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THIRD READING

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Bill No: AB 1378  
Author: Rogers (D), et al.  
Amended: 8/29/25 in Senate  
Vote: 21

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SENATE HUMAN SERVICES COMMITTEE: 5-0, 6/30/25  
AYES: Arreguín, Ochoa Bogh, Becker, Limón, Pérez

SENATE JUDICIARY COMMITTEE: 13-0, 7/8/25  
AYES: Umberg, Niello, Allen, Arreguín, Ashby, Caballero, Durazo, Laird, Stern, Valladares, Wahab, Weber Pierson, Wiener

ASSEMBLY FLOOR: 79-0, 6/2/25 - See last page for vote

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**SUBJECT:** Child welfare services: prevention services: Indian tribes

**SOURCE:** California Tribal Families Coalition

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**DIGEST:** This bill expands the circumstances when the California Department of Social Services (CDSS) is required to enter into an agreement with a tribe to also include when the agreement would prevent entry into foster care and for the sole purpose of the administration of prevention programs.

**ANALYSIS:**

Existing law:

- 1) Requires CDSS, notwithstanding any other law, upon an Indian tribe's request, to enter into an agreement with any Indian tribe, tribal organization, or tribal consortium located in California or with lands that extend into this state regarding the care and custody of Indian children and jurisdiction over Indian child custody proceedings, including, but not limited to, agreements that provide for orderly adjudication of, and transfer of jurisdiction on a case-by-case basis for, cases subject to exclusive tribal or state jurisdiction, or for

concurrent jurisdiction between the state and tribes. (Welfare and Institutions Code (WIC) § 10553.1(a))

- 2) Provides there shall be no tribal share of costs for any agreement under (1) above. Requires an agreement concerning the provision of child welfare services to ensure that a tribe, tribal organization, or tribal consortium meets current service delivery standards. (WIC § 10553.1(b))
- 3) Requires, upon the effective date of an agreement authorized by (1) above, the tribe, tribal organization, or tribal consortium to comply with fiscal reporting requirements specified by CDSS for federal and state reimbursement of child welfare services funds or Aid to Families with Dependent Children-Foster Care services for programs operated under the agreement. (WIC § 10553.1(c))
- 4) Requires an Indian tribe, tribal organization, or tribal consortium that is a party to an agreement under (1) above, in accordance with the agreement, to be eligible to receive allocations of child welfare services funds. (WIC § 10553.1(d))
- 5) Permits an Indian tribe, tribal organization, or tribal consortium that is a party to an agreement under (1) above, to, in accordance with the agreement, be eligible to receive an allocation of child welfare services funds to assist in funding the startup costs associated with establishing a comprehensive child welfare services program. Requires the allocation to be available for expenditure by the Indian tribe, tribal organization, or tribal consortium for three years of the agreement. Specifies this shall be implemented only to the extent that funding is expressly provided in the annual Budget Act for these purposes. (WIC § 10553.1(e))
- 6) Specifies that implementation of an agreement under (1) above, does not impose liability upon, or to require indemnification by, the participating county or the State of California for any act or omission performed by an officer, agent, or employee of the participating tribe, tribal organization, or tribal consortium. (WIC § 10553.1(f))
- 7) Declares it is the Legislature's intent to exercise the option afforded to states under the Family First Prevention Services Act (FFPSA) to receive federal financial participation for the prevention services that are provided for a candidate for foster care or a pregnant or parenting foster youth, and their parents or kin caregivers, and the allowable costs for the proper and efficient administration of the program. (WIC § 16585(a))

- 8) Requires CDSS to consult with Indian tribes on the development of a statewide prevention plan to provide prevention services under FFPSA, associated allocation policies, and procedures for an Indian tribe, consortium of tribes, or tribal organization that has entered into an agreement with the state. (WIC § 16587(b))
- 9) Requires CDSS to negotiate in good faith with the Indian tribe, organization, or consortium in the state that requests development of an agreement with the state to administer all or part of the programs under Title IV-E of the Social Security Act on behalf of the Indian children who are under the authority of the tribe, organization, or consortium. (WIC § 16000.6)
- 10) Establishes Cal-ICWA and provides that a determination by an Indian tribe that an unmarried person, who is under 18 years of age, is either (1) a member or citizen of an Indian tribe, or (2) eligible for membership or citizenship in an Indian tribe and a biological child of a member or citizen of an Indian tribe shall constitute a significant political affiliation with the tribe and shall require the application of the federal ICWA and other applicable state and federal law to the proceedings. (WIC § 224(e))

This bill:

