



Administration for Children and Families

Providing Technical Assistance Related to the Indian Child Welfare Act

AGENCY: Children's Bureau, Administration for Children and Families, Department of Health and Human Services.

ACTION: Request for Public Comment

SUMMARY: The Administration for Children and Families (ACF), Children's Bureau (CB) is seeking public comment, in particular from State and Tribal title IV-B agencies and Indian Tribes, Tribal organizations and consortia (Tribes), and State and Tribal courts on providing technical assistance related to the Indian Child Welfare Act of 1978 (ICWA), removing undue burden related to meeting the requirements of title IV-B of the Social Security Act (the Act), changes to the Court Improvement Program, and amendments aimed at increasing the number of studies of programs and services eligible for review by the Title IV-E Prevention Services Clearinghouse. ACF is issuing this Federal Register Notice in response to requirements in the Supporting America's Children and Families Act, Public Law 118-258. The comments ACF receives in response will inform ACF's work to meet the new requirements in Public Law 118-258. ACF is also planning to hold consultation with Tribes later this year on these topics and will announce that through Dear Tribal Leader Letters. This Federal Register Notice is in addition to ongoing ACF consultation with Tribes, including consultation on title IV-B provisions not included in this Notice.

DATES: Comments must be received by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: In response to requirements in Public Law 118-258, this Federal Register Notice is soliciting input from States, Tribes, State and Tribal courts, and the

public on the questions below. You may submit written comments, identified by docket number and/or Regulatory Information Number (RIN), through the Federal eRulemaking Portal: <https://www.regulations.gov> on or before the due date. Follow the instructions for submitting comments. All comments received will be posted without change to www.regulations.gov, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Joe Bock, Children's Bureau, (202) 205-8618. Telecommunications Relay users may dial 711 first.

SUPPLEMENTARY INFORMATION:

Background

Under title IV-B of the Act, funds are available to States and Tribes to promote flexibility in the development and expansion of coordinated child and family services programs that utilize community-based agencies, family support services, family preservation services, adoption promotion and support services, and family reunification services to ensure all children are raised in safe, loving families. Funds are available under title IV-B for the following:

- Stephanie Tubbs Jones Child Welfare Services Program: Title IV-B, subpart 1 provides funds to support preventive intervention, alternative placements, and reunification efforts to keep families together (section 422 of the Act).
- MaryLee Allen Promoting Safe and Stable Families Program: Title IV-B, subpart 2 provides funds to assist with family support, family preservation, family reunification services, and services to support adoptions (section 432 of the Act).

It also sets aside funds for additional grant programs, including the Court Improvement Program and Kinship Navigator Grants. The Court Improvement Program provides funds for assessing and improving court processes to provide for the safety, permanency, and well-being of children and increase and improve engagement of the entire family in court processes relating to child welfare,

family preservation, family reunification, and adoption. The Kinship Navigator Grants provide funds to implement and evaluate programs that assist kinship caregivers in learning about, finding, and using programs and services to meet the needs of the children they are raising and their own needs.

In order to receive Federal funding under title IV-B of the Social Security Act, a State or Tribal agency requesting title IV-B funds must submit a 5-year Child and Family Services Plan (CFSP), Annual Progress and Services Reports (APSRs), and form CFS-101 (see section 432(a)(8) of the Act and 45 CFR 1357). The CFSP is a strategic plan that sets forth a vision and goals to strengthen a State's or Tribe's child welfare system. It outlines initiatives and activities that the State or Tribe will carry out over the next 5 years to administer and integrate programs and services to promote the safety, permanency, and well-being of children and families. The APSR provides an annual update on the progress made by States or Tribes toward the goals and objectives in their CFSPs and outlines the planned activities for the upcoming fiscal year. In the CFS-101, States and Tribes submit an annual budget request for the upcoming fiscal year, a summary of planned expenditures by program area for the upcoming fiscal year, the estimated number of individuals or families to be served, the actual expenditures for the last fiscal year by program area, and the numbers of families and individuals served by the program. See recent issuances for the APSR in ACF-ACYF-CB-PI-25-01 and ACF-ACYF-CB-PI-25-02 and for the CFSP in ACF-ACYF-CB-PI-24-02 and ACF-ACYF-CB-PI-24-03.

