



NICWA

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

**FOUR CORNERS ROUNDTABLE ON TITLE IV-B REAUTHORIZATION SPONSORED BY
THE WAYS AND MEANS COMMITTEE AND SENATE FINANCE COMMITTEE**

COMMENTS OF THE NATIONAL INDIAN CHILD WELFARE ASSOCIATION

DECEMBER 13, 2023

Introduction

Please accept the comments of the National Indian Child Welfare Association (NICWA) regarding the Four Corners Roundtable on Title IV-B Reauthorization. NICWA is a nonprofit Native-led organization headquartered in Portland, Oregon. We are dedicated to the well-being of American Indian and Alaska Native (AI/AN) children and families and carry out our mission through public policy and advocacy, research, and training and technical assistance with tribal, state, federal, and private agencies. We have extensive knowledge and expertise in federal child welfare programming, including Department of Health and Human Services programs under Title IV-B and Title IV-E of the Social Security Act. Our comments focus on tribal child welfare programming and implications for reauthorization of the Title IV-B, Subparts One and Two programs.

Title IV-B and Tribal Child Welfare Programs

Tribal funding for child welfare services comes from a variety of sources with almost all of these being discretionary and most providing allocations that are very small. Tribal governments receive less than one-half of 1% of the total amount of federal funding that is allocated for child welfare services to states and tribes each year, even though the AI/AN child population is closer to 2% of the United States total child population. Unless tribes have direct access to operate the Title IV-E program, which currently includes only 16 tribes, all of the funding sources available are discretionary, compared to states which have access to entitlement funding sources such as Medicaid and the Social Services Block Grant that tribal nations are not eligible to operate directly. The amounts of funding available from these discretionary sources are typically very small and not all tribes are eligible to receive the funds. For example, Title IV-B, Subpart One is available to all tribes, but almost half of the tribal grantees receive less than \$10,000 per year.¹ Title IV-B, Subpart Two has a larger amount of funding available for tribes, but the statutory funding formula only allows tribes that qualify for at least \$10,000 to be eligible to receive an allocation, leaving just under half of the tribes in the United States unable to access these funds.² In

¹ Out of 574 federally recognized tribes eligible to receive funding under the Title IV-B, Subpart One program, approximately 400 tribes are currently receiving funding each year.

² Out of 574 federally recognized tribes approximately 300 are eligible to receive funding under the Title IV-B, Subpart Two program each year.

addition, almost half of the tribes that are eligible to received Title IV-B, Subpart Two funds receive less than \$25,000 per year. Title IV-E is the only federal child welfare funding that tribes are eligible to receive that is open-ended and entitlement based. However, the program administrative requirements are overly burdensome for many tribes relative to their size and capacity when compared to a state. Title IV-E non-federal match requirements also pose a barrier for increased tribal participation as most tribal communities have few realistic opportunities to raise significant amounts of tribal general funds through taxes and fees to help meet non-federal match requirements. These barriers result in few tribes submitting plans to directly operate the Title IV-E program and being able to access Title IV-E's prevention services funding. Many more tribes have opted to operate the Title IV-E program through an agreement with a state, but this is discretionary for states so not all states offer this option and the tribe must follow the state's Title IV-E plan even if it does not utilize Title IV-E components like relative guardianship payments or prevention services.³ Furthermore, some states add additional state requirements that go beyond the minimum federal requirements, making the Title IV-E program more difficult to administer for tribal governments.

While the Title IV-B programs provide a small amount of funding to tribes overall, the funding is nevertheless critical to supporting basic services for tribal children and families that need assistance, whether in tribal or state child welfare systems.^{4 5} Title IV-B can be an important source of support for services in small tribes where they don't have tribal general revenue or Title IV-E funding available. These tribes use the funding to support prevention or reunification services in the community, to help states provide culturally appropriate services for tribal members or locate appropriate out-of-home placements when AI/AN children and families are in state systems. Sometimes a simple offering of support in the form of helping with a gas card or school supplies, or getting connected to other parents that can provide peer support can make the difference for a family in terms of whether they are able to stay out of the child welfare system and continue to provide a safe home for their children. The funds may also serve as a source of funding to help tribal child welfare professionals access culturally appropriate training that understands the unique child welfare challenges and solutions needed in tribal communities. These professional development opportunities are critical to onboarding new staff, maintaining existing staff, and supporting ongoing professional growth. Title IV-B funds are also helpful for tribes that are working on finding permanent homes for children that cannot return home to their parents. Tribal extended families are an important resource for these children and Title IV-B funds can help support guardianship or adoptive home recruitment and licensing, especially for the majority of tribal nations that do not operate the Title IV-E program.

Title IV-B, Subpart Two funding also provides \$1 million each year in grants to approximately seven to eight tribal court systems to support capacity building for tribal family court systems. This funding supports improved data collection, training to judicial staff, innovation in court procedures and design, and collaboration with state court systems. Tribal court systems, like child welfare programs, have need for additional funding from Title IV-B to expand access to this program and receive needed assistance.

