

§ 3206. Waiver of parental consent

(a) Examinations and interviews

Photographs, x-rays, medical examinations, psychological examinations, and interviews of an Indian child alleged to have been subject to abuse in Indian country shall be allowed without parental consent if local child protective services or local law enforcement officials have reason to believe the child has been subject to abuse.

(b) Interviews by law enforcement and child protective services officials

In any case in which officials of the local law enforcement agency or local child protective services agency have reason to believe that an Indian child has been subject to abuse in Indian country, the officials of those agencies shall be allowed to interview the child without first obtaining the consent of the parent, guardian, or legal custodian.

(c) Protection of child

Examinations and interviews of a child who may have been the subject of abuse shall be conducted under such circumstances and with such safeguards as are designed to minimize additional trauma to the child and, where time permits, shall be conducted with the advise,¹ or under the guidance, of a local multidisciplinary team established pursuant to section 3210 of this title or, in the absence of a local team, a multidisciplinary team established pursuant to section 3209 of this title.

(d) Court orders

Upon a finding of reasonable suspicion that an Indian child has been the subject of abuse in Indian country, a Federal magistrate judge or United States District Court may issue an order enforcing any provision of this section.

(Pub. L. 101-630, title IV, §407, Nov. 28, 1990, 104 Stat. 4550; Pub. L. 101-650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

CHANGE OF NAME

“Federal magistrate judge” substituted for “Federal magistrate” in subsec. (d) pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

§ 3207. Character investigations

(a) By Secretary of the Interior and Secretary of Health and Human Services

The Secretary and the Secretary of Health and Human Services shall—

- (1) compile a list of all authorized positions within their respective departments the duties and responsibilities of which involve regular contact with, or control over, Indian children,
- (2) conduct an investigation of the character of each individual who is employed, or is being considered for employment, by the respective Secretary in a position listed pursuant to paragraph (1), and
- (3) prescribe by regulations minimum standards of character that each of such individuals must meet to be appointed to such positions.

¹ So in original. Probably should be “advice”.

(b) Criminal records

The minimum standards of character that are to be prescribed under this section shall ensure that none of the individuals appointed to positions described in subsection (a) have been found guilty of, or entered a plea of nolo contendere or guilty to, any felonious offense, or any of two or more misdemeanor offenses, under Federal, State, or tribal law involving crimes of violence; sexual assault, molestation, exploitation, contact or prostitution; crimes against persons; or offenses committed against children.

(c) Investigations by Indian tribes and tribal organizations

Each Indian tribe or tribal organization that receives funds under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 5301 et seq.] or the Tribally Controlled Schools Act of 1988 [25 U.S.C. 2501 et seq.] shall—

- (1) conduct an investigation of the character of each individual who is employed, or is being considered for employment, by such tribe or tribal organization in a position that involves regular contact with, or control over, Indian children, and
- (2) employ individuals in those positions only if the individuals meet standards of character, no less stringent than those prescribed under subsection (a), as the Indian tribe or tribal organization shall establish.

(d) By tribal social services agency for foster care placements in tribal court proceedings

(1) Definitions

In this subsection:

(A) Covered individual

The term “covered individual” includes—

- (i) any individual 18 years of age or older; and
- (ii) any individual who the tribal social services agency determines is subject to a criminal records check under paragraph (2)(A).

(B) Foster care placement

The term “foster care placement” means any action removing an Indian child from a parent or Indian custodian for temporary placement in a foster home or institution or the home of a guardian or conservator if—

- (i) the parent or Indian custodian cannot have the child returned on demand; and
- (ii)(I) parental rights have not been terminated; or
- (II) parental rights have been terminated but the child has not been permanently placed.

(C) Indian custodian

The term “Indian custodian” means any Indian—

- (i) who has legal custody of an Indian child under tribal law or custom or under State law; or
- (ii) to whom temporary physical care, custody, and control has been transferred by the parent of the child.

(D) Parent

The term “parent” means—