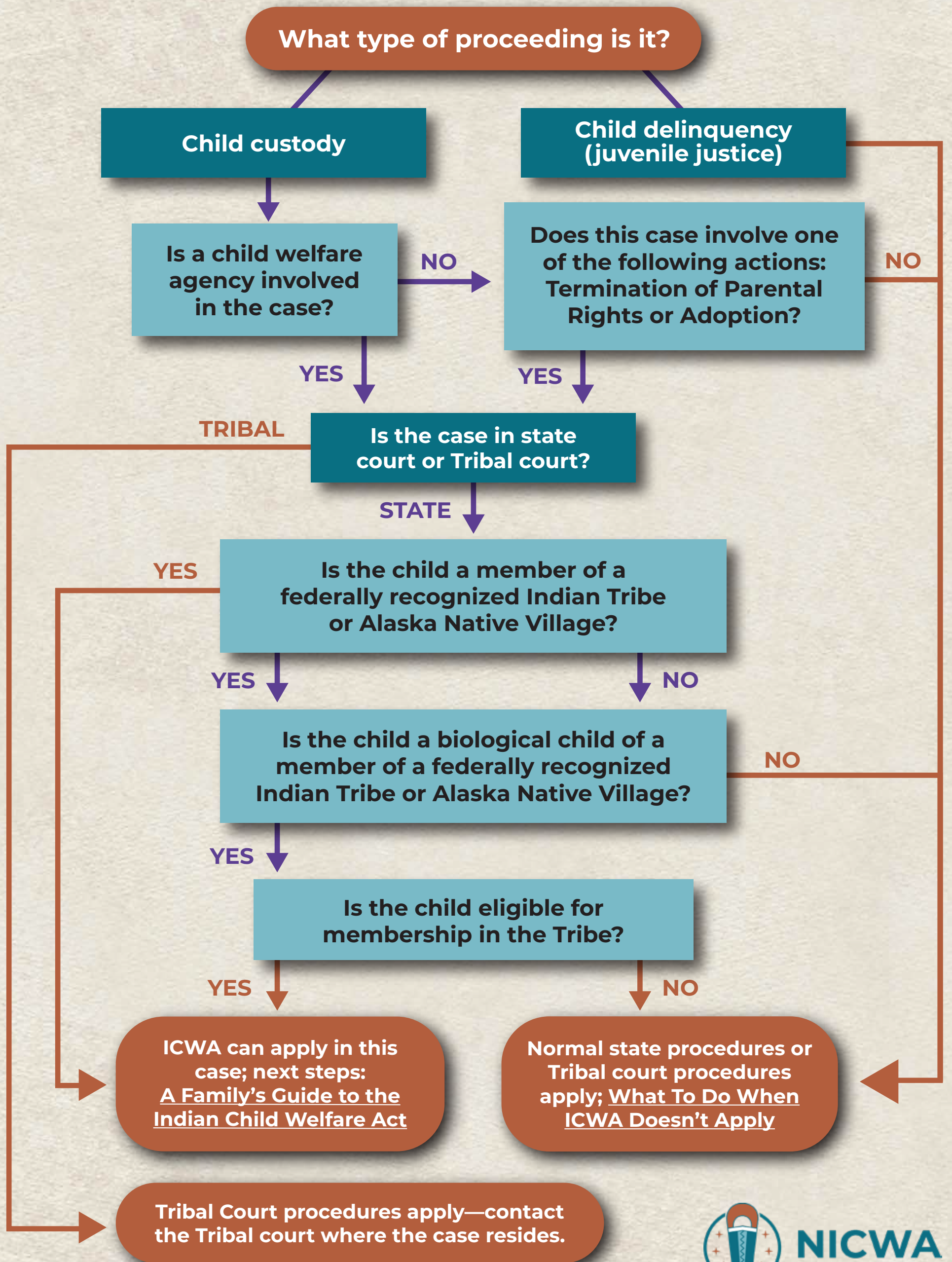


# Does the Indian Child Welfare Act (ICWA) Apply to This Case?



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## This was a voluntary placement— how does ICWA apply now?

- ICWA would apply in a situation where an Indian parent or Indian custodian voluntarily placed a child with a state social services agency or private agency on a temporary basis, according to a state court order, where the parent or Indian custodian cannot have the child returned upon verbal request.
- ICWA will not apply to a voluntary placement that either parent, both parents, or the Indian custodian has chosen (of their own free will, without the threat of removal) for the child, and that does not operate to prohibit the child's parent or custodian from regaining custody of the child upon demand, without any formalities or contingencies.
- For more information about voluntary placements and ICWA applicability to them, consult: [The Indian Child Welfare Act Handbook: A Legal Guide to the Custody and Adoption of Native American Children, Fourth Edition.](#)



**NICWA**

National Indian Child Welfare Association  
Protecting Our Children • Preserving Our Culture

The National Indian Child Welfare Association (NICWA) protects the safety, health, and cultural identity of all Native children and families—today and for future generations—by upholding culturally based services, community strength, and Tribal sovereignty.

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