

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

***** 712B.7.amended THIS AMENDED SECTION IS EFFECTIVE MAY 30, 2016 *****

712B.7.amended Jurisdiction; exclusive; emergency; transfer; good cause determination; right to intervene or participate in proceeding; full faith and credit to public acts, records, and judicial proceedings.

Sec. 7. (1) An Indian tribe has exclusive jurisdiction over any child custody proceeding involving an Indian child who resides or is domiciled within the reservation of that tribe. If a child is a ward of a tribal court, the Indian tribe retains exclusive jurisdiction, regardless of the residence or domicile, or subsequent change in his or her residence or domicile.

(2) The state court may exercise limited emergency jurisdiction if an Indian child who resides or is domiciled within the reservation is temporarily off the reservation and the state has removed the Indian child in an emergency situation to prevent imminent physical damage or harm to the Indian child. The court must comply with the emergency removal hearing requirements outlined in Michigan court rules and sections 13a, 14, and 14a of chapter XIIA. The emergency jurisdiction terminates when the removal or placement is no longer necessary to prevent imminent physical damage or harm to the Indian child.

(3) In any state court child custody proceeding, for an Indian child not domiciled or residing within the reservation of the Indian child's tribe, the court, in the absence of good cause to the contrary, shall transfer the proceeding to the Indian tribe's jurisdiction, absent objection by either parent, upon the petition of either parent or the Indian custodian or the Indian child's tribe, provided that the transfer is subject to declination by the tribal court of the Indian tribe.

(4) When a court makes a good cause determination under this section, adequacy of the tribe, tribal court, or tribal social services shall not be considered.

(5) A court may determine that good cause not to transfer a case to tribal court exists only if the person opposing the transfer shows by clear and convincing evidence that either of the following applies:

(a) The Indian tribe does not have a tribal court.

(b) The requirement of the parties or witnesses to present evidence in tribal court would cause undue hardship to those parties or witnesses that the Indian tribe is unable to mitigate.

(6) In any state court child custody proceeding of an Indian child, the Indian custodian of the child and the Indian child's tribe have a right to intervene at any point in the child custody proceeding.

(7) Official tribal representatives have the right to participate in any proceeding that is subject to the Indian child welfare act and this chapter.

(8) This state shall give full faith and credit to the public acts, records, and judicial proceedings of any Indian tribe applicable to Indian child custody proceedings to the same extent given to the public acts, records, and judicial proceedings of any other entity.

History: Add. 2012, Act 565, Imd. Eff. Jan. 2, 2013;—Am. 2016, Act 26, Eff. May 30, 2016.

Popular name: Probate Code