



Working with Tribal Child Support Agencies

****How to avoid issues and maximize your time when you
have a tribal case.****

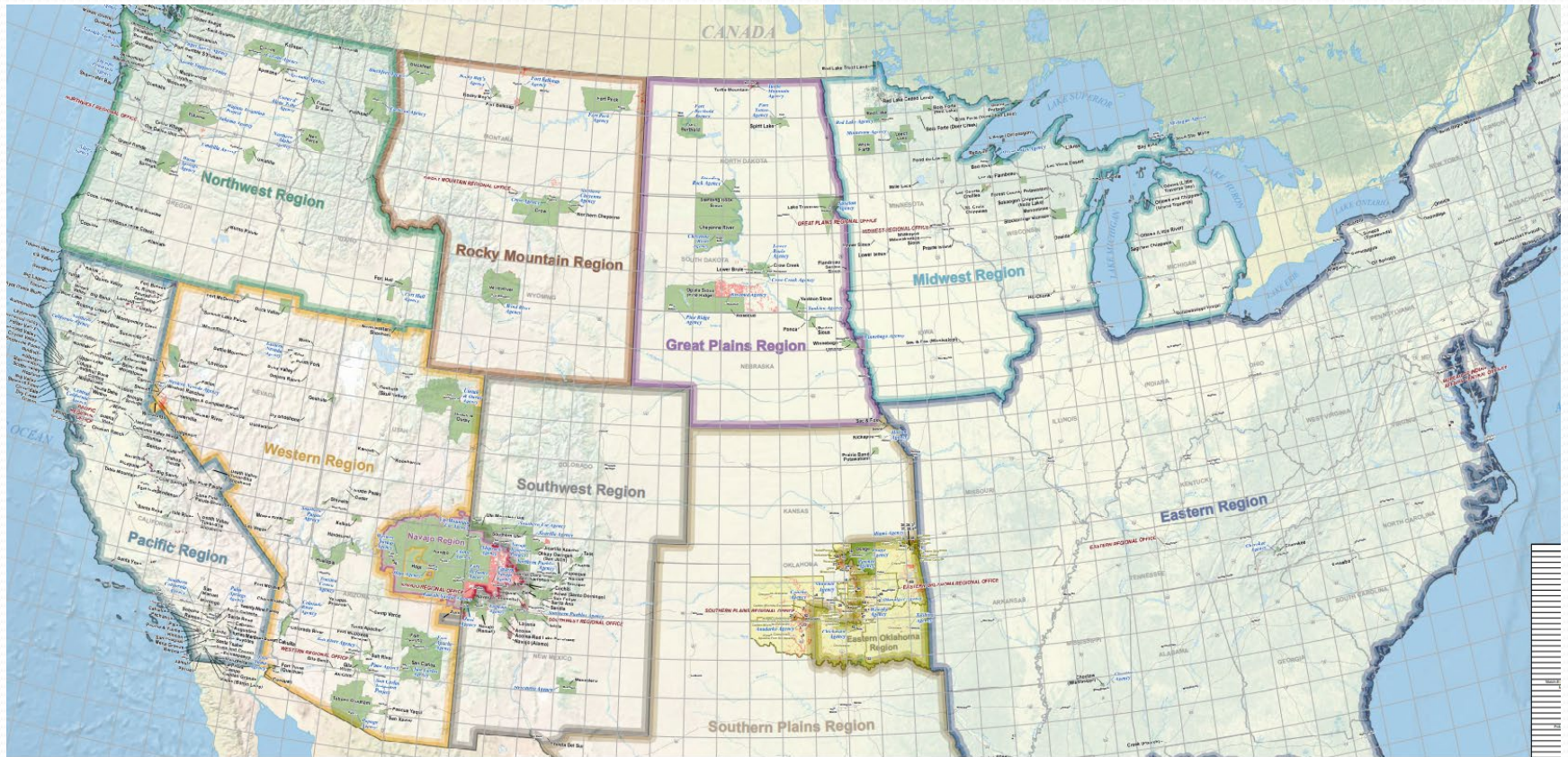


What's in it for the State Agency, or Why should we work together?

