

**LR 262 Health and Human Services Committee
State-Tribal Relations Committee**

November 14, 2013

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Department of Health and Human Services**

Good afternoon Senator Campbell, Senator Coash, Senator Ashford and members of the Health and Human Services, State-Tribal Relations and Judiciary Committees. My name is Sherri Eveleth (S-H-E-R-R-I E-V-E-L-E-T-H), and I am the Indian Child Welfare Program Specialist for the Division of Children and Family Services in the Department of Health and Human Services. I am here to provide testimony in support of the Department's role under the Nebraska ICWA, specifically those roles related to the issues outlined in LR 262.

LR 262 is an interim study to review, investigate and assess the State of Nebraska's compliance with both the federal Indian Child Welfare Act of 1978 and the Nebraska Indian Child Welfare Act (ICWA). As you may recall from the 2012 Interim Study hearing, many entities are required to comply with ICWA, including the Nebraska Department of Health and Human Services, the courts, attorneys, and other parties in child custody proceedings and the Bureau of Indian Affairs. For the purpose of my testimony, I will focus on DHHS' role in compliance.

The Department recognizes the importance of complying with ICWA and is committed to taking steps to continually improve any compliance concerns. In order to ensure that the Department is in compliance with ICWA, the position of the CFS Indian Child Welfare Program Specialist was created. As the current Indian Child Welfare Program Specialist, I assist CFS with ICWA compliance in several different capacities. I consult with CFS staff on ICWA policy and the application of the policy in individual cases; provide ICWA training to staff; and I have served as a qualified expert witness in specific cases. In addition, I have attended new judges' orientation to provide them with ICWA materials, and I have worked with the Court Improvement Project to provide ICWA materials to the Douglas and Lancaster County Juvenile Court judges. I also represent the Department in the ICWA Coalition, a group of individuals addressing the implementation of ICWA in Nebraska and Iowa. On a monthly basis, I participate in conference calls with a national group of state specialists who share Nebraska CFS' commitment to continuous improvement and compliance with ICWA.

As a part of the commitment to continuous improvement, CFS is working within service areas and with external partners in order to develop local qualified expert witnesses as there is a limited number available to participate in the court process. Qualified expert witness testimony is required when placing an Indian child in foster care and when terminating parental rights. A member of the child's tribe is the preferred qualified expert witness in these cases.

To better meet the needs of Native American children and families, the Department has worked to fully integrate ICWA into all aspects of work with children and families and to develop clear and concise ICWA procedures and training materials. Since the 2012 Interim Study hearing, I have been attending monthly CFS Operations and Continuous Quality Improvement meetings, and tribal representatives have been invited to attend. CFS has begun to revise and update written ICWA procedures and training materials which have been posted to the Department's CFS training tool website. In addition, Central Office has held short- and long-term internal planning meetings with the tribes to discuss ways to enhance ICWA compliance.

The CFS is also in the process of identifying potential changes to the CFS data system - N-FOCUS - to better identify ICWA cases and gather ICWA data. Discussions and plans are ongoing, and other states' efforts have been reviewed. CFS recognizes the need to gather a baseline of information and to track identified data for ICWA compliance. The numbers of Native American service providers, Indian children in foster care, other data relevant to ICWA cases and the criteria to gather the data are complex. ICWA cases use the same terms but may have different definitions than non-ICWA cases. One example is the definition of Indian child. Before CFS must comply with ICWA, a court must find that a child is either a member of an Indian tribe or is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe. However, for purposes of federal reporting, CFS in Nebraska, as is the case in all states, identifies children based on race. Not all American Indian or Alaska Native children by race are members or eligible for membership in federally recognized tribes. It's necessary to identify, gather and analyze appropriate data, and CFS is working to do so. CFS's next steps will be to develop systemic ways to gather relevant data.

CFS also recognizes the need for communication between Central Office and Service Area staff, and "system teams" are a recent development that have shown success. System teams are dedicated to a topic or issue, and the ICWA system team includes CFS staff and tribal representatives from Nebraska-based tribes. Feedback indicates that system team calls are helpful, and service area staff and tribal representatives have offered helpful suggestions to improve ICWA training and compliance in Nebraska.

CFS collaboration with tribes has been enhanced over the last year. CFS contracts with the Omaha, Winnebago and Santee Tribes for child welfare and adult protective services and for access by those tribes to Federal Title IV-E funding for out-of-home care. CFS also contracts with the Omaha, Winnebago, Santee and Ponca Tribes for independent living services for tribal youth and for domestic violence services. In addition, CFS coordinates and collaborates with tribes on child welfare issues with the federal Department of Health and Human Services' Children's Bureau, through the Nebraska ICWA Coalition, the Nebraska Commission on Indian Affairs, the Community Initiative for Native Children and Families and on specific issues and in child welfare cases. Recently, the CFS collaborated with tribal representatives from all four Nebraska tribes, Iowa DHS staff, and staff of Briar Cliff University and the University of Iowa in requesting a grant to recruit native foster homes. This grant was awarded to this collaborative group on October 7, 2013.

CFS has also worked with tribal representatives to identify needs of tribal systems to better serve children and families who come to the attention of tribal systems. A Tribal Operations and Continuous Quality Improvement (CQI) group formed this summer and meets monthly. The Operations and CQI process brings all four tribes together, as well as CFS, to collaborate and problem solve. The location of the meetings rotates among the four tribes. Discussion includes child welfare issues including independent living, adult protective services and domestic violence and a review of N-FOCUS data related to tribal wards, including monthly visits of tribal wards by tribal workers; family team meetings; and documenting placement changes.

