

TRIBAL NATIONS TO STATE OF MN CHILD PROTECTION TASK FORCE

Oct 13, 2015

Until ICWA is followed, American Indian children and families will continue to face discrimination in the child welfare system, will continue to be removed at alarming rates, will continue to be placed in undesirable adoptions, and will be potentially lost to our communities.

- We firmly believe that to offset these risks to our children, the state of MN Legislative Task Force on Child Protection must assure that the protections guaranteed in the Indian Child Welfare Act and the Minnesota Indian Family Preservation Act are incorporated into all changes to the current Minnesota child protection system.
- We are here to advise that each of the 11 Tribal Governments in the state of Minnesota are the appropriate entities to be making decisions about our Indian children and families.

ICWA and MIFPA in Practice

ICWA and MIFPA empower child welfare/protection systems to follow best practices and treat American Indian children fairly and in keeping with American Indian child-rearing practices.

- **Promote the best interest** of Indian children by keeping them connected to their culture, extended family, community, and tribal nation which are **proven protective factors**.
- **Preserve the Indian family and tribal identity**, including understanding that Indian children are damaged if family and child tribal identity and contact are denied.
- **Protect the safety and stability** as defined by the tribes, of our Indian children, their families as defined by law or custom, and the child's tribe.
- **Require tribal involvement** at the earliest stage of child protection intervention.
- **Establish federal and state standards** that must be met before removing an Indian child.
- **Require placement** of Indian children in foster or adoptive homes that reflect the unique values of Indian culture.
- **Lessen the trauma of removal** by promoting placement preferences with family and community.
- **Promote the stability of families** by requiring healing services (“active efforts”) to prevent child abuse and neglect and keep children safely in their homes.

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RECOMMENDATIONS

Oct 13, 2015

The Indian Child Welfare Advisory Council recommends that the Legislative Task Force on Child Protection:

1. Acknowledge that all Indian children living in the state of Minnesota, both within and outside of the boundaries of the 11 tribal nations in the state, are citizens of the state of Minnesota and should be afforded all the protections of the state;
2. Acknowledge that our Indian children are also protected by laws specific to their status as members of federally recognized tribal nations. These laws include the federal Indian Child Welfare Act, and the Minnesota Indian Family Preservation Act;
3. Recognize Tribal Sovereignty; namely, that there are 11 Tribal Nations in the state of MN which are in the best position to make decisions regarding the best interests of their Indian children—each with an existing child protection system;
4. Recognize that the most important resource in our tribal nations is *our children* and that our goal is to preserve their connection to our culture and traditional teachings;
5. Recognize that tribal and family connectedness is a key principle of our Tribal Nations and our traditional tribal values – and that this is the foundation for the placement preferences outlined in both ICWA and MIFPA;
6. Support the goal of placing out Indian children within their extended families or tribes in instances where our children must be removed from their homes;
7. Recognize that our traditional customs, practice, and values of each Tribal Nation contains inherent assets that provide Indian families the best means of promoting health and healing and healing;
8. Recognize our tribal child welfare programs as a key partner in the child protection system in the state of Minnesota;
9. Require the DHS to incorporate plain language into the Child Maltreatment Screening Guidelines that delineate a requirement to immediately develop protocol(s) that counties are required to follow to implement procedures for responding to reports involving our Indian children;
10. Require the DHS to immediately consult and actively engage our Tribal Nations in the establishment of standards and administrative rules for the screening and investigation of all reports of maltreatment involving our Indian children;
11. Require the DHS to employ at least one staff person, with knowledge and experience working with Indian children and families, to provide oversight and guidance on the development of effective county agencies screening practices and decisions to ensure consistent application of screening guidelines; thorough and appropriate screening decisions; and correct documentation and maintenance of reports involving Indian children and families;