We are here for the same reason. To improve the lives of the children in our community. It takes all of our agencies to make this possible.

Also...meeting and exceeding performance measure goals!!

A Little Context: Tribal Map Lower 48



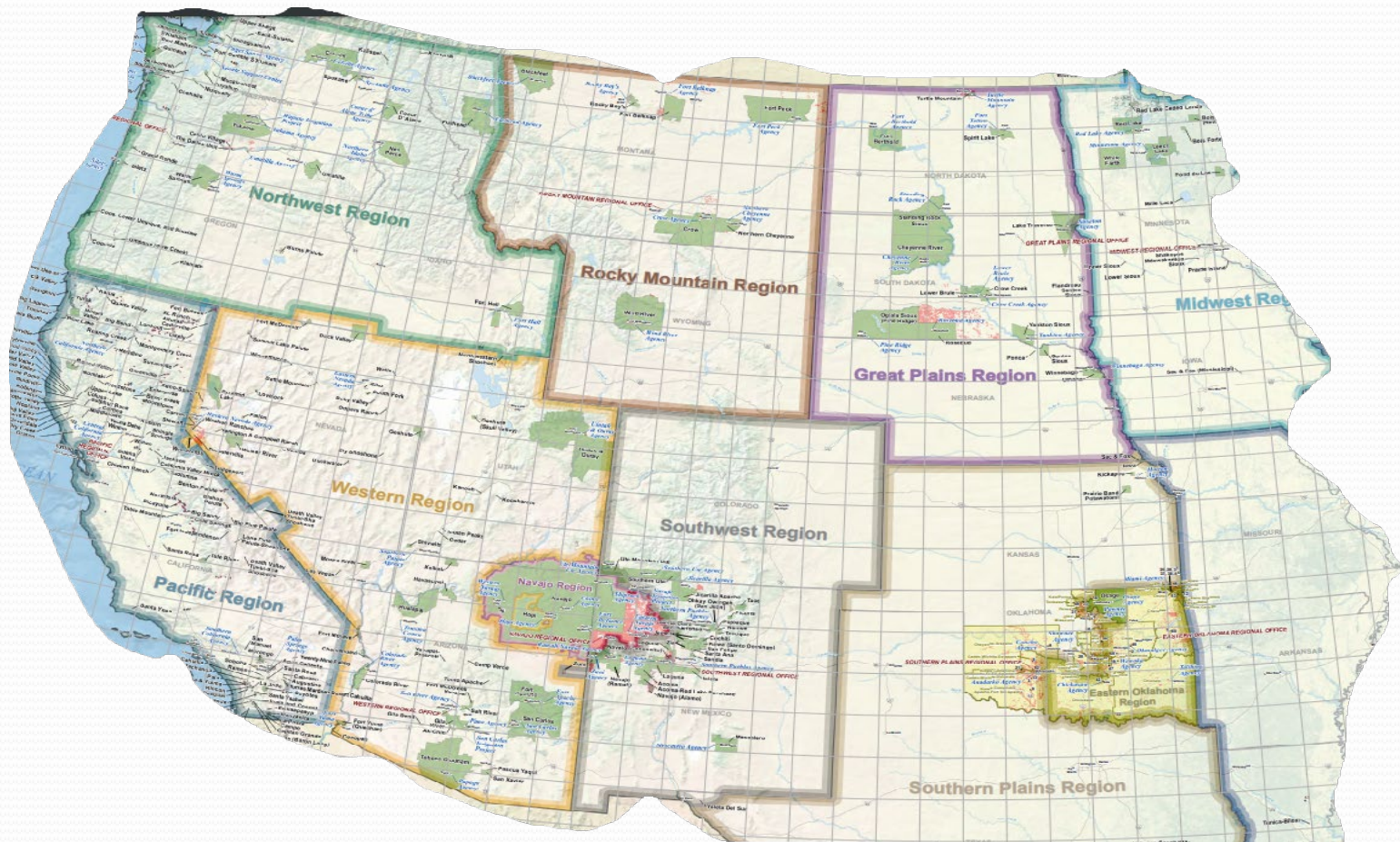
A Little Context: Tribal Map- Alaska



A Little Context: WICSEC Specific Tribal Map

Lower 48

<https://www.bia.gov/sites/default/files/dup/assets/bia/ots/webteam/pdf/idc1-028635.pdf>



