How are tribes asserting their sovereignty to protect their children?

This study analyzes how tribes are asserting their authority over child welfare and what lessons can be learned from enacted child welfare codes. The study analyzed over 50 variables on 8 child welfare topics: culture, jurisdiction, tribal-state relationships, child abuse reporting, paternal, foster care, termination of parental rights (TPR), and adoption.

The poster highlights key findings from 4 of these topics.

### Tribal Policy Considerations

#### How can a tribal child welfare code incorporate customary provisions?
- Customize mainstream provisions to be consistent with cultural values.
- Prioritize cultural values in each section of the child welfare code.

#### How can tribal law help keep families together?
- Culturally relevant rehabilitative measures can decrease the number of unnecessary removals.
- States are required to provide “active efforts” to preserve families before removing Native American children. Should tribal law require higher or lower levels of effort to preserve families?
- What burden of proof should be required to protect the child’s safety?

#### Tribal Policy Considerations: Is it culturally appropriate to terminate a parent’s rights?
- Should tribal law include a more culturally-appropriate alternative?
- What individual rights, if any, should parents retain after their general right to parent has been terminated?
- Tribe can define how culturally-appropriate relationships continue after parents’ rights have been terminated.
- Should grandparents’ rights also be protected?

#### Residual Rights of Parents or Grandparents After TPR
- Shaded areas indicate code incorporating more than one set of family residual rights.
- Tribal rights not recognized.
- Reserved residual rights
- Reserved residual rights + Best Interest of Child
- Reserved residual rights + Best Interest of Child + Adoption Rights
- Reserved residual rights + Best Interest of Child + Adoption Rights + Parental Rights

#### PARENTAL RIGHTS (TPR)
- Tribal customary adoption allows tribes to place children in situations, where parents can no longer care for them.
- Customary adoption is a process unique to the tribe.
- Tribal codes have the power to direct state action involving Native American children. This analysis of tribal child welfare codes captured innovative tribal policies and practices, and highlighted unique opportunities to insert tribal culture and priorities into the tribal child welfare codes and practice. Further, because state courts are required to defer to tribal child welfare law in certain circumstances, tribal codes have the power to direct state action involving Native American children. The study contributes to the information needed to foster continued conversations about how tribes can assert their sovereignty to protect their children.