- 1) Expands agreements that CDSS must make upon an Indian tribe's request with any Indian tribe, tribal organization, or tribal consortium located in California or with lands that extend into this state regarding the care and custody of Indian children and jurisdiction over Indian child custody proceedings, to include agreements that prevent entry into foster care.
  - a) Provides that these agreements may be made for the sole purpose of the administration of prevention programs pursuant to FFPSA.
  - b) Clarifies that an Indian tribe, tribal organization, or tribal consortium, that is a party to an agreement is eligible to receive allocations of administrative funds to support the cost of legal representation for the agency, parent, guardian, and children's advocates in cases under a tribe's jurisdiction pursuant to the agreement.
  - c) Provides that subject to an appropriation of funds for this purpose, CDSS shall provide funding to tribes, tribal organizations, or tribal consortiums to support the cost of independent legal representation provided by an attorney for a child and the child's parent, guardian, and Indian custodian in foster care proceedings.

- d) Requires CDSS, in consultation with Indian tribes with an executed agreement, to develop a cost allocation plan by March 31, 2026 to support the costs of independent legal representation.

## Comments

*According to the author.* “California is proudly home to the highest Native American population per capita of any state, with our district encompassing many recognized and unrecognized Tribes. For generations, tribal nations and their families have been profoundly affected by state and federal laws and policies that have marginalized their communities. Native American children continue to be disproportionately represented in the California child welfare system, with their rates of involvement two and a half times higher than those of White children. That is a shocking and sad statistic. Every one of those kids represents a family that has been torn apart. AB 1378 aims to address these historic disparities by providing Tribes with resources equal to those of county agencies, empowering them to offer direct services that help keep families together before intervention from child welfare services becomes necessary. This bill is good policy, but more importantly it’s the right thing to do for California’s kids.”

*Indian Child Welfare Act (ICWA)* In the 1970s, a multiyear Congressional investigation found that Indian children were being removed from their homes at significantly high rates, and that such removal was often unwarranted. Indian children were being removed at rates as high as 25 to 35 percent and these children were then often placed in non-Indian foster homes.

In response to this investigation, ICWA was enacted by Congress in 1978 to address states “often fail[ing] to recognize the essential tribal relations of Indian people and the cultural and social standards prevailing in Indian communities and families,” and the resulting unwarranted removal of Indian children. Congress’s goal through the enactment of ICWA was to “protect the best interests of Indian children and to promote the stability and security of Indian tribes and families.”<sup>1</sup> In an effort to meet this goal, ICWA established minimum federal standards for state courts to meet any time an Indian child is removed from their family or custodial home and placed in foster care or adoptive homes. This results in a presumption that it is in the best interest of the Indian child to retain tribal ties.

Among other things, ICWA sets forth minimum federal standards by: (1) establishing jurisdictional requirements; (2) allowing for notice of and intervention

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<sup>1</sup> See 25 U.S.C. 1902

in Indian child custody proceedings by a tribe; and (3) providing that the acts, records, and judicial proceedings of tribal courts are entitled to full faith and credit to the same extent that the acts, records, or judicial proceedings of another state would be. In addition, ICWA prohibits a court from terminating parental rights without proof beyond a reasonable doubt and without clear and convincing evidence, including the testimony of a qualified expert, that continued custody by the child's parent or Indian custodian is likely to result in serious emotional or physical damage to the child. (25 United States Code Sec. 1911 et seq.)

ICWA authorized states to establish higher standards that go above the federal baseline. In 2006, California adopted a state-level implementation of ICWA through the passage of SB 678 (Ducheny, Chapter 838, Statutes 2006). SB 687 established Cal-ICWA, revising and recasting portions of state code that address Indian child custody proceedings and codifying into state law various provisions of ICWA, the Bureau of Indian Affairs Guidelines for State courts, and state Rules of Court. As a result, in any child custody proceeding in which the court knows or has reason to know that an Indian child is involved, the child's tribe must be notified of the proceeding and of their right to intervene in the proceeding. Of the 61,267 children and youth in the state's child welfare services (CWS) system as of January 1, 2025, 1,464 were ICWA-eligible.

*The Families First Prevention Services Act (FFPSA)* In 2018, Congress passed, and the President signed, the Bipartisan Budget Act of 2018, which included the FFPSA. The FFPSA included two major reforms in how Federal Title IV-E funds can be used. First, it reformed the way child welfare financing worked, allowing federal dollars to be used for prevention services, rather than only after a child has been removed from their family and placed into foster care. Second, it limited federal financial support for children and teens in group care. Under the FFPSA, placements in settings with more than six children for more than two weeks will generally not be eligible for federal funding. The combination of these changes impacts both how services are delivered and how they are reimbursed, with a continued focus on the benefits of children remaining in the home or in the care of family members.