Introduction to Tribal Child Support Agencies

- Interim Final Rule for the Tribal Child Support Program was published on August 21, 2000
- Under the Interim Final Rule, nine tribes applied for and received direct funding. Three were from Wisconsin.
- Final Rule was published on March 30, 2004
 - Didn't include certain enforcement mechanisms that States have – more on that later.
- Currently there are 60ish tribal agencies.
 - The majority of tribal agencies are in the WICSEC area of representation.

States with Tribal Child Support Programs

Tribal Programs – 60 Comprehensive

2 Startup (S/U)

62 Total

Region 1

Maine

- Penobscot Nation



Region 2

New York

- Saint Regis Mohawk
- Shinnecock (S/U)



Region 3

None



Region 4

North Carolina

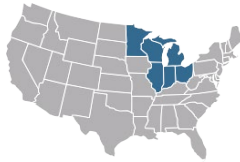
- Eastern Band of Cherokee



Region 5

Minnesota

- Leech Lake Band
- Mille Lacs Band
- Red Lake Nation
- White Earth Nation



Wisconsin

- Forest County Potawatomi
- Ho-Chunk Nation
- Lac Courte Oreilles Band
- Lac du Flambeau Band
- Menominee Nation
- Oneida Nation
- Red Cliff Band
- Sokaogon
- Stockbridge Munsee Comm.

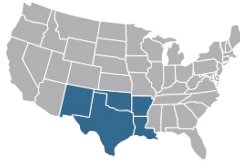
Michigan

- Keweenaw Bay Indian Community

Region 6

Texas

- Alabama Coushatta



New Mexico

- Mescalero Apache
- Pueblo of Zuni

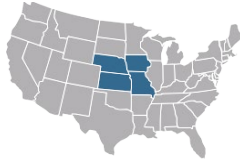
Oklahoma

- Apache Tribe of OK (S/U)
- Cherokee Nation
- Chickasaw Nation
- Comanche Nation
- Delaware Tribe of OK
- Kaw Nation
- Kickapoo Tribe of OK
- Modoc tribe of OK
- Muscogee Creek Nation
- Osage Nation
- Ponca Tribe of OK

Region 7

Nebraska

- Winnebago Tribe of NE



Iowa

- Sac and Fox Tribe

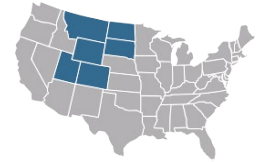
Kansas

- Kickapoo Tribe in KS
- Prairie Band of Potawatomi

Region 8

Montana

- Blackfeet Nation
- Chippewa Cree
- Salish and Kootenai
- Fort Belknap



North Dakota

- Standing Rock Sioux
- Three Affiliated

South Dakota

- Sisseton-Wahpeton

Wyoming

- Eastern Shoshone
- Northern Arapaho

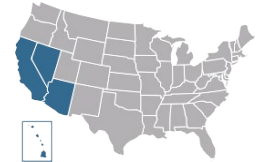
Region 9

Arizona

- Navajo Nation

California

- Yurok Tribe



Region 10

Alaska

- Aleutian Pribilof
- Tlingit and Haida

Idaho

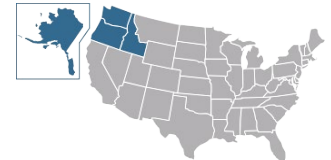
- Coeur D'Alene
- Nez Perce
- Shoshone-Bannock

Oregon

- Umatilla
- Klamath Tribe

Washington

- Colville Tribes
- Lummi Nation
- Nooksack Tribe
- Port Gamble S'Klallam
- Puyallup Tribe
- Quinault Nation
- Suquamish Tribe
- Tulalip Tribe



