

Active Efforts and the Indian Child Welfare Act: Protecting Native Children and Providing Support to Keep Native Families Together



INTRODUCTION

In the years leading up to the passage of the Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.), Congress heard testimony from a diverse group of people, including Tribal leaders, parents, Tribal health and human service providers, Tribal organizations, psychiatrists, religious organizations, and federal and state officials, about state and private agency practices and policies with regard to American Indian/Alaska Native children and families. **The information provided by witnesses indicated a widespread pattern of state and private child welfare agency bias and abuse in the handling of child welfare matters involving Native children and families.**

The Association on American Indian Affairs' estimates of **Native children placed in out-of-home care between 1967 – 1974 ranged from 25% to 35%, with 85% of placements in non-Native homes**, often far from their families and Tribal communities (H.R. Rep. No. 95-1386, p. 9 (1978)).¹

After testimony at a 1974 hearing, Senator James Abourezk of South Dakota, Chairman of the Senate Subcommittee on Indian Affairs, remarked that he saw a pattern of state and private agency caseworkers using **“any means available, whether legal or illegal...”** to take children away from Native mothers they did not believe were fit parents, including the use of misinformation and coercion to sign documents that were used against them (*Indian Child Welfare Program, Hearings before the Subcommittee on Indian Affairs of the Senate Committee on Interior and Insular Affairs, 93rd Cong, 2d Sess., pg. 463 (1974)*).²

In response, in 1978, Congress enacted the Indian Child Welfare Act (ICWA), which provides minimum standards for the care and placement of Native children by state and private child welfare agencies. These procedural safeguards include a requirement to provide “active efforts” to “provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family...” before a foster care placement or termination of parental rights could be ordered (25 U.S.C. 1912(d)).³ Active efforts were designed to prevent the removal of Native children from their families and to reunify them with their families after removal through affirmative, active, thorough, and timely efforts whenever possible to safely do so.

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¹ You can find a copy of the legislative history of the Indian Child Welfare Act at Native American Rights Fund, ICWA Online Guide under the Federal Resources link at <https://www.narf.org/nill/documents/icwa/federal/lh.html>.

² See footnote 1 above.

³ The Indian Child Welfare Act requirements apply to child custody proceedings, which are defined as foster care placements, termination of parental rights, and pre-adoptive and adoptive placements (25 U.S.C.)

In 2016, the Bureau of Indian Affairs issued comprehensive regulations that provided 11 examples of active efforts (25 CFR 23.2). In the examples given, there are references to efforts to support and increase family capacity starting early in cases—at first contact, ensuring visitation with parents, and engaging the child’s Tribe, extended family, and culturally based services.

Active efforts are different from reasonable efforts, the federal requirement that applies to non-Native children in child welfare systems. This higher standard is a guardrail to repair and reverse historical state and private child welfare agencies’ pervasive and unethical removals of Native children from their families and communities.

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Active efforts go beyond the provision of basic information to families, referrals to services, and case management, embodied in reasonable efforts to the early and active engagement of the child’s family, Tribe, and extended family members. Active efforts are a hallmark of the Indian Child Welfare Act’s federal protections for Native children and families, and are critical to providing fair and culturally appropriate treatment for Native children and families in state and private child welfare agencies.

Because ICWA provides minimum federal standards, states can adopt higher standards and/or build on the framework ICWA provides. Below are examples from five states that have intentionally built out their active efforts policies, implementation approaches, tools, and/or training. These examples may inform practical improvements in other jurisdictions as well.

CALIFORNIA CASE STUDY

California has incorporated active efforts language into their Welfare and Institutions Code in section [224.1\(f\)](#), aligning closely with the federal ICWA definition of active efforts. Section [361.7\(b\)](#) of the Code requires that active efforts be assessed on a case-by-case basis and utilize available resources of the child’s extended family, Tribe, Tribal or other Indian social services agencies, and caregiver service providers.

