

5101:2-53-04 **Emergency removal of the Indian child.**

- (A) The public children services agency (PCSA) shall provide temporary emergency care for an Indian child in accordance with rules 5101:2-42-04, 5101:2-39-01 and 5101:2-39-12 of the Administrative Code or rule 5101:2-39-12.1 or, if applicable, 5101:2-39-03 of the Administrative Code when such care is necessary to protect the child from immediate or threatened harm.
- (B) The agency can take emergency protective custody of any Indian child pursuant to paragraph (B) in rule 5101:2-39-01 of the Administrative Code regardless of the jurisdictional status of his or her tribe as long as the child is in danger of imminent physical damage or harm.
- (C) When emergency removal of a child from his or her own home is necessary, the PCSA shall consider the child's racial or ethnic background to determine Indian heritage. In such cases where the circumstances during the removal are not favorable to identify or inquire if a child is of Indian heritage, upon the agencies initial contact the case worker shall take the required steps to determine the Indian status of eligibility and membership. The agency shall act in accordance with the requirements set forth in paragraph (A) in rule 5101:2-53-03 of the Administrative Code.
- (D) The agency shall obtain a court order authorizing continued protective custody within twenty-four hours of the removal or placement. The petition filed in such proceeding shall contain information required by rule 5101:2-39-05 of the Administrative Code and the following information:
- (1) The name, age, tribal affiliation(s) and last known address of the Indian child.
 - (2) The name and address of the child's parent(s) and/or Indian custodian(s), if any, and tribe. The agency shall provide a detailed explanation of active efforts made to locate the parents, Indian custodian and/or the Indian child's tribe.
 - (3) A detailed account of the circumstances which led the agency to conclude that the child would suffer imminent physical damage or harm.
 - (4) A specific plan of action the agency is following, including services provided, to restore the child to his or her parent(s) or Indian custodian, or to transfer the child to the jurisdiction of the appropriate Indian tribe.
- (E) If the tribe has not taken exclusive jurisdiction and the agency determines continuous placement needs for an Indian child, the agency shall explore available placement resources which meet the placement requirements in rule 5101:2-53-08 of the Administrative Code.

Replaces: 5101:2-42-57

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Certification

Date

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