



NICWA News

Service and Advocacy for Indian Children

The National Indian Child Welfare Association's Quarterly Newsletter

Pew Commission Recommendations Include Funding and State Court Project Consultation for Tribes

Many in the child welfare field and state and federal policymakers have been pushing for changes in the child welfare system. The areas most often mentioned are program financing and court oversight. Those advocating for changes in the current system charge that the children are not being served effectively and accountability must be increased. American Indians and Alaska Natives are feeling the impacts of the inadequacy of the current child welfare system too and tribal governments continue to be ineligible for some basic federal funding, such as Title IV-E Foster Care and Adoption Assistance, hampering their ability to help abuse and neglected children under their care. In 2003 the Pew Charitable Trusts funded the establishment of a commission of experts to examine federal child welfare financing and court oversight. The Pew Commission on Foster Care focused their work in two areas:

1. Improving existing federal financing mechanisms to facilitate faster movement of children from foster care into safe, permanent families and to reduce the need to place children in foster care.
2. Improving court oversight of child welfare cases to facilitate better and more timely decisions related to children's safety, permanence, and well-being.

The Pew Commission, completed their work and produced a report with recommendations in May of 2004 (<http://pew-fostercare.org>). Among the recommendations made by the Pew Commission were to make tribal governments amongst those eligible to receive direct funding from Title IV-E and a proposed block grant, as well as any technical assistance resources that might be developed.

These recommendations are significant, both because the Pew Commission has recognized the government-to-government relationship that exists between tribes and the federal government and because the Pew Commission's recommendations are being given serious consideration by members of Congress. It also acknowledges the legal authority and vital role that tribal governments have in serving their tribal children. Terry Cross, Executive Director of the National Indian Child Welfare Association (NICWA) stated "The Pew

Commission's recommendations regarding the funding of tribal governments affirms tribes' legal authority to provide services and the critical role they play in helping American Indian and Alaska Native children achieve permanency," NICWA is now a partner with the Pew Commission on Foster Care and is helping tribal governments and policymakers understand how the commission's recommendations can support American Indian and Alaska Native children in the child welfare system.

Below are the recommendations that the Pew Commission made in their report and discussion of their application for tribal governments and policymakers.

Federal Child Welfare Financing Recommendations

- Preserving federal foster care maintenance and adoption assistance as an entitlement and expanding it to all children, regardless of their birth families' income and including Indian children and children in the U.S. territories.
- Providing federal guardianship assistance to all children who leave foster care to live with a permanent legal guardian when a court has explicitly determined that neither reunification nor adoption are feasible permanence options
- Helping states build a range of services from prevention, to treatment, to post-permanence by (1) creating a flexible, indexed Safe Children, Strong Families Grant from what is currently included in Title IV-B and the administration and training components of Title IV-E; and (2) allowing states to "reinvest" federal and state foster care dollars into other child welfare services if they safely reduce their use of foster care;
- Encouraging innovation by expanding and simplifying the waiver process and providing incentives to states that (1) make and maintain improvements in their child welfare workforce and (2) increase all forms of safe permanence; and
- Strengthening the current Child and Family Services Review process to increase states' accountability for improving outcomes for children.

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In their full report, the Pew Commission clearly states that tribes should be eligible for federal child welfare funds (equal access) and tribe's restricted access limits their ability to protect abused and neglected children under their jurisdiction. This would include the Title IV-E programs, the Safe Children, Strong Families Grant and guardianship assistance. The Pew Commission also recommended that technical assistance be provided to tribes that need help with capacity building to enable them to administer child welfare services. While the Pew Commission did not discuss tribal participation in their state child welfare waiver and Child and Family Services Review recommendations, tribal governments have an interest in these issues too. State waivers, some of which include tribal governments as partners, provide states with opportunities to modify their federal child welfare programs in ways that can improve outcomes. The federal review process, known as the Child and Family Services Review, includes requirements to measure state Indian Child Welfare Act (ICWA) compliance and include tribes in efforts to plan and conduct this assessment. The information from these reviews can form the basis for state performance improvement plans to improve compliance with ICWA.

State Court Recommendations

- Adoption of court performance measures by every dependency court to ensure that they can track and analyze their caseloads, increase accountability for improved outcomes for children, and inform decisions about the allocation of court resources;
- Incentives and requirements for effective collaboration between courts and child welfare agencies on behalf of children in foster care;
- Strong voice for children and parents in court and effective representation by better trained attorneys and volunteer advocates;
- Leadership from Chief Justices and other state court

leaders in organizing their court systems to better serve children, provide training for judges, and promote more effective standards for dependency courts, judges, and attorneys.

The report recommended that state juvenile courts be required to consult with tribal governments on state juvenile court improvement projects. According to Judge William Thorne, the commission intended for tribal courts to be given consideration and appropriate support similar to that identified for state courts. Several of the court recommendations were enacted in the Budget Deficit Reduction Act of 2005 including the mandate for state courts to consult with tribal governments in developing and conducting their court improvement projects. Given that tribes have and exercise jurisdiction over child welfare proceedings involving their member children, it is vital that tribal courts also receive attention and resources to support their work. NICWA will continue to focus attention on support for tribal courts in discussions with tribal leaders and state and federal policymakers.

Conclusion

Given the level of discontent with the current federal child welfare financing system, it is likely that Congress will continue to both investigate approaches to reforming the system and to improving court oversight. American Indian and Alaska Native children, who are served by both state and tribal governments, will no doubt be impacted by these reform efforts, so it is important for tribal leaders and state and federal policymakers to understand the key strategies and concepts being discussed. NICWA can provide information on these issues and assistance in educating other key policymakers and advocates. To receive this help, please contact David Simmons at 503-222-4044 or e-mail us at desimmons@nicwa.org.