In California, ICWA training is part of the core curriculum for county social work staff, including a dedicated training module on active efforts. A 40-hour advanced ICWA training developed by Tribal trainers is also available. Counties can opt to have the training provided for their case-carrying social workers, county leadership and supervisors, and local Tribal representatives.

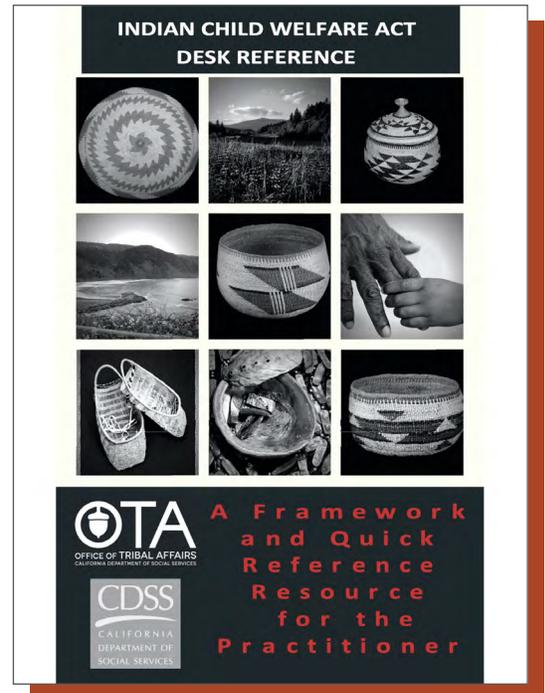
Local Tribal representatives have the opportunity to co-train within a designated training region. The curriculum places a strong emphasis on the principles and practical application of active efforts.



1903(1)). The definition of foster care includes conservatorship (guardianship) and institutional care placements.

In addition to staff training, California has various tools to support active efforts implementation, including an [ICWA Desk Reference](#) for practitioners, “All County Letters” that provide guidance to county child welfare agencies on active efforts requirements ([ACL 20-38](#) and [ACL 24-18](#)), and an [ICWA Best Practices Guide](#) for judicial officers from the Judicial Council of California. In developing ICWA-related tools, the California Department of Social Services (CDSS) often partners with Tribal Nations to ensure they can review materials and offer input, helping to shape the implementation of active efforts in ways that reflect the needs, priorities, and expectations of Tribal Nations across the state.

California is home to 109 federally recognized Tribes, and while some have dedicated policy or social services staff to support comment submissions, many smaller Tribes lack the resources to fully engage in cases and system reform processes. To support Tribal engagement, many Tribes unify their advocacy through the California Tribal Families Coalition (CTFC) to ensure their voices are represented and integrated into state decision-making to best serve Native children and families.

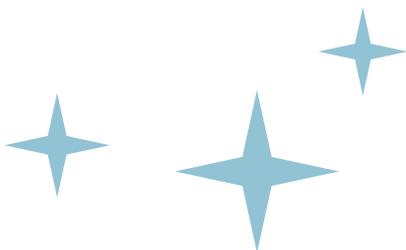


Building on the training and tools available statewide, the CDSS Office of Tribal Affairs conducts quarterly Tribal Advisory Committee meetings to strengthen government-to-government relationships between Tribal Nations and CDSS. These meetings provide space for any of the 109 Tribal Nations in California to participate in and share community concerns and priorities, and allow the Committee to recommend policies or procedures for CDSS. There is an [ICWA hotline](#) where Tribal representatives can report concerns regarding ICWA non-compliance by a county child welfare agency. Since California is a county-administered system, many case-specific active efforts concerns can be addressed through discussions and problem-solving at the county level. Some counties have established regular forums to engage with Tribal Nations on local issues, like the [Riverside County Tribal Alliance](#).

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Currently, the University of California, Berkeley aggregates and analyzes CDSS child welfare data, which can pull data specific to ICWA cases, such as [placement status](#). The ICWA hotline data is also shared with Tribal Nations on a quarterly basis, allowing Tribes to monitor trends and identify recurring challenges, such as counties that face obstacles fulfilling active efforts requirements.

