

NICWA News

service and advocacy for Indian children

National Indian Child Welfare Association's Quarterly Newsletter - Spring 1998

20 Years of ICWA Examined

The federal law, the Indian Child Welfare Act of 1978, will be celebrated for the accomplishments it has spawned, and examined for the work yet to be done during the 16th Annual "Protecting Our Children" National American Indian Conference on Child Abuse and Neglect, April 20-22, 1998 at the DoubleTree, Lloyd Center, Portland, Oregon.

Headlining the list of invited keynote speakers is author Sherman Alexie, Attorney General Janet Reno, child activist Cecelia Fire Thunder, plus a panel of leaders who helped pass the Indian Child Welfare

Act: Attorney Bert Hirsch, Tribal Chairman Phillip Martin; and, Indian child welfare worker, Joan Standing Bear of Standing Rock, South Dakota. Delivering the Opening General Session keynote address will be University of North Dakota law professor and author of several books on Native law, Mr. B. J. Jones.

Among seventy-two workshops scheduled is a special track of six presentations focusing on topics related to Victims of Crime (VOC) programs initiated by the six Northwest U.S. Attorney's Offices for the districts of Alaska, Idaho, Montana, Oregon, and Eastern and

See Examined, page 7.

Circles of Care Grants Help Plan Mental Health Gains

Improvement of mental health services to Indian children is the intent of a new federal grant program called Circles of Care. The grant is being offered on a competitive basis to federally acknowledged tribes and tribal organizations. Urban Indian organizations are also eligible if they are non-profit, provide for the participation of all interested Indian groups and individuals there, and are governed by a board of directors comprised of at least 51 percent who are American Indian/Alaska Native.

The grant's availability, announced by the Substance Abuse and Mental Health Services Administration (SAMHSA) in collaboration with Indian Health Service Mental Health Programs Branch, was made public in the Federal Register, on January 20, 1998.

The Circles of Care grants are for planning, designing and assessing the feasibility of implementing a culturally appropriate, child-centered, community-based, family-focused mental health service model for

American Indian/Alaska Native children with serious emotional disorders or disturbances and their families. The grants are not, for purposes of service delivery. Winning grantees will work to bring stakeholders from every relevant system into a collaborative relationship or partnership around the children who have serious emotional disorders and their families. These might include, but are not limited to: state or tribal child welfare, education or juvenile justice agencies, the BIA, IHS, businesses, non-profit organizations, natural helpers, medicine people, ministers, and child advocates.

Each community, based on their own needs, will design what they want their model to look like and what they want their goals and objectives to be. One of the goals

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NICWA News

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Publication to address Adoption and Safe Families Act of 1997

Over the last four years, the National Resource Center for Organizational Improvement at the University of Southern Maine, in partnership with the National Indian Child Welfare Association (NICWA), has engaged in a project that is designed to enhance tribal operation of child welfare programs.

Until this year, the activities of this project have been primarily the provision of technical assistance. Due to new adoption legislation passed by Congress, the Adoption and Safe Families Act of 1997 (P.L. 105-89), this year the partnership includes a new initiative. NICWA will examine the impact of the new adoption law on child welfare services for Indian children and the implications for tribal child welfare programs. A report for tribes and states on the topic will be produced by NICWA.

The publication will identify impacts on services to Indian children under state or tribal care and custody, discuss general practice and cultural differences between tribal child welfare practice and policy and those embraced under the new adoption law, identify impacts on tribal programs and services operating under agreements between tribes and states, and provide practice and policy recommendations on how to effectively implement this new law for Indian children.

April is National Child Abuse Prevention Month

The National Indian Child Welfare Association (NICWA) and Target Stores, in conjunction with the National Clearinghouse on Child Abuse and Neglect (NCCAN), are pleased to announce the distribution of a free child abuse and neglect prevention packet for use in tribal communities. One packet will be sent to each tribal ICW program in April to observe the National Child Abuse Prevention Month campaign.

The partnership between NICWA and NCCAN and the sponsorship of Target has made it possible for all tribes to have the ability to actively participate in National Child Abuse Prevention Month. The packet includes such highly regarded items as the *Grassroots Prevention of Child Abuse and Neglect in Indian Communities: A Guide for the Community Organizer*.

These packets also contain easy-to-read booklets, fact sheets, and idea lists for preventing child abuse, and other Indian-specific resources and tools for developing or enhancing a child abuse and neglect prevention program on your reservation or in your urban Indian program. The result is a great culturally specific tool for Indian communities to use in the prevention of child abuse and neglect. We wish to thank NCCAN and Target Stores for their generous support.

