

Date of Hearing: April 27, 2022

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Chris Holden, Chair

AB 1862 (Ramos) – As Amended March 29, 2022

Policy Committee: Human Services

Vote: 8 - 0

Urgency: No

State Mandated Local Program: No

Reimbursable: No

SUMMARY:

This bill establishes the Tribally Approved Homes Compensation Program under the California Department of Social Services (CDSS) to provide tribes with funding to recruit and approve homes for the purpose of foster or adoptive placement. Specifically, this bill:

- 1) Establishes the Tribally Approved Homes Compensation Program to provide funding to eligible tribes to recruit and approve homes for the foster or adoptive placement of an Indian child in accordance with the Indian Child Welfare Act (ICWA).
- 2) Requires CDSS, upon appropriation in the annual budget act, to provide annual allocations of \$75,000 to eligible tribes and tribal organizations each fiscal year.
- 3) Requires a tribe or tribal organization, to be eligible for funding, to submit a letter of intent to CDSS by May 1 prior to the fiscal year in which funding is being requested describing its plan to recruit and retain tribal staff to administer the tribally approved homes process and the estimated number of homes the tribal staff member will investigate and potentially approve each year.
- 4) Prohibits CDSS from establishing a minimum-number-of approved-homes requirement.
- 5) Requires a tribe or tribal organization that receives funding to submit a progress report to CDSS by August 1 following the close of the fiscal year in which an allocation was received.
- 6) Requires CDSS to annually compile the progress reports and submit a report to the Legislature by January 1 following the close of the fiscal year the report covers.
- 7) Allows a tribal organization to serve one or more federally recognized tribes in the process of approving homes consistent with ICWA.

FISCAL EFFECT:

- 1) Estimated ongoing costs in the range of \$5 million to \$8 million (General Fund (GF)), to provide an annual allocation of \$75,000 to each eligible tribe and tribal organization and cover their associated administrative costs. There are 109 federally recognized tribes in California and many additional others. If 75 tribes each received \$75,000, the annual cost would be \$5.6 million.

- 2) Estimated costs of approximately \$200,000 (GF) to CDSS for one staff position in the Office of Tribal Affairs and one quarter-time administrative position to administer the program, process the new fund and provide technical assistance to recipients.

(The author is also pursuing this proposal in the Legislative budget process.)

COMMENTS:

- 1) **Purpose.** Data shows 55% of Indian children involved in the child welfare system are placed in non-familial homes not tied to the child's culture. This bill seeks to ensure Indian children are placed in culturally appropriate and ICWA-compliant placements by establishing a program to provide tribes with funding for the recruitment and retention of tribally approved foster and adoptive homes.
- 2) **Indian Child Welfare Act (ICWA).** In 1978, Congress passed ICWA to address the disproportionate rate at which tribal youth were being removed from their homes and placed as foster children in homes outside of the tribe. ICWA is a federal effort to protect the civil rights and interests of tribal children when interaction with the child welfare system is deemed appropriate. ICWA establishes federal minimum standards for state courts to meet, but authorizes states to establish higher standards.

SB 678 (Ducheny), Chapter 838, Statutes of 2006, codifies the provisions of ICWA, including the state's intent to preserve a child's connection to their tribal culture and community whenever possible and provisions regarding tribal child custody proceedings. In addition, SB 678 clarifies ICWA applies to probate guardianships and conservatorships, imposes a duty to inquire whether a child in a child-custody proceeding may be a tribal child and requires available tribal resources be used when trying to meet ICWA's placement preferences.

Despite ongoing state efforts aimed at improving outcomes for tribal youth, CDSS reports tribal children continue to have one of the lowest rates of achieving timely permanent placements. This bill creates a program aimed at increasing the percentage of culturally appropriate and timely permanent placements for tribal youth.

- 3) **Tribally Approved Homes.** Under ICWA, a federally recognized Indian tribe or tribal agency is permitted to approve a home for the foster or adoptive placement of an Indian child. Tribally approved homes are not subject to state licensing approval standards, with the exception of criminal background checks. Tribes and tribal agencies have independent authority to approve homes using their own socially and culturally appropriate standards.
- 4) **Federally Recognized Tribes.** ICWA applies only to federally recognized tribes, of which there are 109 in California. The language in this bill doesn't indicate the bill applies only to federally recognized tribes. The author may wish to clarify.
- 5) **Prior Legislation.** AB 873 (Ramos), Chapter 284, Statutes of 2021, requires CDSS, upon request of a tribe, to enter into an agreement with a tribe, tribal organization or tribal consortium regarding the care and custody of Indian children.