Additionally, Tribal Nations and CTFC are working on a research study to link data to long-term outcomes for Native children and families, including court findings related to active efforts, such as whether active efforts influenced child placements (e.g., placing siblings together), reduced time in care, and provided support for mental health care. More research and data collection are needed to evaluate outcomes of active efforts and determine whether enhanced training and knowledge of ICWA are fostering greater accountability in practice — an area that remains a priority for Tribal Nations in California.



NEBRASKA CASE STUDY

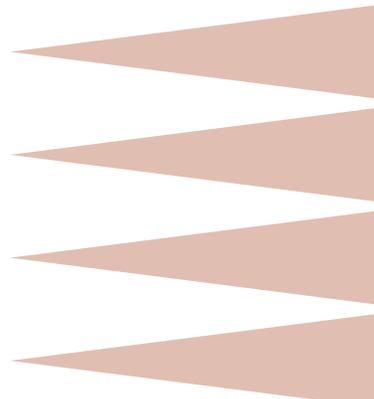
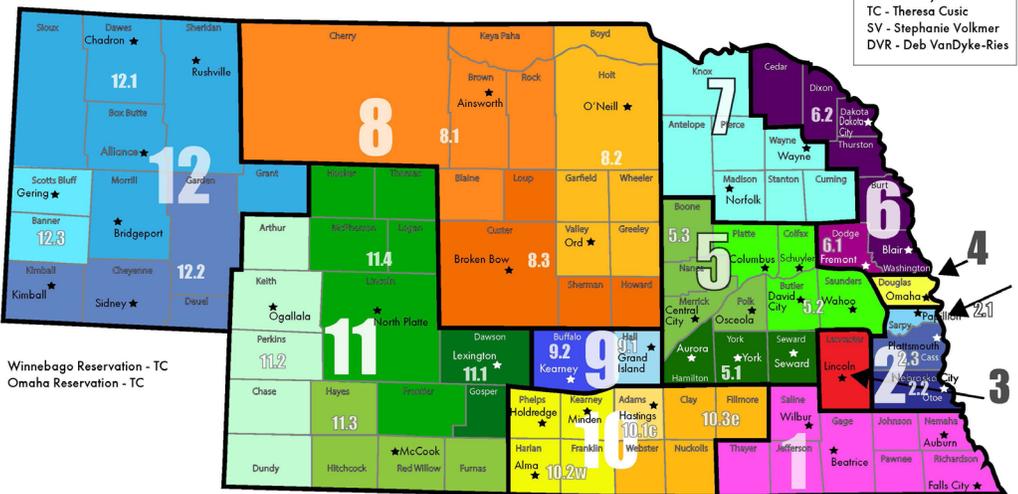
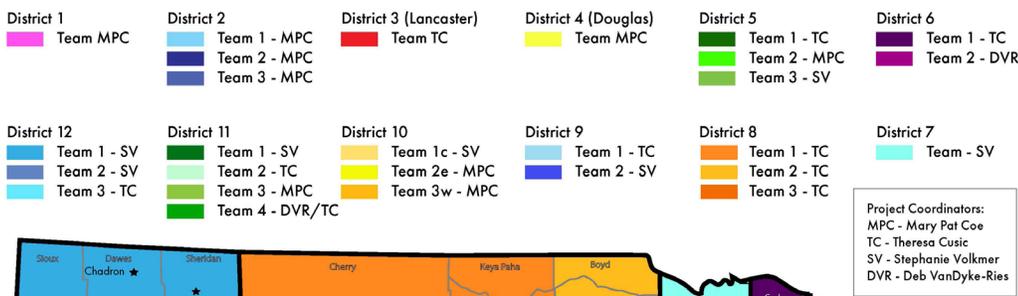


Nebraska’s ICWA statute ([NE Code § 43-1503\(1\)\(a-h\)](#)) includes a detailed definition of active efforts and mandates that an active efforts report be prepared for every court hearing and shared with the child’s Tribe. Since 1999, Nebraska has required that a cultural plan be developed for Native children placed in non-Native homes — or in Native homes not affiliated with the child’s Tribe — as part of the active efforts standard. This plan includes strategies to ensure the child remains connected to extended family, Tribal members, and their culture.

