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## ICWA & Relative Placement Preference in Foster Care Fact Sheet April 2016

Child welfare agencies face challenges every day and decisions must be made that will impact the child for the rest of his/her life. Parents of a child work hard towards reunification and if those efforts fail, the family could potentially lose their child forever. Foster parents play a critical role and the purpose of a foster family is to love a child as their own, but still be prepared to let that child go.

**Placement:** California and federal laws impact the determination of where the child will be permanently placed. If reunification fails, child welfare agencies must address the multiple interests acknowledged in these laws. Practice and history, now embedded in our national and state laws, have identified that there must be preferences when placing children on a permanent basis. See California Juvenile Laws & Rules – WIC 224 & WIC 361.3

- There is a preference to place children with relatives.
- There is a preference to place children with siblings.
- In the case of an Indian child, the first preference for the adoption of an Indian child is with a member of the child's extended family per the federal Indian Child Welfare Act.

**Laws Surrounding Federal & State ICWA:** In a case of a Native American child there is an extensive body of law developed at the federal and state level which gives additional rights to the child, the child's parent and the child's tribe, in order to retain the child's connection to its tribe and cultural heritage. California has chosen to strongly adhere to the federal ICWA by enacting Senate Bill (SB) 678<sup>1</sup>, in part because of the high number of tribes in California as well as the number of members of tribes from other states living within California.

**California's Policy & Direction – Welfare and Institutions Codes (WIC) summarized:**

**WIC 224:**(a) (1) ...The state is committed to protecting the essential tribal relations and best interest of an Indian child by promoting practices, in accordance with the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.) ... by placing the child, whenever possible, in a placement that reflects the unique values of the child's tribal culture and is best able to assist the child in establishing, developing, and maintaining a political, cultural, and social relationship with the child's tribe and tribal community.

**WIC 361.3:** Removal of child from custody of parent; preferential consideration of relative's request for placement of child with relative; search for relative and furnishing identifying information.

**Synopsis:** CDSS is committed to continuing to support, follow and enforce state and federal child welfare laws, including those surrounding ICWA, in an effort to promote and protect the best interest of all children. Each case should be looked at with an unprejudiced and lawful perspective to ensure that all aspects of the child's welfare is protected and promoted. While we may sympathize with foster families we cannot support families that take private matters into the public realm and disclose confidential information. When the confidentiality of a child or family is not upheld, the individual(s) is not just harming the foster care system, but the child's family and ultimately the child.

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<sup>1</sup> SB 678 Chapter 838, Statutes of 2006