WICSEC Specific Tribal Agencies

Region 6

Texas

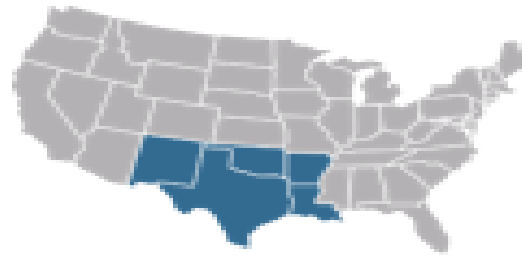
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WICSEC Specific Tribal Agencies

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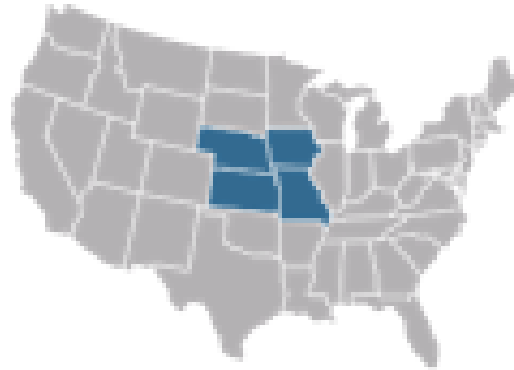
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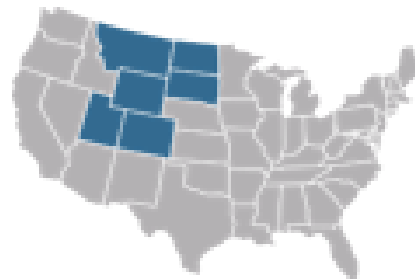
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- Sisseton-Wahpeton

Wyoming

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- Northern Arapaho



WICSEC Specific Tribal Agencies

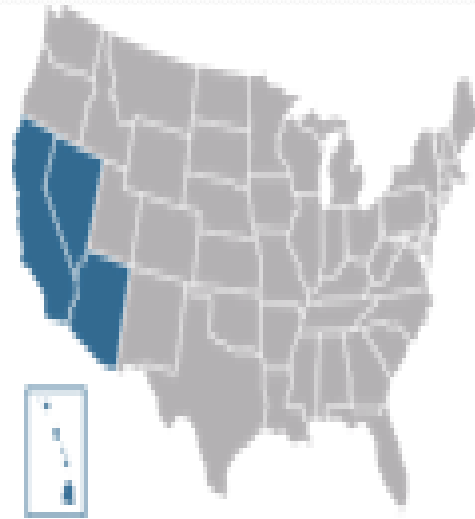
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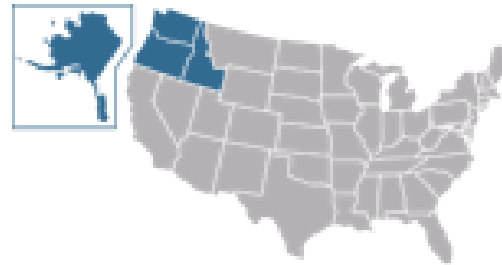
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- Nez Perce
- Shoshone-Bannock

Oregon

- Umatilla
- Klamath Tribe

Washington

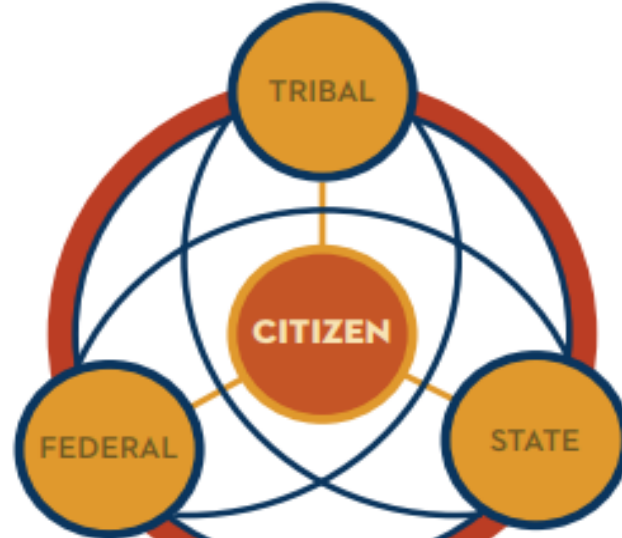
- Colville Tribes
- Lummi Nation
- Nooksack Tribe
- Port Gamble S'Klallam
- Puyallup Tribe
- Quinault Nation
- Suquamish Tribe
- Tulalip Tribe



Tribal Sovereignty, What's up With That?