Since 2020, the Nebraska Indian Child Welfare Coalition (NICWC) has provided both introductory and advanced ICWA training to state case workers. The Nebraska Department of Health and Human Services (NEDHHS) also requires that their new workers attend shorter “small bites” training on topics such as active efforts and creating cultural plans. NICWC, in partnership with the Nebraska Court Improvement Project (CIP), developed a series of [short videos](#) on ICWA-related topics for juvenile court stakeholders, including ICWA Education Module 6 Active Efforts. The videos are designed to be viewed in full initially, then used later as a refresher or quick reference.

Practical tools and guidance documents have been developed to complement training efforts, including the NEDHHS ICWA Standard Operating Procedures Manual and [ICWA Case Management Guide](#), to support child welfare professionals in implementing ICWA. The ICWA Case Management Guide was developed with input from Tribal partners and features practice tips and side-by-side examples of reasonable and active efforts. The Nebraska CIP supports **“Through the Eyes of a Child” teams, multidisciplinary groups of legal and child welfare professionals that meet regularly to address systemic issues in their juvenile court system.** In Lancaster County, one team is developing a county-specific active efforts report template, incorporating examples from the Bureau of Indian Affairs regulations and the Nebraska ICWA statute.

Supported by the U.S. Department of Health and Human Services, Administration for Children and Families’ State-Tribal Partnerships to Implement Best Practices in Indian Child Welfare grant, Together for Indigenous Families NEDHHS serves a lead role in fostering collaboration between Tribal Nations, NEDHHS staff, and other stakeholders.



Through the Eyes of the Child Teams;
Over 25 teams across 12 districts.

In June 2025, Together for Indigenous Families hosted its first statewide ICWA conference, which featured many workshops, including one focused on active efforts scenarios and the critical role of Tribal input in shaping active efforts plans. NICWC also facilitates monthly meetings that include Tribal ICWA directors, supervisors, and human services staff; NEDHHS staff; and other stakeholders.

This provides a forum to discuss program updates and identify and discuss ongoing issues with ICWA implementation, including active efforts. Additionally, NICWC participates in monthly case staffings with the Oglala Sioux Tribe. NICWC has a Memorandum of Understanding agreement with the Oglala Sioux Tribe that allows them to provide assistance and support to Tribal staff and the families they work with in Nebraska. These collaboration vehicles are important because, **as of July 8, 2025, NEDHHS is managing 364 ICWA cases involving children affiliated with 33 Tribal Nations from across the country.** Recognizing that a large number of Native children in Nebraska's child welfare system are affiliated with Tribal Nations in neighboring South Dakota, NEDHHS is seeking opportunities to expand staffings to include Tribal Nations outside of the state.

Collaboration to support active efforts implementation extends beyond Tribal-state partnerships to include a broad network of urban Native organizations and partners — **Nebraska Urban Indian Health Coalition, Omaha Public Schools Native Indigenous Centered Education program, Morningstar Counseling, Susan La Flesche Picotte Center, Nebraska Tribes Addressing Violence Coalition, Indian Center Inc., and Native Futures** — that contribute valuable services to Native children and families living in urban areas.