The *Supporting America's Children and Families Act*, Public Law 118-258, was signed into law on January 4, 2025. This law reauthorizes and amends programs under title IV-B of the Act. Changes take effect on October 1, 2025, and apply to payments for

calendar quarters beginning on or after such date, unless a delay of implementation is authorized as described in the law. The law requires consultation with Tribes and States on implementing certain provisions. The provisions that are the topic of this Notice are explained below, in paragraphs I through IV. The Questions for Comment that are associated with each topic area are located at the end.

I. **Technical Assistance Related to ICWA:** Section 422(b)(9) of the Act requires States to describe in its CFSP the specific measures taken by the State to comply with ICWA. ICWA was passed by Congress in 1978 to address the long history of failing “to recognize the essential Tribal relations of Indian people and the cultural and social standards prevailing in Indian communities and families” (25 U.S.C. 1901(5)). ICWA protects the “best interests of Indian children and promotes the stability and security of Indian Tribes and families by the establishment of minimum Federal standards for the removal of Indian children from their families and the placement of such children in foster or adoptive homes which will reflect the unique values of Indian culture, and by providing for assistance to Indian Tribes in the operation of child and family service programs” (25 U.S.C. 1902). As one Tribal leader told Congress, Tribes cannot long survive as “self-governing” communities if they cannot pass their “heritage” on to the next generation (*Mississippi Band of Choctaw Indians v. Holyfield*, 490 U.S. 30 at 33-34 (1989)). Congress thus recognized that, by severing that connection to future generations, the breakup of Indian families threatens “the continued existence and integrity of Indian Tribes” (25 U.S.C. 1901(3)). As the Supreme Court noted in a case interpreting ICWA, “Congress found that the breakup of Indian families harmed not only Indian children and their parents, but also their Tribes” (*ibid*). Section 107(a)(2)(A) of Public Law 118-258 expands the

requirement in section 422(b)(9) of the Act by directing States to describe how they will ensure timely notice to Indian Tribes of State custody proceedings involving Indian children, foster care or adoptive placements of Indian children, and case recordkeeping as such matters relate to transfers of jurisdiction, termination of parental rights, and active efforts. Section 107(a)(2)(B) of Public Law 118-258 created a new section 429B of the Act that requires HHS, in consultation with Tribes and States, to develop a plan to provide technical assistance (TA) to support the effective implementation of ICWA. ACF believes that States and Tribes working together to ensure that the protections of ICWA are afforded to Indian children is paramount. Currently, States are required to report in the CFSP/APSR the consultation, collaboration, and coordination with all federally recognized Tribes within their jurisdiction on all aspects of the development and oversight of the CFSP/APSR. This includes State compliance with ICWA, the arrangements for providing permanency planning services for Tribal children in the care of the State or Tribe, and the provision of independent living services under the Chafee Foster Care Program for Successful Transition to Adulthood (Chafee) program (see the report States' Consultation and Collaboration with Tribes and Reported Compliance with the Indian Child Welfare Act: Information from States' and Tribes' 2015–2019 Child and Family Services Plans for a summary of the information States provided in their 2015–2019 CFSPs in accordance with the statutory requirements regarding their compliance with ICWA and State consultation and collaboration with Tribes). Tribal Consultation and input regarding improving compliance with ICWA has taken place for many years, recently in 2023. Additionally, the Children's Bureau has supported TA on ICWA, including through the following:

- State-Tribal Partnership Grants to Implement Best Practices in Indian Child Welfare support TA by agencies, courts, and communities working jointly to implement best practices to serve American Indian and Alaska Native children in or at risk of entering foster care. These grantees also have a peer network supporting their TA.
- The Capacity Building Center for Courts provided comprehensive TA to courts and their partners to advance the effective implementation of ICWA across jurisdictions, including products and tools, peer networking activities, individualized expert consultation, and education on ICWA through a variety of tools and resources such as podcasts, webinars, guides, and briefs. This included developing model court data projects to assess ICWA practice and providing tailored services to States and Tribes on ICWA. The Capacity Building Center for States and Tribes provided TA to State and Tribal child welfare agencies to support practice elements of ICWA through peer networking activities, publications, and tailored support. This work continues through the National Centers for Innovation and Advancement.

In light of the mandate in section 429B of the Act and ongoing government-to-government relationship building among the Federal government, State government, and Tribal governments, ACF believes it is important to obtain specific feedback on how best to implement the requirements in section 429B of the Act.

II. Reducing Administrative Burden: Section 106(f) of Public Law 118-258 added section 441 of the Act, which requires that HHS reduce the administrative burden of a State/Tribe by 15 percent in administering the title IV-B program, eliminate

duplication, and streamline reporting. Specifically, HHS must: 1) eliminate duplication and streamline reporting requirements for the recipients, 2) analyze the total number of hours reported by the recipients to comply with paperwork requirements and reduce the number of hours required for compliance by at least 15 percent, 3) collect input from the recipients with respect to fiscal and oversight requirements, and 4) respect the sovereignty of Indian Tribes when complying with these requirements. Additionally, section 428(b) of the Act, as amended by section 107(a)(3) of Public Law 118-258, allows HHS to modify any title IV-B reporting requirement for Tribes whose allotment under title IV-B, subpart 1 is less than \$50,000 for the fiscal year (FY). Requirements related to reporting on aspects of title IV-B programs were issued in the regulations at §1357. Issued in 1996 (61 FR 58655, Nov. 18, 1996), the goal was to have agencies create a comprehensive, consolidated plan because it “is imperative to the development over time of a comprehensive child and family service system which is accessible, coordinated, flexible, built on and linked to community services and supports, and able to serve children and their families in a more effective and responsive way” (61 FR 58633). Since then, the title IV-B statute has been revised and expanded to include more service categories, more grant programs, and ultimately more reporting. The most recent annual burden estimates indicate that approximately 180 Tribal entities and 53 States (including Puerto Rico, the District of Columbia, and the Virgin Islands) currently receive title IV-B funding and must complete the CFSP every 5 years, and the APSR and CFS-101 annually. The estimated annual burden per respondent for the CFSP is 123 hours, for the APSR is 82 hours, and for the CFS-101 is 5 hours (see 88 FR 15727 and note that these estimates do not account for variances between larger or smaller populations). With the mandates of Public Law 118-258 on reducing burdens for title IV-B agencies, ACF believes

it is important to request specific feedback on how this may best be accomplished for States and Tribes.

III. The Court Improvement Program: Section 438(e) of the Act, as amended by section 104(d) of Public Law 118-258, includes amendments to requirements around remote hearings and provides additional funding aimed at ensuring continuity of courts and legal services. The amendments require HHS to issue best practice guidance every 5 years for technological changes needed for remote court proceedings and to consult with Tribes on the development of appropriate guidelines for State court proceedings subject to ICWA. This must include best practice guidance for State courts on how to maximize engagement of Tribes and support appropriate practice in remote hearings in ICWA cases. In addition, section 438(c)(3) of the Act, as amended by section 107(b)(3) of Public Law 118-258, increased annual funding to \$2,000,000 for FYs 2026-2029 for the Tribal Court Improvement Program. From 2012 to present, with \$1,000,000 per year funding, CB has provided grants with an annual ceiling of \$150,000. The ceiling was determined in consultation with Tribes in 2012 and is not set in statute (see [ACF Tribal Consultation Response: Tribal Consultation for the Tribal Court Improvement Program](#)). Since 2012, few larger population Tribes have applied for these grants. ACF thus wants to engage with Tribes on whether to revise the grant ceiling.

