













State services should draft their notice with all information on the child's heritage, even those which are believed to be inconsequential. Furthermore, all potential tribes that the child could belong to should receive this notice, as to not violate the parallel purpose of the notice. The notice should contain all the information available, be sent by certified mail, and all correspondences and responses from tribes should be preserved.

In case the tribe was willing to transfer (or share) the jurisdiction of the child proceeding with the state, § 1919 of ICWA allows for such arrangement. The way to proceed with this option is to create an agreement that satisfies the conditions the court set in *Parental Rights as to S.M.M.D* and to make sure that the tribe is actively agreeing to them. It is also important to note that this kind of agreement does not authorize the transfer of pre-adoptive rights to the tribes if the state wished to.

Based on what Child Services has presented, we recommend that Child Services should first try to get more information on the birth of the child. In certain situations, such as potential adoption under federal jurisdiction done by a state court as continuation of foster care placements, §1911(a) can be applicable, if Child Services wants to continue the foster care of the son, it might be a plausible route to do so through tribal court if or when the tribal courts have jurisdiction. As evidence by a precedence shown in a previous case where adoption was overturned by a tribal court when jurisdiction was transferred to them and awards the child Youpee was placed in the care of Indian foster parents (*In re Youpee's Adoption, 11 Pa. D. & C.4th 71 (Com. Pl. 1991)*). But this precedence applies only in the contingency of the child being a domiciliary of the tribe. If the Navajo Nation Tribal Court applies this precedent the court may have jurisdiction over the child's future placement proceedings. On the off chance that the child's domiciliary status is not established when under §1911(b) there must be a lack of good reason or dissent from the father in relation to the father attempting to get his child back from foster care. If both of these criteria are met and the tribal court agrees to accept jurisdiction, then the tribal courts can continue the foster care of the child in question. In regards to the placement of the minor child, §1915 has been heavily contested. Because of this, due caution is advised. The issues that weigh in the better as there can be Fifth, Tenth, and Fourteenth Amendment issues in regards to this situation. If possible, initial placement to an Indian family, or family can circumvent these disputes if the minor child's biological parents agree to this initially. If the biological parents have no preference or due to availability an Indian family facility is unavailable, later issues may arise if the child's Indian tribe prefers an alternate placement which depending on the circumstances could raise constitutional issues to California's application of the "existing Indian family doctrine."