Nebraska's active efforts outcomes are reflected in data drawn from narrative reporting and listening sessions. The NEDHHS database captures qualitative data through a mandatory narrative reporting field where state caseworkers describe how active efforts were provided in each case. Statewide listening sessions conducted separately by NICWC through the Honoring Indigenous Families Grant and the Nebraska Consortium of Tribal, State, and Federal Courts **revealed meaningful insights about the strengths of ICWA implementation and opportunities for improvement.**

In response to feedback from the Consortium listening sessions, NICWC provides biweekly support groups for parents, caregivers, or others involved in state cases — a program funded by a Bureau of Indian Affairs off-reservation ICWA grant. The NICWC/HIF sessions gathered feedback from Tribal Nations, CIP, NEDHHS staff, as well as families and older youth/alumni with lived experience. This research showed that there is a disconnect between the state and families. The state may be reporting that they are providing active efforts, but that is not what the families involved report experiencing. Building on outcomes data, NICWC is interested in creating videos featuring a variety of content to center lived experiences, deepen understanding of active efforts in action, and help families become strong advocates for themselves.

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OKLAHOMA CASE STUDY

The [Oklahoma Indian Child Welfare Act](#) (OK-ICWA) does not include a detailed definition of active efforts, however, **there is a requirement that caseworkers in ICWA cases describe what the state agency has done to prevent the removal of a Native child or engagement with child welfare as well as describe the judicial standard of proof, “beyond a reasonable doubt,” in determining if active efforts have been provided.**⁴

Active efforts appear in Oklahoma’s Department of Human Services’ (OKDHS) “ICWA for CPS [Child Protection Services]” and “ICWA Basics” trainings. Currently, there are efforts to improve the training to more comprehensively address active efforts and ICWA compliance overall.

One method for strengthening implementation of active efforts by Oklahoma State caseworkers is state-led “lunch-and-learns” where state workers are encouraged to share case examples and identify and discuss what constitutes active efforts and what falls short. While there are training units in each region that provide ICWA-related trainings, “lunch-and-learns” only operate in some regions.

Oklahoma previously received a U.S. Department of Health and Human Services, Administration for Children and Families’ State-Tribal Partnerships to Implement Best Practices in Indian Child Welfare grant, and, as part of the work to improve ICWA compliance in the state, interviewed Tribal and state child welfare directors and staff to solicit feedback on ICWA implementation. **Through interviews with all 39 Tribes, OKDHS developed a stronger understanding of how the Tribes experience and understand ICWA compliance in Oklahoma, including how active efforts are implemented.** OKDHS identified specific strategies for more education and clarification about proper implementation of active efforts, including: engaging the Tribal-State Workgroup on ICWA Compliance that was established in 2005, partnering with the State Court Improvement Program (CIP), providing training events at Oklahoma Indian Child Welfare Association (OICWA) conferences, collaborating with the state’s ICWA Task Force, offering content at a statewide judicial conference, and offering training and/or materials to Oklahoma Indian Legal Services, who represent children and parents in ICWA proceedings.

The OKDHS Tribal-State Workgroup is an active working group between OKDHS and Tribes, as well as a number of other organizations, to work on implementation of and resources for ICWA and OK-ICWA. They have incorporated the Bureau of Indian Affairs ICWA regulations’ 11 examples of active efforts ([25 CFR 23.2](#)) into the state’s child welfare practice model.

This has improved state guidance on active efforts, but the Tribal-State Workgroup is hoping to expand and improve their guidance, similar to the Lummi Nation’s [Comprehensive Guide to Active Efforts](#) (2021). In the meantime, the Tribal-State Workgroup hopes their guide on active efforts for state caseworkers helps to ensure that culturally based services are a part of all active efforts.

Lummi Child Welfare



Comprehensive Guide to Active Efforts

Developed, researched, and created by Lummi Child Welfare
Published 3/26/21

⁴ Oklahoma Indian Child Welfare Act. Oklahoma Children’s Code.

The Tribal-State Workgroup is composed of representatives from the CIP; OICWA; the Oklahoma Commission on Children and Youth, which is an oversight committee for OKDHS; Tribes; OKDHS staff and regional deputy directors; and legal counsel and staff for both OKDHS and the Tribes who implement Title IV-E programming around the state.

