

## **TRANSFER OF JURISDICTION**

Section 1911(b) of the ICWA and OAR 413-070-0140 allow transfer of proceedings to a tribal court. The state court must transfer unless the tribal court declines jurisdiction, either parent objects to such transfer, or the court determines that good cause exists to deny the transfer. In Oregon, currently the Warm Springs and Burns Paiute Tribes have exclusive jurisdiction over child welfare matters. The child must reside or be domiciled on that reservation. Inquire if the child is already a ward of a tribal court.

When contact is made with a child's tribe, inquire if the tribe plans to transfer jurisdiction to the tribal court. If indicated, check with the tribe for the following areas to ensure an orderly transfer of jurisdiction:

1. Does the tribe plan to move the child, and if so, will they pay for the travel and escort costs? DHS can only pay for the transfer through ICPC.
2. If the tribe plans to transfer jurisdiction, inquire about the child's Title IV-E status. It is imperative that the tribe understand that the child's Title IV-E eligibility and medical benefits will not follow the child into another state unless the transfer was made through ICPC.
3. Be sure the tribe knows that once a petition to transfer jurisdiction is granted, then state custody is dropped and DHS is no longer able to provide services to the child or family.

Many tribes will choose not to transfer jurisdiction to their tribal court. This choice may reflect the tribe's desire to maintain the child's current placement towards reunification, to protect IV-E eligibility, or the tribe's limited resources for providing services to the child and family. Title IV-E benefits will follow a tribal child when transfer is made to one of Oregon's IV-E Agreement tribes: Grand Ronde, Warm Springs, Siletz and Coquille.

An ICPC transfer will be expedited if the tribe is able to complete a foster or pre-adoptive home study. When this is not an option, advise the tribe of the anticipated time involved with arranging an ICPC transfer which will aid the tribe in their case planning. When in doubt, consult with the ICWA Manager or seek legal assistance.