

- ◆ Educational advocacy programs, and
- ◆ Scholarships and grants for Indian youth.

For more information on resources for Native American families, please visit www.courts.ca.gov/5807.htm.

Approval of a SILP

1. *It must meet basic health and safety standards.* The social worker must physically inspect the proposed SILP with the youth. The NMD may temporarily reside in a SILP pending approval. The privacy of the youth is a key aspect of the SILP placement option, but background checks are not required on roommates.

2. *The youth must be ready to live independently.* The social worker must conduct a readiness assessment with the youth to decide if the NMD is developmentally ready to handle daily tasks on his or her own (such as making meals, budgeting, and paying bills). Where ICWA applies, the SILP assessments should involve the tribe. Youth with an approved SILP may qualify for CalFresh (formerly food stamps). If an NMD is a parent and living in a SILP with her or his child, she or he can qualify for the infant supplement (additional money). The Department of Social Services is not responsible for rental deposits. Most rentals require deposits or first and last month's rent before the NMD moves in. The first SILP payment can take up to 4 to 6 weeks to reach the NMD. Youth will often need to save up some money to make a SILP possible.

Acronyms

AFDC-FC: Aid to Families with Dependent Children—Foster Care

ICWA: Indian Child Welfare Act

Kin-GAP: Kinship Guardianship Assistance Payment

NMD: nonminor dependent

SILP: Supervised Independent Living Placement

FOR MORE INFORMATION

The Tribal/State Programs unit of the Judicial Council's Center for Families, Children & the Courts assists the state judicial branch with the development of policies, positions, and programs to promote the highest quality of justice and service for California's Native American communities in all case types. The unit also implements tribal-state programs that improve the administration of justice in all proceedings in which the authority to exercise jurisdiction by the state judicial branch and the tribal justice systems overlaps. To learn more about the Tribal/State Programs unit or for assistance, call Ann Gilmour at 415-865-4207 or visit www.courts.ca.gov/programs-tribal.htm

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www.courts.ca.gov/3067.htm

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S.T.E.P.S. TO JUSTICE— CHILD WELFARE (AB 12/212) & AMERICAN INDIAN/ ALASKAN NATIVE YOUTH

State/Tribal Education, Partnerships,
 and Services—Information for Tribal Court
 and State Court Judges

June 2019



JUDICIAL COUNCIL
 OF CALIFORNIA
 OPERATIONS AND PROGRAMS DIVISION

EXTENDED FOSTER CARE, AMERICAN INDIAN/ALASKAN NATIVE YOUTH, AND THE INDIAN CHILD WELFARE ACT

What is ICWA?

ICWA is a federal law intended to prevent the unwarranted removals of Indian children from their families, communities, and tribal cultures. The law was passed in 1978 after Congress received evidence from tribal communities that large numbers of Indian children were being removed from their homes by public child welfare agencies and private adoption agencies. In enacting ICWA, Congress intended to “protect the best interests of Indian children and to promote the stability and security of Indian tribes and families” (25 U.S.C. § 1902). ICWA defines an Indian child as a member of or eligible for membership in an Indian tribe and establishes minimum federal requirements that apply when a state court removes an Indian child from parental custody or seeks to terminate parental rights to an Indian child.

What are AB 12/212 & extended foster care?

Foster youth under the age of 18 can decide to stay in foster care until they turn 21, if eligible.

The California Fostering Connections to Success Act (Assem. Bill 12) was signed into law on September 30, 2010, and then modified by Assembly Bill 212. AB 12/212 aligns California’s law with the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Pub.L. No. 110-351), which allows states to access federal funds for extended foster care and Kin-GAP to improve outcomes for youth in foster care.

What does AB 12/212 do?

AB 12/212 gives extended benefits to nonminor dependents who meet the requirements under Welfare and Institutions Code section 11400(v). The following people are financially eligible under section 11403:

- ◆ People ages 18 to 21 who would like to remain in the child welfare system
- ◆ Youth whose Kin-GAP payments begin at age 16 or older

- ◆ Youth who entered the Adoption Assistance Program, as long as the adoption agreement was signed when the youth was age 16 or older
- ◆ Former dependents or wards in nonrelated legal guardianships created in juvenile court (not probate court), no matter the age of the youth when the guardianship was created

What is the court’s role?

The court does **not** need to declare a youth an nonminor dependent for the youth to be eligible for extended foster care benefits.

The court is responsible for making sure the agency provides reasonable efforts to help the youth in meeting participation conditions and ensuring ongoing eligibility. The court must also hold six-month review hearings. (Welf. & Inst. Code, §§ 366.31(a)(b)(c), 391(e), 11403(b).)

Who is eligible?

Those eligible for benefits include youth who:

- ◆ Had an open juvenile court case with an out-of-home placement order on their 18th birthday,
- ◆ Satisfy at least one of the five participation requirements,
- ◆ Sign a voluntary participation agreement,
- ◆ Meet with the social worker and update their Transitional Independent Living Case Plan,
- ◆ Attend a court or administrative review every six months, and
- ◆ Live in a licensed and approved setting.

Who can participate?

Youth must satisfy **one** of the following requirements as documented in the youth’s Transitional Independent Living Case Plan: (1) be enrolled in high school or equivalent; (2) be enrolled in college or vocational school; (3) work at least 80 hours per month; (4) participate in a program or activity that helps to find a job or helps with employment; or (5) be unable to do one of the above because of a medical or mental health condition. (Welf. & Inst. Code, §§ 11400, 11403.)

How does ICWA relate to AB 12/212?

In California, a foster youth “Indian child” approaching his or her 18th birthday has the right to decide if he or she wants ICWA to continue to apply. (Cal. Dept. of Social Services All-County Letter No. 13-91.)

For an Indian foster youth or young adult, ICWA placement preferences apply. All payment benefits are continued—including foster care payments for placements—regardless of whether the young person lives on or off tribal lands. The social worker must collaborate with the young person’s tribe on choosing the best placement; licensing, approving, or certifying the home; and providing ongoing supervision. (Cal. Dept. of Social Services All-County Letter No. 13-91.)

Placement options

- ◆ An approved home of a relative or nonrelated extended family member
- ◆ A foster family agency or home
- ◆ A group home (with limitations)
- ◆ The home of a nonrelated legal guardian
- ◆ A small family home or dual agency regional center home
- ◆ Transitional Housing Program (with limitations)
- ◆ Transitional Housing Placement-Plus-Foster Care
- ◆ SILP—the most independent placement option—which can include apartments, room-and-board arrangements, or college dorms

Placement options for native NMDs

Youth may live in a SILP on or off tribal land. The social worker and tribe will work together to supervise and be in compliance with AB 12/212 requirements. As long as the youth remains under county jurisdiction in a SILP on or off tribal land, the AFDC-FC money flows. The agency social worker should work together with the tribe on licensing and supervision.

Case planning for NMDs under ICWA

The social worker must develop the case plan with the nonminor dependent and consult the tribe.

All available tribal services should be considered for the case plan, including:

- ◆ Career planning,
- ◆ Housing,
- ◆ Financial planning,