



ERICSA
EASTERN REGIONAL INTERSTATE
CHILD SUPPORT ASSOCIATION

INTERGOVERNMENTAL TRAINING EVENT

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Tribal Case Processing

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Agenda

- Overview
 - Legislation
 - Differences
 - Comparisons
 - Jurisdiction
 - Enforcing Orders
- Questions and Answers

2024
Intergovernmental
Training
Event

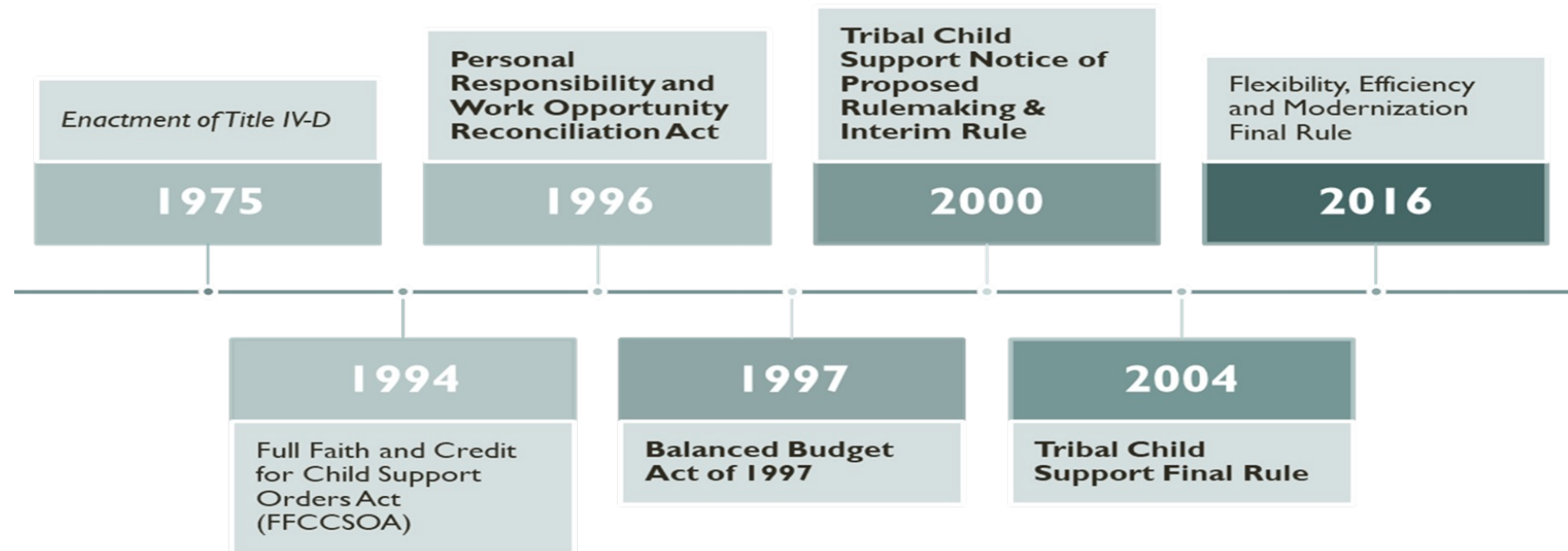
FAST

ENTERPRISES



How did we get here?

- Legislative History of the IV-D program



Differences in Programs

- State – Tribal technology
 - Tribes using state systems versus not using state system
 - Services Agreement and Memorandum of Understanding
 - Limitations in use of FIPS/BIA codes
 - Manual reporting process
 - One size does not fit all. Some agreements may be useable but be adaptable to meet each others needs.
- Different Regulations
 - Tribal nations are not required to adopt UIFSA
 - Tribal nations are required to comply with FFCSOA



Differences

- **Full Faith and Credit:** While tribes are recognized as sovereign, they are not states — for the purposes of the full faith and credit requirements of article IV of the U.S. Constitution.

However:

- **Federal Full Faith and Credit for Child Support Orders Act (FFCCSOA)** requires a state to recognize and enforce another state's child support order. "State" is defined as "a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and **Indian country** *(as defined in Section 1151 of Title 18 of the U.S. Code)*."
- **Uniform Interstate Family Support Act (UIFSA).** The act limits the jurisdiction that can properly establish and modify child support orders and addresses the enforcement of child support obligations within the United States and is implemented to determine the jurisdiction and power of the courts in the different states. The Act also provides various direct interstate enforcement mechanisms. (Federal Income Withholding Orders - IWO)
- **Tribes are not subject to (UIFSA) – No direct issuance of IWO**



Comparisons and Contrasts of State and Tribal Courts

- Due Process is required in both State and Tribal Courts.
- Hearings and Court procedures may be similar, depending on tribal principles and values.
- Most tribal courts require attorneys to be licensed by a State or have graduated from accredited schools of law.
- Both generally allow for consent agreements to encourage judicial economy.
- Tribal courts, because of tribal court traditions, are divergent and are geared toward resolution, geared toward remediation, geared toward restorative justice.
- Attorneys in Tribal Court are able to litigate cases and represent your client vigorously, but keep in mind that the goal of tribal courts, and consistent with tribal traditions and morals, and customs, is to restore the broken relationship and try to come to a mutual understanding. What's the best resolution in the given case?



TRIBAL JURISDICTION



Subject Matter Jurisdiction - Tribes possess exclusive civil regulatory and adjudicatory jurisdiction over their own members and within their own territories.