Overall, Title IV-B funding is a crucial component of the tribal child welfare finance system that supports tribal child welfare services and allows tribes to partner effectively with state child welfare systems that are working with AI/AN children and families. When tribes are given the resources to fund their child welfare systems adequately, they produce amazing outcomes. In the state of Oregon, the Confederated Tribes of Umatilla Indian Reservation used a portion of their Title IV-B funds to reinvent their program after several community-wide meetings that examined how they could improve support to families and reduce

³ Approximately 130 tribes have Title IV-E agreements with a state to operate the Title IV-E program.

⁴ Title IV-B, Subpart One allocates approximately \$6 million each year for tribal grantees and Title IV-B, Subpart Two allocates approximately \$13 million each year to tribal grantees.

⁵ Tribal child welfare programs serve AI/AN children and families in both tribal and state child welfare systems, providing states with critical support and information they need to address child welfare concerns with AI/AN children and families.

foster care rates in their community. The changes they made refocused their program on prevention and ensuring no family was ever turned away that needed help. They also improved their collaboration with education, health, law enforcement, and recreation programs in their community to ensure community partners were informed of the efforts of the child welfare program and were aware of how they could support families more effectively. Child welfare staff were also retrained on how to engage families more successfully and the program underwent a redesign that grounded the program in tribal cultural values more solidly. The result was a reduction in foster care rates of nearly 70% and fewer families coming back into care after leaving the child welfare system among other notable achievements. Today, over eight years later, the tribal child welfare program is still removing far fewer children from their homes than they were previously and have created a valued program in the community that keeps children safe and strengthens families while keeping them connected to their tribal culture and extended family relationships. Other tribal nations are also redesigning their programs and achieving these types of results and more could with additional funding support. The Title IV-B program allows states and tribes to support system innovation within a broad array of services and flexibility to address the unique needs of AI/AN children and families.

Title IV-B Legislation in the 118th Congress That Addresses Improvements for AI/AN Children and Families

Legislation in the 118th Congress that addresses Title IV-B issues for tribes is contained in the two bills described below. These are bipartisan bills that have been developed to address concerns related to the current operation and requirements of Title IV-B funds by tribal nations. The proposed legislative solutions are designed to improve the administration of Title IV-B programs for tribal nations overall by streamlining administrative processes where it makes sense, clarifying the Department of Health and Human Services role in working with tribes and states on implementation of the Indian Child Welfare Act, and emphasize what is working in Indian Country to help AI/AN children find permanency more efficiently and effectively. The National Indian Child Welfare Association supports these bills and encourages Congress to consider these provisions as they develop their Title IV-B reauthorization approach.

Tribal Family Fairness Act (Bipartisan legislation, H.R. 2762, Rep. Sydney Kamiager-Dove (D-CA-37), 8 co-sponsors)

- Increases tribal set-aside from 3% to 4.5% from the mandatory spending under Title IV-B, Subpart Two and increases overall mandatory funding for states and tribes from \$345 million to \$356 million to ensure state allocations aren't reduced after tribal increase.
- Increases tribal court improvement funding (tribal child welfare family courts) from \$1 million to \$5 million per year.
- Recognizes tribal customary adoptions and use of Title IV-B funds for those placements.
- Streamlines reporting requirements for tribes that receive grants under \$50,000 (combined grant total under both Title IV-B programs).
- Allows use of in-kind payments to meet non-federal match requirements (Title IV-B, Subparts One and Two).
- Allows tribes to use their federally negotiated indirect rates as opposed to administrative caps in Title IV-B. Tribal governments negotiate indirect rates with the federal government to establish a rate that is applied in eligible federal programs. This process was established to address the transition of having federal agencies, like the Bureau of Indian Affairs or Indian Health Services, move from a role as a provider of health and human services on tribal lands to an oversight role as tribes were given the opportunity to contract services previously operated by these federal agencies.

Strengthening Tribal Families Act (Bipartisan legislation, H.R. 3461, Rep. Don Bacon (R-NE-2), 15 co-sponsors)

- Requires state Title IV-B agencies to work with their tribal partners in efforts to comply with the Indian Child Welfare Act and improve implementation (amends Title IV-B Subparts One and Two).
- Describes key data elements for the Department of Health and Human Services to collect data on to inform efforts by states.
- Encourages collaboration between Department of Health and Human Services and Department of Interior on how to improve implementation of the Indian Child Welfare Act.
- Requires biennial reports to Congress.

Conclusion

Because tribal child welfare systems have a deep understanding of the issues specific to AI/AN children and families, they are able to provide the most effective and appropriate care to their children and families (Bigfoot et al., 2005). The result of this is that tribal nations provide more effective and efficient child welfare services, ultimately reducing cost and increasing positive outcomes for AI/AN children and families. Furthermore, many states need assistance from tribes to effectively serve tribal children in state foster care. States see tribal governments as important partners in their efforts to find appropriate services and placements for tribal children (GAO, 2005). When we support and invest in tribal capacity and increase support for states and tribes working together to implement the Indian Child Welfare Act, we increase our ability to improve outcomes for AI/AN children and families wherever they may live.

References

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For more information regarding these comments, please contact NICWA Government Affairs and Advocacy Director, David Simmons, at desimmons@nicwa.org