IV. Increasing Studies of Programs and Services Eligible for Review by the Title

IV-E Prevention Services Clearinghouse: Section 435(f) of the Act, as amended by section 108(a) of Public Law 118-258, authorizes competitive Prevention Services Evaluation Partnership Grants to support the timely

evaluation of Title IV-E Prevention Services and prioritize increasing the number of studies of programs and services eligible for review by the Title IV-E Prevention Services Clearinghouse (Clearinghouse). Section 427(b)(3) of the Act, as amended by section 110(b)(1)(C) of Public Law 118-258, revises the grant requirements for the Kinship Navigator Program to require that grant applicants describe how they will fund or provide data to HHS for an evaluation that will publish and submit information to the Clearinghouse. The Clearinghouse was created in 2018 and is authorized under sections 471(e)(4)(D) and 476(d)(2) of the Act. The purpose of the Clearinghouse is to conduct an objective and transparent review of research on programs and services intended to provide enhanced support to children and families and prevent foster care placements for the Title IV-E Prevention Services Program and Kinship Navigator Program (section 471(e) and 474(a)(7) of the Act). Title IV-E Prevention Services Programs and Kinship Navigator Programs rated by the Clearinghouse meet HHS practice criteria, which are outlined in section 471(e)(4)(C) of the Act. Since 2018, ACF has heard from many stakeholders that the number of programs and services rated by the Clearinghouse that meet the HHS practice criteria is limited, particularly programs and services that consider the culture and context of Tribal communities. ACF also understands there are limited rated programs for the Title IV-E Kinship Navigator Program. This highlights the need for additional well-designed and rigorous evaluations of programs and services that can meet the HHS practice criteria to be reviewed and rated by the Clearinghouse. ACF is diligently working to increase the number of studies of programs and services that can contribute to the research reviewed by the Clearinghouse. ACF believes that gaining feedback from States and Tribes on these issues is important to the

success of preventing child abuse and neglect, preventing children from entering foster care, and supporting kinship caregivers.

Questions for Comment

- I. *Technical Assistance Related to ICWA.* As Stated above, Public Law 118-258 requires HHS to develop a plan to provide TA to support the effective implementation of ICWA.
 - a. What barriers has your State/Tribe experienced in effectively implementing ICWA, including these specific topics:
 - Timely identification of Indian children and extended family members.
 - Timely notice of State child custody proceedings involving an Indian child to the Tribe(s).
 - Transfer of jurisdiction under ICWA.
 - Active efforts to prevent the breakup of the Indian family and meeting evidentiary standards, including testimony of a qualified expert witness for placements into foster care and terminations of parental rights.
 - Placements of children that meet the placement preferences of ICWA.
 - b. Has your State/Tribe identified a method of receiving TA that worked well in the past? Can your State/Tribe identify a method of receiving TA that did not work?
 - c. What existing State-Tribe partnerships or processes are helpful in effectively implementing ICWA?

- d. How could HHS coordinate with the Department of Interior (DOI) in working on a technical assistance plan? How could HHS, DOI, and other Federal agencies coordinate to provide effective TA for ICWA implementation?
- e. What data is needed to know whether TA is effective?
- f. Are there specific supports ACF could provide to help State courts and child welfare agencies address barriers to effectively implement ICWA?
- g. What additional supports would Tribes find helpful to build their capacity to respond to ICWA notices, attend court hearings, and certify foster families under ICWA?

II. *Reducing Administrative Burden.* As Stated above, Public Law 118-258 requires that HHS reduce the administrative burden for administering the title IV-B program, and it allows HHS to modify any title IV-B reporting requirement for Tribes whose allotment under title IV-B, subpart 1 is less than \$50,000 for a FY.

