



CDSS

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**DEPARTMENT OF SOCIAL SERVICES**

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EDMUND G. BROWN JR.  
GOVERNOR

August 30, 2012

ALL COUNTY INFORMATION NOTICE NO. I- 42-12

TO: ALL COUNTY WELFARE DIRECTORS  
ALL CHILD WELFARE SERVICES PROGRAM MANAGERS  
ALL COUNTY CHIEF PROBATION OFFICERS

SUBJECT: UPDATE OF TRIBAL CUSTOMARY ADOPTION SPECIAL PROJECT  
CODE IN THE CHILD WELFARE SERVICES/CASE MANAGEMENT  
SYSTEM (CWS/CMS) AND RELEASE 6.5 (R6.5)

REFERENCE: ASSEMBLY BILL (AB) 1325, CHAPTER 287, STATUTES OF 2009  
TRIBAL CUSTOMARY ADOPTION; ALL COUNTY LETTER 10-47

The purpose of this All County Information Notice (ACIN) is to remind all counties to review and update information in the CWS/CMS regarding Indian Child Welfare Act (ICWA) eligible children for whom a Tribal Customary Adoption (TCA) was considered or finalized, to record the outcome of the case and to inform child welfare agencies about TCA-related changes in CWS/CMS R6.5.

The data produced in the CWS/CMS is used for both the California Department of Social Services (CDSS) oversight of the TCA option for Indian children, as well as to gather data regarding TCAs. Also, additional data and information is needed to accommodate the California Judicial Council. Pursuant to AB 1325, the Judicial Council is required to complete a study of TCAs and report its findings to the legislature by January 1, 2013. The AB 1325 became operative on July 1, 2010, and sunsets on January 1, 2014.

Based on information available to CDSS and after reviewing current data in the CWS/CMS system, the information does not appear to accurately represent the cases in which TCA has been considered or finalized. A key distinguishing feature of a TCA is the fact that termination of parental rights is not required for the adoption to be finalized. In order to facilitate the information requested, we want to remind you of key action points in the processing of a TCA case.

REASON FOR THIS TRANSMITTAL

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

A TCA can be considered at any point after a dependent child has been confirmed by a tribe as either its member or eligible for membership. A TCA will not be an option for the child if the child's tribe is not in accord. At the permanency hearing under Welfare and Institutions code (W&IC) section 366.26, the option of a TCA may be presented to the dependency judge as a permanency option for the Indian child. If TCA is determined to be the permanency option for the child, the judge will refer the case to undergo the proceedings specified in W&IC section 366.24.

Proceedings under W&IC section 366.24 will include the completion of background check requirements, the completion of a tribal customary adoption home study by the child's tribe, and the development by the child's tribe of a Tribal Customary Adoption Order (TCAO). The TCAO will specify certain rights and obligations under tribal customs and laws for the biological parents, the adoptive parents and the child. Upon completion of the TCAO, the case will be returned to the dependency court for a continued W&IC section 366.26 hearing at which the TCAO will be submitted to the dependency court for determination of whether or not the court will grant it Full Faith and Credit, after which the adoption will be finalized and dependency jurisdiction will be dismissed. If the adoption is not granted Full Faith and Credit, the court will determine another permanency option for the child.

### **Tribal Customary Adoption Changes in CWS/CMS R6.5**

Effective February 21, 2012, with the CWS/CMS R6.5, a new code was introduced that provides functionality related to TCAs. Effective immediately, the use of the Special Project Code (SPC) as identified in All County Letter 10-47 should be discontinued. New functionality in the application provides the ability to document TCA as a case plan goal, or a concurrent planning goal, as well as specifics related to some court activities. For those TCAs that have been previously identified in CWS/CMS using the SPCs, the data entered with the SPC to address state mandates need not be duplicated using the new functionality. However, all new TCAs not already identified in CWS/CMS should be entered using the new code.

### **TCA Entry Instructions-CWS/CMS With R6.5**

#### Open Existing Case Plan, CP Participant's tab

In the *Case Plan Goal* field, check *Tribal Customary Adoption*

#### Open Existing Case Plan Notebook, Identification(ID) Tab

The *Case Plan Update Appropriateness Description* field will be used to document key stages and or decisions of the Indian child's case where TCA is considered. In the *Update Narrative Information*, the user will enter the following as applicable:

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- The date a tribe has stated that it agrees that TCA is an appropriate permanency option for the Indian child;
- The date the tribe rejects the TCA option, and the reason (if known);
- The date that the county court referred the case to the tribe to conduct the procedures required under W&IC section 366.24 (e.g. the TCA home study, the development by the tribe of the TCAO); and
- If the county court refused to give Full Faith and Credit to the tribe's TCA order, the date of the rejection and the reason (if known).

#### Open Existing Placement Notebook, ID Tab

If a Tribal Designee has been chosen by the tribe to conduct the TCA home study, go to the *Open Existing Placement Notebook*. In the *ID* tab, the user will go to the *Rationale* field in the page where there is a check box. The user will check the box next to *Tribal Designee Consulted* and enter the date the designee agreed to be the tribe's designee.

- In the narrative information *Rationale Description* field, specify that this is a TCA case and identify the designee.

#### Open Existing Family Information Notebook, Parental Rights Tab

When the court orders Full Faith and Credit for the TCAO the user will go to *Open Existing Family Information Notebook*; In the *Parental Rights* tab, the user will go to the *Tribal Customary Adoption* field in the page. The user will check the box for *Tribal Customary Adoption Afforded Full Faith and Credit* and enter the date of the county court's order giving full faith and credit to the tribe's TCAO.

In the narrative information, the user will enter the following information:

- Challenges experienced in the TCA process; and
- Benefits or detriments of TCA to Indian children.

#### **Administrative Office of the Courts Focus Groups**

The Administrative of the Courts (AOC) is convening telephone focus groups of judges, attorneys, social workers, and tribal advocates who have been involved in TCA cases. If invited, please participate in these focus groups to offer your expertise and insight on TCA cases. Please contact the AOC project director and attorney, Ann Gilmour, for more information at [ann.gilmour@jud.ca.gov](mailto:ann.gilmour@jud.ca.gov) or (415) 865-4207. A basic overview of AB 1325 can be found at <http://www.courts.ca.gov/12569.htm>.

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Should you have further questions regarding this letter, you may contact the Child Welfare Policy and Program Development Bureau at (916) 651-6160. Any questions regarding input to CWS/CMS should be directed to the County Single Point of Contact (SPOC). The SPOCs needing assistance should contact their System Support Consultant at the CWS/CMS Project.

Sincerely,

***Original Document Signed By:***

KEVIN GAINES, Chief  
Child Protection and Family Support Branch