

§ 1864. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary for fiscal year 2009 and each fiscal year thereafter to carry out this subchapter.

(Pub. L. 95-471, title V, §504, as added Pub. L. 110-315, title IX, §941(j)(1), Aug. 14, 2008, 122 Stat. 3465.)

CHAPTER 21—INDIAN CHILD WELFARE

Sec.

- 1901. Congressional findings.
- 1902. Congressional declaration of policy.
- 1903. Definitions.

SUBCHAPTER I—CHILD CUSTODY PROCEEDINGS

- 1911. Indian tribe jurisdiction over Indian child custody proceedings.
- 1912. Pending court proceedings.
- 1913. Parental rights; voluntary termination.
- 1914. Petition to court of competent jurisdiction to invalidate action upon showing of certain violations.
- 1915. Placement of Indian children.
- 1916. Return of custody.
- 1917. Tribal affiliation information and other information for protection of rights from tribal relationship; application of subject of adoptive placement; disclosure by court.
- 1918. Reassumption of jurisdiction over child custody proceedings.
- 1919. Agreements between States and Indian tribes.
- 1920. Improper removal of child from custody; deceleration of jurisdiction; forthwith return of child; danger exception.
- 1921. Higher State or Federal standard applicable to protect rights of parent or Indian custodian of Indian child.
- 1922. Emergency removal or placement of child; termination; appropriate action.
- 1923. Effective date.

SUBCHAPTER II—INDIAN CHILD AND FAMILY PROGRAMS

- 1931. Grants for on or near reservation programs and child welfare codes.
- 1932. Grants for off-reservation programs for additional services.
- 1933. Funds for on and off reservation programs.
- 1934. "Indian" defined for certain purposes.

SUBCHAPTER III—RECORDKEEPING, INFORMATION AVAILABILITY, AND TIMETABLES

- 1951. Information availability to and disclosure by Secretary.
- 1952. Rules and regulations.

SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

- 1961. Locally convenient day schools.
- 1962. Copies to the States.
- 1963. Severability.

§ 1901. Congressional findings

Recognizing the special relationship between the United States and the Indian tribes and their members and the Federal responsibility to Indian people, the Congress finds—

(1) that clause 3, section 8, article I of the United States Constitution provides that "The Congress shall have Power * * * To regulate Commerce * * * with Indian tribes"¹ and, through this and other constitutional authority, Congress has plenary power over Indian affairs;

(2) that Congress, through statutes, treaties, and the general course of dealing with Indian

tribes, has assumed the responsibility for the protection and preservation of Indian tribes and their resources;

(3) that there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children and that the United States has a direct interest, as trustee, in protecting Indian children who are members of or are eligible for membership in an Indian tribe;

(4) that an alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children from them by nontribal public and private agencies and that an alarmingly high percentage of such children are placed in non-Indian foster and adoptive homes and institutions; and

(5) that the States, exercising their recognized jurisdiction over Indian child custody proceedings through administrative and judicial bodies, have often failed to recognize the essential tribal relations of Indian people and the cultural and social standards prevailing in Indian communities and families.

(Pub. L. 95-608, §2, Nov. 8, 1978, 92 Stat. 3069.)

Statutory Notes and Related Subsidiaries**SHORT TITLE**

Pub. L. 95-608, §1, Nov. 8, 1978, 92 Stat. 3069, provided: "That this Act [enacting this chapter] may be cited as the 'Indian Child Welfare Act of 1978'."

§ 1902. Congressional declaration of policy

The Congress hereby declares that it is the policy of this Nation to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families by the establishment of minimum Federal standards for the removal of Indian children from their families and the placement of such children in foster or adoptive homes which will reflect the unique values of Indian culture, and by providing for assistance to Indian tribes in the operation of child and family service programs.

(Pub. L. 95-608, §3, Nov. 8, 1978, 92 Stat. 3069.)

§ 1903. Definitions

For the purposes of this chapter, except as may be specifically provided otherwise, the term—

(1) "child custody proceeding" shall mean and include—

(i) "foster care placement" which shall mean any action removing an Indian child from its parent or Indian custodian for temporary placement in a foster home or institution or the home of a guardian or conservator where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated;

(ii) "termination of parental rights" which shall mean any action resulting in the termination of the parent-child relationship;

(iii) "preadoptive placement" which shall mean the temporary placement of an Indian child in a foster home or institution after the termination of parental rights, but prior to or in lieu of adoptive placement; and

¹ So in original. Probably should be capitalized.