

Federal Policy Timeline Related to the Indian Child Welfare Act (ICWA)



1820-1934—Federal Assimilation Policies Intensify

- ★ **1819-1969—Boarding School Era:** Federal policy removes Native children from families to assimilate them; boarding schools sever cultural and familial ties.
- ★ **1820s-1850s—Manifest Destiny Era:** U.S. expansionist ideology accelerates displacement of Tribal Nations.
- ★ **1830—Indian Removal Act:** Forced relocation of Tribal Nations west of the Mississippi, disrupts kinship systems and governance.

1970s—Congressional Investigations

Congressional hearings document that 25–35% of all Native children are being removed from their homes, with 85–90% placed in non-Native homes, even when relatives were available. These findings directly motivate federal legislative action.

1800s-1960s Early Federal Policies Shaping the Context for ICWA

A federal study exposes severe harms caused by federal Indian policy, including boarding schools, and recommends reforms.

1928—Meriam Report

★ **1958-1967—Indian Adoption Project:** The Bureau of Indian Affairs (BIA) contracts with the Child Welfare League of America to place Native children with White families nationwide.

★ **1950s-1970s:** State and federal practices lead to widespread removal of Native children, often due to poverty or cultural bias rather than safety concerns.

1950s-1960s—Adoption and Removal Policies

1970s Federal Recognition of the Crisis

1978—ICWA Becomes Federal Law

Indian Child Welfare Act: Federal law passed by Congress to protect American Indian/Alaska Native children and their families from biased child welfare practices and cultural disregard.

Passage of the Indian Child Welfare Act (P.L. 95 608)

1990—Indian Child Protection and Family Violence Prevention Act (P.L. 101 630)

Establishes reporting and background check requirements for individuals working with Native children. Enhances child safety in Tribal and federal programs alongside ICWA.

2016—Native American Children’s Safety Act (P.L. 114 165)

2009—California becomes first state to recognize TCA

Several states and Tribes adopt TCA in statutes and codes to recognize TCA.

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Eligible for Title IV-E Adoption Assistance funding*.

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*See ACYF-CB-PA-01-01

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1997—Adoption and Safe Families Act (ASFA) and Tribal Customary Adoption (TCA)

ASFA does not modify or eliminate the need to meet ICWA requirements in child custody proceedings. White Earth Nation is the first Tribe to incorporate TCA in their Tribal code.

1980–Present Post-ICWA Federal Developments

Clarifying components of ICWA, including:

- Definitions (e.g., “active efforts,” “Indian child”)
 - Notice requirements
 - Placement preferences
 - Standards for qualified expert witnesses
- Accompanied by updated **ICWA Guidelines** (Dec. 30, 2016).

Beneficial impacts of involving relatives to provide support to Indian children and to recruit potential placements that fall within ICWA’s placement preferences.

Requires states, within 30 days after the removal of a child, to exercise due diligence to identify and provide notice to all adult grandparents and other adult relatives.

Expands Tribal authority to administer federal programs, including ICWA related services, through compacts and contracts.

MEPA – Expresses exemption of ICWA because ICWA is based on political status and not racial status.

2016—BIA ICWA Regulations (25 CFR Part 23)

2008—Fostering Connections to Success and Increasing Adoptions Act of 2008

1994—Tribal Self Governance Act and Multi-Ethnic Placement Act (MEPA)

Contemporary Context

Native children are

2x More likely to be investigated

2x More likely to have allegations of abuse or neglect substantiated

4x More likely to be placed in foster care

Compared to White/Caucasian children (Hill, 2007)



Continue to have overrepresentation of Native children in their system



Native children are overrepresented in state foster care at a rate **3.75x greater** than their proportion in the general population



Native children are **3x more likely** to be placed in foster care compared to all other racial/ethnic groups in the U.S.

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NICWA

National Indian Child Welfare Association
Protecting Our Children • Preserving Our Culture

The National Indian Child Welfare Association (NICWA) protects the safety, health, and cultural identity of all Native children and families—today and for future generations—by upholding culturally based services, community strength, and Tribal sovereignty.

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