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## WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

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| <b>2009 Wisconsin Act 94</b><br>[2009 Senate Bill 288] | <b>Indian Child Welfare Act</b> |
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2009 Wisconsin Act 94 incorporates the Federal Indian Child Welfare Act (ICWA) into the Children's Code [ch. 48, Stats.] and the Juvenile Justice Code [ch. 938, Stats.]. ICWA was enacted in 1978.

In very general terms, ICWA: applies to certain child custody proceedings involving an Indian child; requires certain notices, findings, and placement preferences in child custody proceedings under certain circumstances; and provides grounds for collateral attack of certain decrees. ICWA provides for tribal court jurisdiction in some circumstances and also provides a process for a tribe to reassume exclusive jurisdiction in child custody proceedings under certain circumstances. In addition, ICWA provides that a foster care placement or termination of parental rights case may be transferred from state court to tribal court under certain circumstances and that a tribe may intervene in certain child custody proceedings in state court under certain circumstances.

**Effective date:** Act 94 took effect on December 22, 2009.

**Prepared by:** Anne Sappenfield, Senior Staff Attorney

February 3, 2010

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This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.