Prior to the passage of the FFPSA, Title IV-E funds could only be used for the costs of foster care maintenance, administrative expenses related to program management, training of staff and foster parents, and adoption assistance. The focus of these federal dollars was on after a child had been removed from the home, not before. With the changes, federal dollars can now be used before a child is removed as a prevention measure, in addition to if they are removed and placed

into care. The FFPSA helped move the child welfare system from one that is reactionary to one that also includes prevention.

The FFPSA has multiple parts, and California has opted into Part I and Part IV. Under Part I, states can receive Title IV-E dollars for prevention services. Under the FFPSA, there are two specific groups that are eligible for prevention services. First is a child who is a “candidate for foster care” but can remain safely at home or in a kinship placement with receipt of evidence-based services or programs categorically identified in the Family First Act. These services and programs include mental health, substance abuse, and in-home parenting services that have a well-supported, supported, or promising evidence base, as defined in the Act. The FFPSA allows states the discretion to determine who is a “candidate for foster care” so long as the child meets the following parameters: the child is at imminent risk of entering foster care; the child can remain safely in their home or in a kinship placement as long as services or programs that are necessary to prevent the entry of the child into foster care are provided; and includes a child whose adoption or guardianship arrangement is at risk of a disruption or dissolution that would result in a foster care placement. Second is a child in foster care who is pregnant or parenting. The prevention services can be provided to the child or youth as well as parents or caregivers, so long as the child fits the above criteria.

Title IV-E contains a Prevention Services Clearinghouse of programs and services, which includes substance abuse prevention and treatment services, mental health, and parent skill-based services. California has selected ten evidence-based programs from this list to implement. As part of the participation in the FFPSA program to draw-down federal dollars, California was required to submit a Five-Year Prevention Plan for approval from the Administration for Children and Families. This plan was approved on April 7, 2023. As of March 2023, 50 counties and 2 Tribes have chosen to participate in FFPSA programs, and each are in various stages of the planning process.

Title IV-E addresses the needs of those at “imminent risk” of entering foster care. This means that the funding is for activities for secondary prevention and tertiary prevention. Secondary prevention are programs for families that are currently in need in order to prevent future escalation. Tertiary prevention includes interventions for children that are currently experiencing maltreatment. California will go further by contributing additional funding sources to the Title IV-E funds, allowing their five-year plan to include comprehensive prevention services that include primary prevention strategies.

*Tribal Children in the CWS.* Tribal children are disproportionally represented in the CWS. The Legislative Analyst’s Office writes in their 2024 report<sup>2</sup> on disproportionalities and disparities in the CWS, “Studies estimate that 25 percent to 35 percent of all tribal children were removed from their parents and communities under federal policies that existed through the 1970s. Specifically, these policies aimed to displace and assimilate tribal communities by placing children in white, English-speaking settings. Due in part to these policies, Native American families disproportionately continue to experience risk factors for child maltreatment such as isolation from family and community. While the federal and state governments have taken steps to address these discriminatory policies, they continue to impact Native American communities in California.”

The report goes on to describe how federal child welfare policies, such as Indian boarding schools and the Indian adoptions project, aimed to “remove children from their homes, tribes, languages, and culture and place them into white, English-speaking settings,” even when relative or other tribal placements were available. The report concludes, “Research has found these policies contributed to intergenerational trauma, disproportionate exposure to risk factors for child maltreatment within Native American communities, and persistent child welfare system overrepresentation.” This bill seeks to address these disparities by clarifying that tribes may enter into agreements with CDSS to provide preventative services.

### **Related/Prior Legislation**

AB 3176 (Waldron) Chapter 833, Statutes of 2018, made a number of changes to state law regarding the removal of Indian children from their families and their out-of-home placement in order to conform to changes to federal regulations governing ICWA.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee analysis:

Unknown ongoing costs for CDSS for state administration and for tribal child welfare agencies to fund legal representation (General Fund and federal funds).

**SUPPORT:** (Verified 8/29/25)

California Tribal Families Coalition (sponsor)

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<sup>2</sup> <https://lao.ca.gov/Publications/Report/4897>

Alliance for Children's Rights  
Cahto Tribe of the Laytonville Rancheria  
California Alliance of Child and Family Services  
California Family Resource Association  
Child Abuse Prevention Center  
Habematolel Pomo of Upper Lake  
Jamul Indian Village of California  
Rincon Band of Luiseño Indians  
Yuhaaviatam of San Manuel Nation  
Yurok Tribe

**OPPOSITION:** (Verified 8/29/25)

None received

**ASSEMBLY FLOOR:** 79-0, 6/2/25

**AYES:** Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Castillo, Chen, Connolly, Davies, DeMaio, Dixon, Elhawary, Ellis, Flora, Fong, Gabriel, Gallagher, Garcia, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Kalra, Krell, Lackey, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Tangipa, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas

Prepared by: Heather Hopkins / HUMAN S. / (916) 651-1524  
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