In terms of data to understand and strengthen practice, OKDHS is working to develop a comprehensive assessment of active efforts and ICWA implementation more broadly that is culturally responsive and meets the goals of Tribal Nations in Oklahoma. A number of the Tribal Nations in Oklahoma have experience with culturally based ICWA assessment tools for active efforts, including Choctaw Nation, Cherokee Nation, Cheyenne-Arapaho Tribes, and Potawatomi Nation, which have their own tools to support active efforts education, and implementation in their communities.

OKDHS is working to gather more data on the implementation of active efforts throughout the state using their ICWA case review tool. The CIP also has an ICWA case review tool for court proceedings, which includes a focus on active efforts.

WASHINGTON CASE STUDY

Active efforts are defined in the updates to [Washington's Department of Children, Youth & Families \(DCYF\) Policies and Procedures](#) that were enacted in 2024 [\(2.40.50\)](#)⁵. Washington State's Office of Tribal Relations developed these updated policies in partnership with Tribal Nations over a three-year period. The Tribes and state created a Tribal-State Workgroup to provide feedback on the language developed.



Active efforts are a key component of trainings, as well as DCYF, in partnership with the University of Washington School of Social Work, through a group called The Alliance, offers a number of [trainings that highlight active efforts](#).⁶ These include DCYF's ICW Policy Rollout Training, a two-day training on the Washington Indian Child Welfare Act (WICWA), Indian Child Welfare (ICW) Legal and History eLearning trainings, and Qualified Expert Witness training.

While the [WICWA](#) codifies most of the state law requirements regarding implementation of ICWA, there are other places in state policy where active efforts are defined, like in the general state child welfare policies concerning active efforts. **Neither WICWA nor state policy define the following specific terms used in describing active efforts: "active," "affirmative," "thorough," "timely," and "tailored." WICWA does define the terms "concerted," "diligent," and "made in good faith," which are used to determine whether active efforts were provided properly.**

In addition to state policies, **DCYF has created several tools for social workers to help them determine if they are meeting active efforts**, including a CPS Active Efforts Tutorial and a mini training through the Local Indian Child Welfare Advisory Committees (LICWAC).⁷ LICWACs are unique to Washington State and provide staffings for ICWA cases, making recommendations on case management and how to meet different ICWA requirements. The LICWACs have a monthly or quarterly state program manager call to discuss requirements and applications to ICWA cases.

⁵ Washington State DCYF. Department of Children, Youth & Families Policies.

⁶ UW School of Social Work. Alliance Courses. UW School of Social Work Professional Education.

⁷ Washington State DCYF. Local Indian Child Welfare Advisory Committees.

There are several ongoing vehicles for communication between the state and Tribes about ICWA implementation and active efforts, including the [Office of Tribal Relations \(OTR\) newsletter](#), the state's [Indian Child Welfare Subcommittee](#) that meets monthly, Dear Tribal Leader letters, the feedback loop that occurs in [trainings through The Alliance](#), and the [DCYF Tribal Relations webpage](#).⁸

“...a virtual collaborative space that brings together active efforts staff from across the state monthly to share insights and best practices and to learn from one another.”

One primary vehicle for strengthening practice is OTR's Active Efforts Community of Practice, a virtual collaborative space that brings together active efforts staff from across the state monthly to share insights and best practices and to learn from one another. The OTR has employees who work closely with each region and the Tribes so that Native children and families can receive culturally relevant services, promoting ICWA and WICWA compliance and supporting Tribes in being active partners in case planning and decision-making.

DCYF also sponsored three virtual active efforts resource fairs for their staff across the state to learn about resources for Native children and their families, including support for active efforts. The fairs also prompted DCYF to build a virtual resource directory with resources to support compliance with active efforts and other elements of ICWA.

Data collection is another important tool in promoting active efforts in Washington State. OTR conducts state ICWA case reviews using a review tool developed by DCYF in partnership with Tribes in Washington State that captures ICWA case management in five key areas, one of which is active efforts. The review tool can track outcomes of active efforts related to parent engagement and when active efforts occur at different stages of the case.

One finding from the review has been that state court judges need more ICWA training to promote more consistency in active efforts determinations between jurisdictions. Another finding is the need for additional research that tracks active efforts compliance and outcomes.