12. Require the DHS to develop a training curriculum designed to lead to an “ICWA certification” —created and trained by American Indian staff— that is financed by the state and is incorporated into the DHS Social Worker Training System. The training will be developed in a manner to improve social worker skills that promote an American Indian client’s heritage/culture as well as the ability to integrate the American Indian client’s traditions, customs, and values into service delivery;
13. Require that all child protection staff in counties, in which greater than 25% of their out of home placement involves our Indian children, be mandated to obtain an “ICWA certification”;
14. Mandate the incorporation and monitoring of compliance with the Indian Child Welfare Act and Minnesota Indian Family Preservation Act into the DHS Child Protection Screening Guidelines and in instances where there is a need for a corrective action plan impose standards and timelines to bring the county back into compliance--subjecting the county to fiscal penalties for non-compliance with corrective action requirements and timelines;
15. Require that counties responsible for investigating or assessing a report of maltreatment to mandatorily engage in the provision of active efforts to provide remedial and rehabilitative programs designed to prevent the breakup of the Indian family---and that this be done in all instances when an Indian child is reported as maltreated regardless of whether the report is screened in or screened out. (Note: Active efforts means more than reasonable efforts, and requires acknowledging traditional helping and healing systems of an Indian child’s tribe, and using these systems as the core to help and to heal the Indian child and family.);
16. Require counties to notify and request involvement of the tribe(s) or designated tribal representative(s) to participate in the case at the earliest point possible, and actively solicit their advice throughout the case;
17. Require counties to actively engage and consult with the tribe(s) about availability of tribal support for the family, including traditional practices, as well as other tribal services, and to use these tribally-based family preservation and reunification services whenever available. In instances where tribally-based services are not available, make referrals to other Indian agencies for services;
18. Require that counties request that tribally designated representative(s) with substantial knowledge of social and cultural standards and child-rearing practices within the tribal community evaluate the family’s circumstances, and assist in developing a case plan that uses tribal and Indian resources;
19. Require counties to provide access to both tribal and non-tribal services, including but not limited to, financial assistance, food, clothing, housing, health care and transportation. Services are to be on-going throughout the case to directly assist families in accessing and engaging services and are to be the fiscal responsibility of the county of residence;
20. Require that the Minnesota Assessment of Parenting for Children and Youth (MAPCY) creates a special rate that will be made available to a child’s caregiver because the child needs extraordinary care and intense supervision by a child’s caregiver as a result of being prenatally exposed to alcohol and/or other drugs, including prescription drugs;

21. Require that the DHS Licensing Division intentionally create a process to expedite a foster care licensing variance for American Indian families that do not pose an imminent risk of harm or a risk of harm requiring continuous, direct supervision while providing direct contact services;
22. Require the incorporation of quality assurance efforts into the DHS County Child Protection Quality Improvement reviews that include the monitoring of a county's compliance with ICWA and MIFPA and that any deficits are addressed by making changes to policy and procedure;
23. Require that the Department of Human Services program the ICWA Checklist into its Social Service Information System (SSIS) and locate these in a prominent position so counties are provided an information system tool that outlines the process to comply with the ICWA and MIFPA;
24. Require that the Department of Human Service's provide full access to SSIS to Tribes in cases involving our Indian children that will allow a tribe to more actively track and participate in the case planning for our children; currently, Tribes are dependent upon being granted access as a secondary assignment by the County involved;
25. Introduce a legislative proposal that will result in an appropriation to be used to invest in tribal child welfare programs on par with the state's investment in county child protection system—while acknowledging that tribal governments do not have a tax base to finance child welfare programming;
26. Require the DHS to contract with American Indian consultants to develop and deliver a series of training on ICWA, MIFPA and the TSA that will be mandated for all county child welfare staff, especially for the new county hires resulting from the 2015 legislative appropriation of \$25 million allocated to counties to strengthen their child protection programs;
27. Require that counties, in which greater than 25% of their out of home placement involves our Indian children, use funds provided by the 2015 legislature to hire American Indian staff equal to that counties out of home placement rate;
28. Require the DHS to actively engage and consult with each of the 11 Tribal Nations to develop a Work Plan that will be designed to implement each of the above recommendations.