ADVOCACY

ICWA AMENDMENTS UPDATE

Efforts are still continuing to gain passage of the two Indian Child Welfare Act (ICWA) amendment bills in Congress that have tribal support - S. 569 and H.R. 1082. Senator McCain, an original co-sponsor of S. 569, and other members of the Senate Committee on Indian Affairs have been working to schedule a vote for S. 569 on the Senate floor this session, hopefully before summer. Because of the abbreviated congressional session (it's an election year) and the Senate's concentration on other larger issues, the ability to schedule action this year on S. 569 is more difficult. Last year, the Senate Committee on Indian Affairs was able to move the bill to the Senate floor, but not before Senator Slade Gorton stopped the bill from getting a full Senate vote based on objections raised by the National Council for Adoption. The National Council for Adoption has opposed S. 569 and H.R. 1082, and instead has advocated for sharp changes in the ICWA that would limit tribal authority and involvement in adoptions of Indian children.

H.R. 1082 saw no action last year, either in the House Resources Committee or on the House floor. This was, in large part, due to the lack of agreement on what type of ICWA bill should move ahead in the House. Congresswoman Deborah Pryce, who had introduced ICWA amendments in the past which tribes opposed, said last year that she would block any attempts by Congressman Don Young to move H.R. 1082. Congressman Young is an original co-sponsor of H.R. 1082 and Chairman of the House Resources Committee, which has jurisdiction over the ICWA. Instead, Pryce wanted to replace H.R. 1082 with a bill she introduced earlier that would codify the "existing Indian family" exception. This state court-created exception to the ICWA would severely undercut tribal authority and involvement in adoptions of Indian children. It is still unclear as to what position Congresswoman Pryce will take on H.R. 1082 this year,

but hopes are that she will support H.R. 1082 and S. 569 and be a part of a positive solution to protect Indian children and families.

Tribes and other interested individuals are encouraged to contact their congressional members and voice their positions on H.R. 1082 and S. 569. A number of congressional members still have yet to hear from their tribal constituents on this issue. If you have contacted your congressional members regarding these bills, remember that it is always good to refresh their memories and allow an opportunity for additional discussion.

TITLE IV-E FOSTER CARE UPDATE

While the Congress has temporarily shifted their focus away from child welfare issues this year, tribal advocates continue to work for amendments to Title IV-E that will give Indian children under tribal care funding for foster care, adoption assistance and related services. Currently, all eligible children under state care are able to receive Title IV-E services, but because the law does not include tribal governments, Indian children under tribal care cannot receive these benefits. This is especially troubling since the Title IV-E Program is supposed to be an entitlement program that serves all eligible children, regardless of where they live or whose care they are under.

This year, advocates for Indian children are working to get Title IV-E amendments introduced in Congress. The next step after that is to continue educating congressional members about the problem of getting these services to Indian children and then finding funding to offset the cost of covering Indian children under Title IV-E. The current estimate from the Congressional Budget Office is that it will cost \$235 million over five years. The committees in Congress that have jurisdiction over Title IV-E and where amendments would have to be supported are the House Ways and Means Committee and Senate Finance Committee. Tribal advocates are encouraged to contact their congressional members, especially those on the Senate Finance and House Ways and Means Committees to discuss their positions on Indian children gaining access to this important child welfare program. House Ways and Means Committee (202) 225-3625, Senate Finance Committee (202) 224-4515.

KEY PROVISIONS IN THE “ADOPTION AND SAFE FAMILIES ACT OF 1997” (P.L. 105-89)

Congress enacted changes in the federal child welfare law on November 13, 1997. The changes are contained in the Adoption and Safe Families Act of 1997. This created a major shift in federal policy in foster care and permanency planning for children.

Following is an condensed outline that describes which Indian children the law impacts, how it interfaces with the Indian Child Welfare Act, what new federal mandates are in the new law, new studies established under the law and plans for increasing technical assistance on issues surrounding permanency planning.

I. New federal standards under P.L. 105-89 impact certain Indian children.

- m Those under state care and custody.
- m Those under the care and custody of a tribe that operates a Title IV-E Foster Care and Adoption Assistance agreement.

It may also impact Indian children served by a tribe when: a) the tribe has some other type of foster care agreement with a state where adherence to P.L. 105-89 standards are required; or b) the tribe receives Title IV-B, Subpart 2, Family Preservation and Support Services funding (the impact is specific to changes made in the Title IV-B law contained in section 305 of P.L. 105-89).

II. P.L. 105-89 does not modify or diminish the responsibility of states to meet Indian Child Welfare Act standards for eligible Indian children under their custody.

Passage of the ICWA predates P.L. 105-89 and states that P.L. 105-89 amended.

P.L. 105-89 amends laws (Title IV-B and IV-E of the Social Security Act) that do not specifically address the ICWA.