 Washington State Department of
CHILDREN, YOUTH & FAMILIES

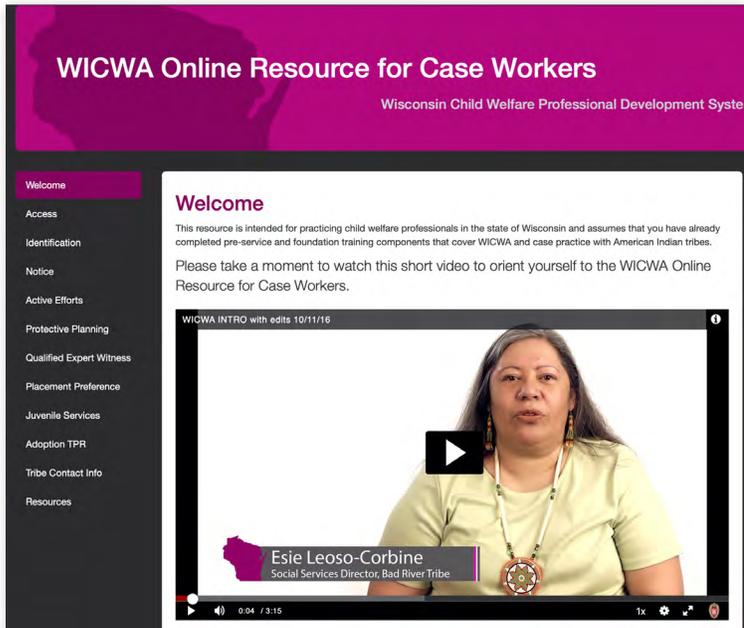
www.dcyf.wa.gov

⁸ Washington State DCYF. *Tribal Relations*.

WISCONSIN CASE STUDY



Wisconsin has active efforts requirements that are embedded in their state ICWA law. In the [Wisconsin Indian Child Welfare Act](#) (WICWA),⁹ there are nine examples of how active efforts can be met (Wis Stat [48.028\(4\)\(g\)](#)), and the State's Department of Children and Families (DCF) reviews each of these in their trainings specific to active efforts.



The training in the Wisconsin Child Welfare Professional Development System is broad, covering all of WICWA. The WICWA Online Resource in this system has tabs for each of the ICWA and WICWA requirements, including a tab for active efforts, so workers can easily find the information they need, which is especially helpful while caseworkers are in the field. Since the state published this online resource, state staff have received fewer questions about why caseworkers have to apply active efforts, as DCF staff used frequent caseworker questions to inform the resource. DCF's Tribal Affairs team also provides in-person WICWA training throughout the state.¹⁰

Wisconsin State Court judges have a Judicial Checklist of WICWA requirements and guidance on how to implement them from the bench. DCF also shares this with caseworkers so they are aware of the judges' role in ICWA implementation. The Checklist, developed by the Children's Court Improvement Program (CCIP), is complemented by an eLearning tool which is geared toward legal professionals, but child welfare agency staff and parents have found it helpful too.

The eLearning module outlines what active efforts are and how those should be applied for a particular family. It also identifies Tribal resources that help with active efforts compliance and outreach to the families. DCF hosts a bi-monthly Indian Child Welfare (ICW) director meeting with Tribal child welfare directors and attorneys from the Tribes to discuss ICWA compliance and active efforts. The State's Tribal Affairs Office asks for feedback from multiple Tribes that participate.

To improve active efforts implementation in the state, the State's Tribal Affairs Office troubleshoots requests from the Tribes, building strong relationships with Tribal leaders and making their staff available to Tribal leaders and their staff as needed. **The state recognizes the critical importance of having good Tribal-state relations in child welfare.**

⁹ Wisconsin Legislature. *Wisconsin Indian Child Welfare Act*. Children's Code.

¹⁰ Wisconsin Child Welfare Professional Development System. *WICWA Online Resource for Case Workers*.