- a. How does your State/Tribe use the information reported in the CFSP, APSR, and CFS-101 for non-federal purposes, for example, in collaborative efforts with multi-disciplinary groups, reports to internal agency leadership or the State legislature/Tribal governing body?
- b. Regarding title IV-B subpart 1 and 2 requirements: What suggestions does your State/Tribe have to streamline reporting on programmatic work and expenditures and that would ensure consistency with standards and guidelines for other Federal formula grant programs? Please identify the specific requirement and note information that is duplicative or where the cost to report on it outweighs any benefits provided through the funding.

- c. Currently, information on the Child Abuse and Prevention Treatment Act (CAPTA) and the Chafee program are reported on the CFSP, APSR, and CFS-101 to ensure consistent reporting across these programs. Does your State/Tribe believe that continuing to combine these requirements into an integrated plan is the least burdensome way to administer and report on administering the title IV-B, Chafee, and CAPTA programs? Would it be more efficient to require that agencies submit a stand-alone application/report separately for each program? Does your State/Tribe have input on changes that would better ensure consistency across fiscal reporting for these programs? We also appreciate comments on what streamlined reporting may look like.
- d. Currently, Tribes that submit a CFSP have the option to use a preprint template (see Attachment H to ACF-ACYF-CB-PI-24-03). States do not use a template. Does your State/Tribe believe that a template format for a streamlined CFSP/APSR would be helpful? If so, how?
- e. Does your State/Tribe have suggestions for improvements to the CFS-101 that would be less burden on your agency and improve fiscal reporting consistent with standards and guidelines for other Federal formula grant programs?
- f. What title IV-B reporting requirements for Tribes whose allotment under title IV-B, subpart 1 is less than \$50,000 for a FY can be modified to reduce administrative burden on these Tribal grantees?
- g. When streamlining and eliminating duplication of reporting requirements and making changes to ensure consistency for fiscal reporting, what concerns regarding Tribal sovereignty might you have?

III. *Court Improvement Program.* As Stated above, Public Law 118-258 requires HHS to issue best practice guidance every 5 years for technological changes needed for remote court proceedings and to consult with Tribes on the development of appropriate guidelines for State court proceedings involving Indian children and State court proceedings that are subject to ICWA. Additionally, ACF is seeking input on the Tribal Court Improvement Program grant ceiling.

- a. What are the technological barriers and resources/capacity barriers to participating in virtual court hearings?
- b. What should ACF include in guidance for State courts to ensure appropriate engagement of Tribes in State court proceedings subject to ICWA that are conducted remotely? What practice issues are important to address in ICWA cases that are conducted remotely?
- c. Are there particular considerations for individuals in different roles (for example, qualified expert witnesses, Tribal attorneys) participating remotely in these cases?
- d. Currently, Court Improvement grants for Tribes have a \$150,000 award ceiling. With the increase in the total authorization available for funding Tribal Court Improvement Program grants, does your Tribe think there should be adjustments to the amount or approach to the award ceiling? If yes, what are your suggestions? How does the current ceiling, or your suggestions for a new ceiling, impact small, medium, and larger Tribal courts?

IV. *Increasing Studies of Programs and Services Eligible for Review by the Title IV-E Prevention Services Clearinghouse.* As Stated above, Public Law 118-

258 set aside funding for competitive grants intended to increase the pool of evidence-based programs and services in the Clearinghouse.

- a. How can ACF structure these grants to build evidence for program and services that are adapted to the culture and context of the Tribal communities served and eligible for review by the Clearinghouse?
- b. What TA do States and Tribes need to be able to successfully engage individuals with lived expertise to develop and study new or adapted programs and services that are eligible for review by the Clearinghouse?

Signed:

Joseph J Kracke-Bock

Acting Commissioner

Administration on Children, Youth and Families

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