P.L. 105-89 and its legislative history do not specifically address the ICWA.

Key areas where ICWA standards must be met:

- Notice to tribes of child custody proceedings.
- Standards for removal of Indian children from their homes.
- Active efforts to reunify with birth family or Indian custodian.
- Placement preferences for foster care or adoptive placements.
- Standards for termination of parental rights.

III. P.L. 105-89 establishes new federal standards in foster care and permanency planning. The law redefines when “reasonable efforts” to reunify need to be made. It exempts state agencies from this standard of effort for families under their care when circumstances include: 1) aggravated circumstances, i.e., abandonment, torture, chronic abuse and sexual abuse of a child. A state has the authority to define what constitutes aggravated circumstances (see section 101); 2) parent previously had parental rights involuntarily terminated to another sibling of the current child in custody, and 3) parent has been involved in a variety of felony crimes related to the child or other parent of the child (i.e., murder, manslaughter, felony assault).

It requires that “reasonable efforts” standard will apply to the development and achievement of permanency planning goals for a child and not just efforts to reunify (see section 101).

It requires that the child’s health and safety will be the paramount concerns in determining when “reasonable efforts” need to be made. Other concerns such as relationship to the birth family will not supercede health and safety (see section 101).

A permanency hearing (formerly a dispositional hearing) must be held within 30 days when it is determined that “reasonable efforts” are not required. These permanency hearings will focus more on efforts to find permanent homes for children than they have in the past. Part of this new focus is geared towards efforts to find adoptive homes and to terminate parental rights. The hearings will occur every 12 months instead of the minimum of every 18 months under previous law (see sections 101 and 302).

A state must initiate a petition to terminate parental rights (TPR) when: 1) a child has been in foster care for 15 of the most recent 22 months; 2) a child has been determined to be abandoned; and, 3) a parent has been involved in a variety of felony crimes related to the child or other parent of the child (i.e., murder, manslaughter, felony assault). The state must also identify, recruit, process and approve a qualified family for adoption at the time of the TPR. The state can decide not to initiate a TPR if: 1) a child is cared for by a relative; 2) a state agency has documented in child’s case plan that filing a TPR is not in the child’s best interest; or 3) a state has not provided services to a child’s family that the state

deems necessary for the safe return of the child to his or her home (see section 103). Foster parents or relatives providing care to a child and pre-adoptive parents must be provided with notice of any case review or hearing.

These individuals must also be given a chance to be heard at any of these reviews or hearings (see section 104).

Background checks are required for prospective foster or adoptive parents. At the state's option, no foster parent or adoptive parent can be approved when a background check reveals a felony conviction for any of the following: 1) child abuse or neglect; 2) spousal abuse; 3) crimes against children, including child pornography; 4) a crime involving violence, including rape, sexual abuse or homicide; or, 5) physical assault, battery, or drug-related offense within the last 5 years (see section 106).

New case plan requirements for states (and tribes that have Title IV-E agreements with states) are established. The case plan must now include documentation of the steps the agency is taking to find an adoptive family or other permanent placement for the child. Minimum information includes recruitment efforts with state, regional, and national adoption exchanges (see section 107).

The law provides financial incentives for those states that increase the number of children who are adopted from foster care living. The incentives will be based on increases over base year data. The payments are \$4,000 for each foster child adoption over the base year, plus an additional \$2,000 for any foster child that is determined to have special needs. There are no financial incentives for relative care, guardianships or other types of permanency placements (see section 201).

States can lose Title IV-E funding if they fail to use approved families outside of their jurisdiction for adoptive placements. Circumstances when a state can lose funding include: 1) the state delays or denies the placement of a child for adoption when an approved family is available outside of their jurisdiction, or 2) the state fails to grant an opportunity for a fair hearing to an individual who alleges a violation under #1 (see section 202).

New outcome measures will be developed to gauge a state's progress on protecting children. These outcome measures will eventually be used to rate state performance and determine future allocations of federal child welfare funding under Title IV-B and Title IV-E (see section 203).

Title IV-B, Subpart 2, Family Preservation and Support Services has a new name, new eligible services and new standards. The new name is "Promoting Safe and Stable Families." Two new categories of eligible services have been added, entitled "time-limited family reunification services" and "adoption promotion and support services." Time-limited reunification services can only be provided with these funds for 15 months from the time the child has entered foster care (see section 305).

States are required to be in full compliance with P.L. 105-89 within a relatively short time from date of enactment of this law (November 13, 1997). The exact date a state needs to be in full compliance depends on when their next state legislative session ends. This will require that states change their Title IV-B and Title IV-E plans, pass new legislation and develop new regulations or program guidance (see section 103 and 501).

