child Protection Act."

1 **(b) If the child suspected to be abused or neglected**
2 **is an Indian child as defined by W.S. 14-6-702(a)(iv), the**
3 **court and all parties shall comply with the Wyoming Indian**
4 **Child Welfare Act. If any provision of this act conflicts**
5 **with the Wyoming Indian Child Welfare Act for addressing an**
6 **allegation of abuse or neglect of an Indian child, the**
7 **Wyoming Indian Child Welfare Act shall control.**

8
9 **14-3-403. Juvenile court authority over certain**
10 **issues.**

11
12 (a) Coincident with proceedings concerning a minor
13 alleged to be neglected **and subject to the Wyoming Indian**
14 **Child Welfare Act**, the court has jurisdiction to:

15
16 **14-3-412. Commencement of proceedings; contents of**
17 **petition.**

18
19 (b) The petition shall set forth all jurisdictional
20 facts, including but not limited to:

21
22 (v) Whether the child is an Indian child as
23 defined in the federal Indian Child Welfare Act **or as**

1 defined by W.S. 14-6-702(a)(iv) and, if so, a statement
2 setting forth with particularity the notice provided to the
3 appropriate ~~tribal court~~ tribe and to any other person or
4 entity entitled to notice under the Wyoming Indian Child
5 Welfare Act.

6
7 **14-6-201. Definitions; short title; statement of**
8 **purpose and interpretation.**

9
10 (d) If a child or minor alleged to have committed a
11 delinquent act is an Indian child as defined by W.S.
12 14-6-702(a)(iv), the court and all parties shall comply
13 with the Wyoming Indian Child Welfare Act to the extent
14 that the Wyoming Indian Child Welfare Act applies to the
15 Indian child alleged to have committed a delinquent act. If
16 any provision of this act conflicts with the Wyoming Indian
17 Child Welfare Act for addressing an allegation of a
18 delinquent act committed by an Indian child, the Wyoming
19 Indian Child Welfare Act shall control.

20
21 **14-6-401. Short title.**

1 (a) This act shall be known and may be cited as the
2 "Children In Need of Supervision Act."

3
4 (b) If a child alleged of being in need of
5 supervision under this act is an Indian child as defined by
6 W.S. 14-6-702(a)(iv), the court and all parties shall
7 comply with the Wyoming Indian Child Welfare Act. If any
8 provision of this act conflicts with the Wyoming Indian
9 Child Welfare Act for addressing an allegation of a child
10 being in need of supervision, the Wyoming Indian Child
11 Welfare Act shall control.

12
13 **14-6-403. Juvenile court authority over certain**
14 **issues.**

15
16 (a) Coincident with proceedings concerning a minor
17 alleged to be in need of supervision and subject to the
18 Wyoming Indian Child Welfare Act, the court has
19 jurisdiction to:

20
21 **14-6-412. Commencement of proceedings; contents of**
22 **petition.**

1 (b) The petition shall set forth all jurisdictional
2 facts, including but not limited to all of the following:

3
4 (v) Whether the child is an Indian child as
5 defined in the federal Indian Child Welfare Act or as
6 defined by W.S. 14-6-702(a)(iv) and, if so, a statement
7 setting forth with particularity the notice provided to the
8 appropriate ~~tribal court~~ tribe and to any other person or
9 entity entitled to notice under the Wyoming Indian Child
10 Welfare Act.

11
12 **20-5-204. Application to tribes.**

13
14 (d) A child custody proceeding that pertains to an
15 Indian child as defined by W.S. 14-6-702(a)(iv) shall not
16 be subject to this act to the extent that the proceeding is
17 governed by the Wyoming Indian Child Welfare Act.

18
19 **21-4-107. Notice to district attorney and tribe of**
20 **habitual truancy or willful absenteeism; duty of district**
21 **attorney.**

1 When the attendance officer of any school district
2 determines that a child is an habitual truant or has been
3 absent due to willful absenteeism as defined by this
4 article the attendance officer shall notify the board of
5 trustees and the district attorney who may initiate
6 proceedings in the interest of the child under the Child
7 Protection Act, W.S. 14-3-401 et seq., or the Children In
8 Need of Supervision Act, W.S. 14-6-401 et seq., as
9 appropriate. If the child is an Indian child as defined in
10 the federal Indian Child Welfare Act, 25 U.S.C. 1901 et
11 seq. or as defined by W.S. 14-6-702(a)(iv), the district
12 attorney shall notify the child's tribe and any other
13 person or entity entitled to notice under the Wyoming
14 Indian Child Welfare Act and may initiate proceedings in
15 the interest of the child if authorized to do so under
16 state and federal law. If the Indian child resides on the
17 Wind River Indian Reservation, the attendance officer shall
18 notify the Wind River Tribal Court prosecutor and the
19 tribal prosecutor may initiate proceedings pursuant to
20 applicable tribal law and order codes.

21

22 **Section 3.** This act shall apply to any case or
23 proceeding involving the adoption, abuse or neglect,

1 allegation of a need for supervision, delinquency petition
2 or child custody proceeding concerning an Indian child
3 initiated on and after July 1, 2023. For a case or
4 proceeding initiated before July 1, 2023, the law as of
5 June 30, 2023 shall apply to the case or proceeding.

6

7 **Section 4.** The department of family services shall
8 promulgate all rules necessary to implement this act.

9

10 **Section 5.** This act is effective immediately upon
11 completion of all acts necessary for a bill to become law
12 as provided by Article 4, Section 8 of the Wyoming
13 Constitution.

14 (END)