

DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814



August 12, 1998

ALL COUNTY INFORMATION NOTICE NO. I-46-98

TO: ALL COUNTY WELFARE DIRECTORS
ALL CALIFORNIA INDIAN TRIBES
ALL PUBLIC AND PRIVATE ADOPTION
AGENCIES
ALL CDSS ADOPTION DISTRICT OFFICES

REASON FOR THIS TRANSMITTAL

- State Law Change
 Federal Law or Regulation Change
 Court Order or Settlement
 Clarification Requested by One or
More Counties
 Initiated by CDSS

SUBJECT: THE IMPACT ON THE INDIAN CHILD WELFARE ACT OF:
ASSEMBLY BILL 1544; THE ADOPTION AND SAFE FAMILIES ACT OF 1997; AND THE
SMALL BUSINESS JOB PROTECTION ACT OF 1996, SECTION 1808 "REMOVAL OF
BARRIERS TO INTERETHNIC ADOPTION"

REFERENCE: ALL COUNTY INFORMATION NOTICES I-14-96 (dated March 11, 1996),
I-56-97 (dated September 10, 1997), I-16-98 (dated March 12, 1998)

The purpose of this All County Information Notice (ACIN) is to provide information concerning Assembly Bill (AB) 1544; the Adoption and Safe Families Act of 1997; and the Small Business Job Protection Act of 1996, Section 1808 "Removal of Barriers to Interethnic Adoption, and their interface with the Indian Child Welfare Act (ICWA)." These new federal and state standards do not change the responsibility of states to meet the standards established under ICWA for eligible Indian children under California care and custody, nor does it impact eligible Indian children in the custody of a tribal court in which the tribe has a state/tribal agreement pursuant to AB 1525 (Chapter 725, Statutes of 1995). Eligible Indian children as defined by ICWA are those who are either members of a federally recognized Indian tribe, or those who are eligible for membership in a federally recognized tribe. The standards established under ICWA would still override the provisions in each of these three laws for eligible Indian children.

Adoption and Safe Families Act of 1997 (Public Law 105-89)

The Adoption and Safe Families Act of 1997 establishes new federal standards in foster care and permanency planning. The "reasonable efforts" standard has been modified to apply to the development and achievement of permanency planning goals for children, and not just to efforts to reunify. Some of the other provisions of this law include the establishment of new case plan requirements for states, the provision of financial incentives for those states that increase the number of children in foster care that are adopted, the continuation of the Family Preservation and Support Services Program, and the development of new outcomes measures to gauge a state's progress on the protection of children. However, even with the creation of these new federal provisions, standards established under ICWA will still apply for eligible Indian children.

Assembly Bill (AB) 1544 (Chapter 793, Statutes of 1997)

Assembly Bill 1544 revises various sections of the Welfare and Institutions Code, Family Code, Health and Safety Code, and Evidence Code as these statutes pertain to the juvenile court dependency and adoption processes. Some of the major areas impacted by AB 1544 include concurrent services planning, the establishment of paternity, the definition of relative caregivers, kinship adoptions, sibling groups, and voluntary relinquishment. The purpose of the law is to achieve the ultimate goal of permanence for children with safe and nurturing families committed to them throughout their lives. As in the case of the Adoption and Safe Families Act of 1997, these statutory changes do not impact the standards established under ICWA for eligible Indian children regardless of whether the child is under California court jurisdiction or under the jurisdiction of a tribal court in which the tribe has entered into a state/tribal agreement pursuant to AB 1525.

Small Business Job Protection Act of 1996, Section 1808 “Removal of Barriers to Interethnic Adoption” (Public Law 104-188)

In 1996, the Small Business Job Protection Act of 1996 was signed into law. Section 1808 of the Act is entitled “Removal of Barriers to Interethnic Adoption.” The interethnic placement provisions of the Act became effective January 1, 1997, and revised the federal Multi-ethnic Placement Act (MEPA) of 1994 relating to foster care and adoptive placement of children. The provisions were intended to eliminate delays in placement where they were in any way avoidable. Race, culture, or ethnicity may not be used as the basis for any denial of placement, nor may such factors be used as a reason to delay any foster or adoptive placement. However, as in the case of AB 1544 and the Adoption and Safe Families Act of 1997, the changes contained in Public Law 104-188 do not impact foster care placements or the consideration of permanent homes for eligible Indian children established by the provisions of ICWA.

The purpose in enacting all three of these pieces of legislation is to achieve timely legal permanence for children in out-of-home care. State and federal statute now authorize concurrent planning, e.g., working on an alternative permanency plan for children concurrently with efforts to reunify. However, the purpose of the legislation is not intended to override the provisions of ICWA.

If you have additional questions about the impact of AB 1544, Public Law 105-89, and Public Law 104-188 upon ICWA, please contact Teresa Contreras of the Foster Care Policy Bureau at (916) 445-0813, or by e-mail at tcontrer@dss.ca.gov.

Sincerely,

***Original Document Signed By
Marjorie Kelley on August 12, 1998***

MARJORIE KELLY
Deputy Director
Children and Family Services Division