Examples:
Internal Political Affairs
(elections)
Membership/Citizenship
Domestic Affairs (family
matters)



Personal Jurisdiction - Tribal courts can generally exercise personal jurisdiction over any party that maintains sufficient "minimum contacts" with the reservation sufficient to comply with the due process clause of the Indian Civil Rights Act.

"Sovereignty begins at home." -
Hon. Cheryl Demmert Fairbanks
(Tlingit-Tsimpshian)



CONCURRENT JURISDICTION



GOVERNED BY STATUTES AND CASE LAW

EXAMPLE: PATERNITY

- FACTORS FOR CONSIDERATION – ESTABLISHMENT OF PATERNITY
- WHERE DID CONCEPTION TAKE PLACE?
- IS THE MOTHER A MEMBER OF THE TRIBE?
- DOES THE MOTHER RESIDE ON THE TRIBE'S RESERVATION?
- IS THE ALLEGED FATHER A MEMBER OF THE TRIBE?
- DOES THE ALLEGED FATHER RESIDE ON THE TRIBE'S RESERVATION?

MATRIX DEVELOPED – BY JIM FLEMING (ND) TO ADDRESS THESE FACTORS



Enforcing Orders on Tribal Reservations

- Each tribal nation can have different requirements to register an order in their court.
- It's always best to give the agency a telephone call and inquire as to what they require for registration of a foreign order or assistance with an inter-jurisdictional case.
 - Many tribal agencies do use Transmittal #1 and subsequent documents.
- It's also important to note that there are only 61 comprehensive tribes operating child support while there are over 570 federally recognized tribes.
- Even those without federal funding may have a law in place regarding family matters including child support.



Receiving and Sending Tribal IV-D Intergovernmental Cases

- Lack of Tribal IV-D Access to the Child Support Enforcement Network (CSENet) changes the way in which Tribal agencies send and receive Intergovernmental case information.
- Most State agencies are accustomed to receiving Intergovernmental case documents electronically through the CSENet application (i.e., via their State Central Registry Unit).
- Because Tribal IV-D agencies do not have that access, the method in which Tribes send and receive intergovernmental information is different from many of our State counterparts.

Intergovernmental Information To & From Tribal IV-D Agencies

- All Tribal IV-D agencies are different. Just as each State has their own unique requirements for registering/modifying/enforcing an order, Tribal IV-D agencies also do.
- It is best to directly contact the Tribal agency in which you are wishing to send an intergovernmental request. Most Tribal agencies have their contact information listed in the OCSS [Intergovernmental Reference Guide](#) (IRG). The agency can provide information on what is required to be sent (i.e., Certification of Arrears, Number of Certified Orders, Transmittals, etc.).
- Do not send Intergovernmental Requests to the State Central Registry in which the Tribe is located. This is a common error that Tribal IV-D's see and causes delays in the Tribal IV-D receiving your intergovernmental documents. Send directly to the Tribe as directed by the Tribal IV-D.
- When receiving an Intergovernmental request from a Tribal IV-D agency, expect to receive it via paper format (US Mail) unless the receiving agency allows for electronic encrypted email or fax submission. Tribal IV-D Agencies also typically use a paper format for Quick Locate requests and when sending intergovernmental initiates. Acknowledgments of Transmittals (if allowed or used by that Tribe) are also typically done via US Mail or secure fax.

Tribal Member Payments – Avoid Assumptions

- It is important to note > There is a common misconception that all Tribal members receive a monetary per-capita disbursement or payment from their respective Tribe. Transmittals and Intergovernmental requests are often received by Tribal agencies requesting withholding from a Tribal member associated payment when that information has not been verified by the initiating agency and, in most cases is not a payment that the Tribal member even receives.
- While some Tribal members do receive a Tribal member associated payment, these types of payments vary greatly from Tribe to Tribe, as does the ability to withhold for child support from those funds.
- Avoid sending intergovernmental requests to register and withhold from these types of payments or avoid assuming these payments apply to every Tribal member of every Tribal Nation. Contact the Tribal agency to discuss.

>>> The overarching takeaway related to working with a Tribe on intergovernmental cases <<<



Each Tribe has their own laws and procedures.



Each Tribe is its own sovereign nation with its own government.

Contact the Tribe directly to discuss the case you are working on to effectively and efficiently serve the parties of the case.

Working Together



- Inter-jurisdictional cases
- Registering a judgment with a tribal court
- Income of tribal members



Working Together - Summary

- Communication is Key
- Check with the tribal court or tribal child support agency when
 - 1. seeking assistance with an inter-jurisdictional case
 - 2. registering an order
 - 3. inquiry into tribal income and garnishment of said income
- Link to tribal child support agencies under federal funding:

<https://www.acf.hhs.gov/css/training-technical-assistance/tribal-child-support-agency-contacts>



Questions?



Thank you! Contact Information Below

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Send us your best practices!

ERICSA is in the process of gathering intergovernmental best practices from the states, territories, tribes, and our international partners, to disseminate to all of our members at future ERICSA events. Please use the email address info@ericsa.org and the heading “Intergovernmental Best Practices” in the subject field, and send us the top ideas you have seen different jurisdictions use when working interstate cases. We will gather and review your recommendations and send out all best practices shortly. Thank you so much!

Coming Soon: The ERICSA Bulletin Board!

We are thrilled to announce the upcoming launch of The Bulletin Board for ERICSA! This new platform will be your go-to source for the latest news, updates, and essential information in the child support community.

Key Features:

- Upcoming Events
- State, Regional, Tribal, and International Community Insights
- Legislative Updates