Included in the attachment I've provided you is information and data on the reporting of cases of children Tribal Wards, numbers of children in DHHS or DHHS-OJS custody who are identified as Native American, numbers of CFS foster parents identified as Native American and additional information on active efforts and culturally appropriate services. Discussion during the CQI meetings focuses on what needs to occur to improve the outcomes over time. Regular review of the data helps each tribe identify areas of success and areas needing improvement. This review of the data and reports is one way to focus discussion on specific areas of the work that has been shown to improve outcomes for children and families. For example, we know that regular and quality contact with the youth promotes ongoing assessment of child safety and timely permanency.

In summary, LR 262 is a welcome opportunity to highlight the importance of ICWA and to review the work that CFS has accomplished over the past year in collaboration with tribes. CFS continues to pledge commitment, both internally and in collaboration with others, for continuous improvement to ensure compliance with ICWA.

Thank you for the opportunity to provide testimony regarding LR 262. I would be happy to answer any questions you may have.

LR 262 – Supporting Material for Testimony
Health and Human Services and State-Tribal Relations Committees
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The Division of Children and Family Services (DCFS) gathers data for federal and state reporting utilizing the DCFS data system called N-FOCUS. Data from N-FOCUS is utilized to provide the following:

- Adoption and Foster Care Analysis and Reporting System (AFCARS): Federally required information that provides case information on all children in foster care for whom State and Tribal Title IV-E agencies have responsibility for placement, care or supervision and on children who are adopted under the auspices of the State and Tribal IV-E agency.
 - Information about AFCARS:
<http://www.acf.hhs.gov/programs/cb/systems/afcars/about.htm>
 - Nebraska's AFCARS data:
<http://www.acf.hhs.gov/programs/cb/systems/afcars/aar/ne/>

- National Child Abuse and Neglect Data System (NCANDS): A voluntary national data collection and analysis system created in response to the requirements of the Child Abuse Prevention and Treatment Act (Public Law 93-247).
 - Information about NCANDS and other federal reporting systems:
<http://www.acf.hhs.gov/programs/cb/systems/index.htm#afcars>
 - Nebraska Context Data:
<http://cwoutcomes.acf.hhs.gov/data/downloads/pdfs/nebraska.pdf>

- Nebraska Child Abuse and Neglect Data
 - CY 2012 Child Abuse and Neglect Data Report:
http://dhhs.ne.gov/children_family_services/Documents/2012CANReport.pdf
 - **Table 3-3:** 5.48% of all substantiated victims were American Indian or Alaska Native, of whom 40.25% were 0 to 4, 35.17% were 5 to 9, 17.65% were 10 to 14, and 6.36% were 15 or older. The table also shows that 1.8% of the population percentage is American Indian or Alaska Native.
 - **Table 3-4:** Victim rate per 1,000 for American Indian or Alaska Native children is four times the rate for White children: a victim rate of **25.99** per 1000 for American Indian and Alaska Native children. The rate for Black/African American children is 18.41 per 1,000, and the rate for White children is 6.61 per 1,000.

Native American Children in DCFS Custody

There are currently 425 children in DCFS custody who self-reported that they are Native American. The table below provides a list of the 125 children, with documented tribal affiliations, to which ICWA applies. There are 300 children that do not have a documented tribal affiliation and are not included in the data below.

Tribe	CSA	ESA	NSA	SESA	WSA	TOTAL
Assiniboine & Sioux Tribes	0	2	0	0	0	2
Central Council Tlingit & Haida	0	5	0	0	0	5
Cherokee Nation	1	0	0	0	0	1
Chickasaw Nation	0	4	0	0	0	4
Choctaw Nation	0	0	0	1	0	1
Iowa Tribe of Kansas & Nebraska	0	0	0	0	1	1
Navajo	0	4	0	0	0	4
Northern Cheyenne	1	1	0	0	0	2
Oglala	9	2	1	5	8	25
Omaha	1	16	1	8	0	26
Omaha & Winnebago	0	0	1	0	0	1
Ponca Tribe of NE	0	7	3	5	1	16
Ponca Tribe of OK	0	1	0	0	0	1
Rosebud	6	3	0	1	5	15
Sisseton-Wahpeton Oyate	0	2	0	0	0	2
Santee Sioux Nation	0	0	1	2	0	3
Standing Rock Sioux of ND & SD & Apache Tribe of OK & Nez Perce Tribe of Idaho	0	0	0	0	1	1
Three Affiliated Tribes	0	1	0	0	0	1
Winnebago	0	0	6	0	0	6
Yankton Sioux	0	2	1	5	0	8
Total	18	50	14	27	16	125

Data provided from Native American Children in Foster Care Report as of 11-04-13

DHHS Licensed Native American Foster Homes

Adoptive Homes

Service Area	Number of licensed homes	Number of Children that could be placed in the home.
Eastern	4	10
Southeast	2	3
Western	1	1
Total Adoptive Homes	7	14

Foster Care Homes

Service Area	Number of licensed homes	Number of Children that could be placed in the home.
Central	1	5
Eastern	9	23
Northern	29	85
Southeast	8	21
Western	4	8
Total Foster Homes	51	142

Relative Homes

Service Area	Number of licensed homes	Number of Children that could be placed in the home.
Central	4	6
Eastern	7	20
Northern	62	164
Southeast	4	7
Western	2	2
Out of State	2	4
Total Relative Homes	81	203

Native American Foster Home Listing as of 11-04-2013