¹¹ Wisconsin Courts. (March 2021). *Judicial Checklist- Wisconsin Indian Child Welfare Act*.

Another tool for improving compliance with active efforts is the WICWA case reviews, which are conducted every four years. DCF partners with the CCIP on WICWA reviews that are conducted in the eight counties with the highest number of ICWA cases. DCF and CCIP randomly pull a sample of ICWA case files to review and look for five key areas of WICWA compliance, one of which is active efforts. The CCIP and DCF Tribal Relations Office review relevant data regarding ICWA and WICWA compliance, analyze the data, and create a report for each county, which is shared with the specific counties. DCF and CCIP discuss the findings and strategies for improving compliance with each county.

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DCF has implemented a Business Processing Reengineering mapping to improve documentation in the statewide electronic case management system. One area of focus includes documenting ICWA/WICWA compliance, including active efforts.

CONCLUSION

The provisions of ICWA work together as a framework for keeping Native children with their families whenever possible, reserving removal for situations in which a range of services and supports are not sufficient to help parents keep their child safe.

They also improve child safety and parental capacity after a child removal to improve opportunities for reunification. Many national child advocacy organizations refer to the ICWA framework as the **gold standard of child welfare policy and practice**—protections that would benefit all children and their families. Active efforts, which must be provided from the moment a CPS investigator or caseworker has reason to believe a child may be Native, are the crux of supporting families in their efforts to remedy any child safety risk and equipping them to care for the health and well-being of their child over the long term. Active efforts provide the caseworker-family partnership that best positions families to care for their children and keep them safe.

“Active efforts provide the caseworker-family partnership that best positions families to care for their children and keep them safe.”

While historically there have been policy and practice questions about what constitutes active efforts and how they differ from reasonable efforts, **federal regulations** issued nearly a decade ago provide clarity and concrete examples. **States have the opportunity to enhance these standards.** As these case studies illustrate, many states have their own definitions and additional examples documented in policies and procedures, some in the context of state ICWA laws. Guidance, assorted tools, data collection and evaluation, and training help support good child welfare agency and court practice.

ICWA, and the active efforts requirement specifically, continue to be necessary to address the continuing impact of federal Indian policies. ICWA provisions are important guardrails for ensuring state compliance with federal standards for the treatment of Native families.

While the historical lack of a federal data collection requirement addressing state implementation of ICWA obscures a national snapshot of the status of state active efforts provision and the associated case outcomes for families, some states have not waited for a federal mandate and have elected to collect and use their own data to evaluate and strengthen their practice. The data emerging from these efforts, including those mentioned in the case studies, may inform [new 2024 federal requirements](#) for states to collect uniform data about ICWA cases.¹² Further, state and future federal data collection efforts to ensure accountability for ICWA implementation can be complementary. Tribal consultation and input to ensure meaningful data and accurate interpretation is necessary.

Reflective of their jurisdiction and authority, state child welfare systems differ significantly from one another. This “natural experiment” of state policymaking and practice allows considerable peer learning opportunities. The case studies in this brief offer different approaches to addressing active efforts that reflect different state contexts and policy choices. The spectrum of policies, implementation approaches, tools, and training may spark ideas for improving practice across jurisdictions.

“Tribal consultation and input to ensure meaningful data and accurate interpretation is necessary.”

¹² See also [Public Law 118-258](#), Supporting America’s Children and Families Act.

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The National Indian Child Welfare Association (NICWA) protects the safety, health, and cultural identity of Native children and families today and for future generations. NICWA strengthens Tribal capacity to prevent child abuse and neglect, advances policies that uphold Tribal sovereignty, and promotes Native-led, culturally grounded approaches to child welfare. Through advocacy, coalition-building, workforce training, and technical assistance to improve service systems, NICWA works at the Tribal, local, state, and national levels to ensure that Native children can thrive within their families and communities. Learn more at [www.nicwa.org](#).



NICWA

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

About the National Indian Child Welfare Association

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