IV. P.L. 105-89 establishes studies on child welfare practice and policy, and provides support for technical assistance.

The Department of Health and Human Services is required to convene an advisory panel and then review and make comments on a report on kinship care. Tribal representation is identified for the advisory panel. The report will provide policy recommendations (see section 303).

The Department of Health and Human Services is required to submit a report that describes the extent and scope of the problem of substance abuse in the child welfare client population. The report will also examine the types of services provided to this population and the outcomes resulting from these services, such as success or failure of services to resolve substance abuse problems that impact a child. The report will provide legislative recommendations (see section 405).

The U.S. Comptroller General is required to conduct a study on how to improve timely and permanent adoptions across state and county jurisdictions. The study will also look at recruitment of adoptive homes across jurisdictions and implementation of the Interstate Compact on the Placement of Children (see section 202).

The Department of Health and Human Services may provide technical assistance to states and local communities to help them increase the number of adoptions and other forms of permanent placements. The law describes the types of technical assistance that may be provided with a strong emphasis on expediting adoptive placements (see section 201).

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Honoring Our Children: An Evening with Ulali

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Aladdin Theater, 3017 SE Milwaukee Avenue,
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Circle, continued from page 1

of the assessment is to provide a structure for tribal and urban organizations to define culturally specific outcomes for mental health service systems for their children who have serious emotional disturbances. Evaluation activities contemplated under the grant announcement fall within the framework of feasibility assessment.

Some of the potential applicants for Circles of Care grants sent representatives to attend one of two bidder's meetings in Denver and Washington, D.C. in February. Attendees were given a notebook of material applicable to the writing of their grant proposal and could receive a set of tapes of the workshops. Those who were unable to attend could request the notebook and the set of tapes from the National Indian Child Welfare Association. Deadline for receipt of the grant proposals was April 3, 1998.

Examined, continued from page 1.

Western Washington. Tribal VOC staffs and volunteers will join in celebrating Child Abuse Prevention Month as well as Victims of Crime Month, both of which happen in April.

Two additional special features of this year's event will be a special benefit concert appearance by the popular Native American *a cappella* trio ULALI entitled *Honoring Our Children: An Evening with ULALI*, Sunday evening (see poster, page 6), and the presentation of the Healing Journey Accord Buffalo Robe Ceremony at the Wednesday morning Closing General Session presented by a delegation from the National Association for Native American Children of Alcoholics (NANACOA), sponsors of the Accord.

Conference registration information can be received by calling NICWA at (503) 222-4044.

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April is National Child Abuse Prevention Month!

CALENDAR

16th Annual "Protecting Our Children" National American Indian Conference on Child Abuse and Neglect

National Indian Child Welfare Association
April 20-22, 1998, DoubleTree Lloyd Center, Portland, OR
Contact: Larry Douglas, (503) 222-4044

Welfare Reform Impacts on Tribal Social Services: A National Forum

National Congress of American Indians
April 23, 1998 DoubleTree, Lloyd Center, Portland, OR
Contact: Leland McGee, (202) 466-7767

National Indian Education Association Annual Convention (NIEA)

October 11-14, 1998, Nashville, Tennessee
Contact: NIEA, (703) 838-2870

12th National Conference On Child Abuse and Neglect

National Center on Child Abuse and Neglect
November 16-21, 1998, Cincinnati, Ohio
Contact: NCCAN (301) 589-8242

NICWA WORKSHOPS

June 23-24, 1998 Mystic Lake Casino & Hotel
Workshop 1: *Working With Children With FAS/FAE*
Workshop 2: *Permanency Planning for Indian Children*, includes concurrency planning, family group conferencing
For information, call Chuck Hunt (503) 222-4044.

NCAI Also Meets in Portland

NICWA News has just learned that immediately following the "Protecting Our Children" conference, the National Congress of American Indians (NCAI) will hold a one-day meeting which has been titled "Welfare Reform Impacts on Tribal Social Services: A National Forum." It has been scheduled for Thursday, April 23, 1998 at the DoubleTree, Lloyd Center, Portland, Oregon, the same facility as NICWA's event.

It was reported that the starting time will be 8:30 a.m. Thursday morning with a no-cost, sign-in registration and continental breakfast. Moderating the one-day forum will be Dr. Eddie Brown, Associate Dean, Washington University, St Louis, MO. NCAI President Ron Allen will provide a welcome to participants and Oregon Governor John Kitzhaber has been invited to speak.

The agenda for the day-long event will be a series of discussion panels on five topic areas: *Housing and Transportation; *Addictions, Violence and Substance Abuse; *Emergency Family Services; *Welfare of Children; and, *Welfare of Elders.

More information is available by calling Leland McGee at NCAI's Washington D.C. office at (202) 466-7767.