First things first, the Whys and Hows of the Tribal Government -Federal Government – State Government Relationship(s).

Tribal Sovereignty = 3 Jurisdictions



Tribal Sovereignty

- Is a legal word for an ordinary concept- the authority to self-govern.
- Hundreds of treaties, along with the Supreme Court, the President, and Congress, have repeatedly reaffirmed that tribal nations retain their inherent powers of self-government.
- The treaties executive orders, and laws have created a fundamental contract between tribes and the United States.
- Distinct political entities within the United States.

Tribal Sovereignty – cont'd

- Treaties with tribal nations vary widely in their terms and provisions. Treaties commonly included:
 - Guarantee of peace
 - A provision on land boundaries Hunting and fishing rights (often including lands outside the reservation boundaries)
 - Tribal recognition of US authority
 - US protection
 - Treaties often promised health care, education, housing, economic development and agricultural assistance.

Tribal Sovereignty – cont'd

- The U.S. government and Tribes have a government-to-government relationship that is unique in the world system of governments.
- This relationship was created by:
 - **The United States Constitution** – Article I, Section 8:
 - To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes...
 - **Legal Precedent – Marshall Trilogy:**
 - Johnson v. McIntosh 21 U.S. 543 (1823)
 - Cherokee Nation v. Georgia 30 U.S. 1 (1831)
 - Worcester v. Georgia 31 U.S. 515 (1832)

Tribal Sovereignty – cont'd

The Marshall Trilogy establishes (in legal speak):

1. By virtue of aboriginal political and territorial status, Indian tribes possessed certain incidents of pre-existing sovereignty;
2. Such sovereignty was subject to diminution or elimination by the United States, but not by the individual states; and
3. The tribes' limited inherent sovereignty and their corresponding dependency on the United States for protection imposed on the latter a trust responsibility.

In Regular English – American Standard:

- Tribal Sovereignty is now and always been a thing.
- The federal government, and no one else, can change that.
- The United States has to protect tribes and tribal sovereignty because the U.S. agreed to such in treaties with tribes.

Why Learn to Work Together?

- Why should you know how to work with tribes/tribal CSA's?
 - Even if you do not have a tribe near you, or in your state (ex: Indiana), you probably are going to eventually have a case with either:
 - A tribal member participant, whether as CP or NCP
 - An employee of a tribe
 - Tribal employers cross jurisdictional lines, are sometimes the largest employer in an area, or within the top 100 employers for a state.

Why Learn to Work Together?

- Even if a tribe doesn't have a child support agency, it may have a process for registering a support order.
- Performance measures may be improved by learning to work more effectively with tribes.
 - Indian Health Services qualifies as medical coverage.
 - Efficient processing of \$\$\$, meet your performance measure goals.
 - Establishing paternity
 - Some tribes use genetic testing for enrollment, so this can be a cost savings for families and an added carrot to establish paternity with tribal CSA.

Tribal Payments/Distributions

- Tribes sometimes share the revenue of their enterprises or other windfalls with tribal members by distributing payments either by:
 - per capita (per head/individual)
 - These include casino revenue, timber, mineral, oil revenue etc.
 - Per application
 - Tribal General Welfare Exclusion Act (GWEA) benefits:
<https://www.irs.gov/government-entities/indian-tribal-governments/tribal-general-welfare-guidance>

Best practice is to look up the tribes code regarding each type of payment and/or contact the tribal child support agency.



Tribal Payments/Distributions

I don't have a map :/

Tribes as Employers

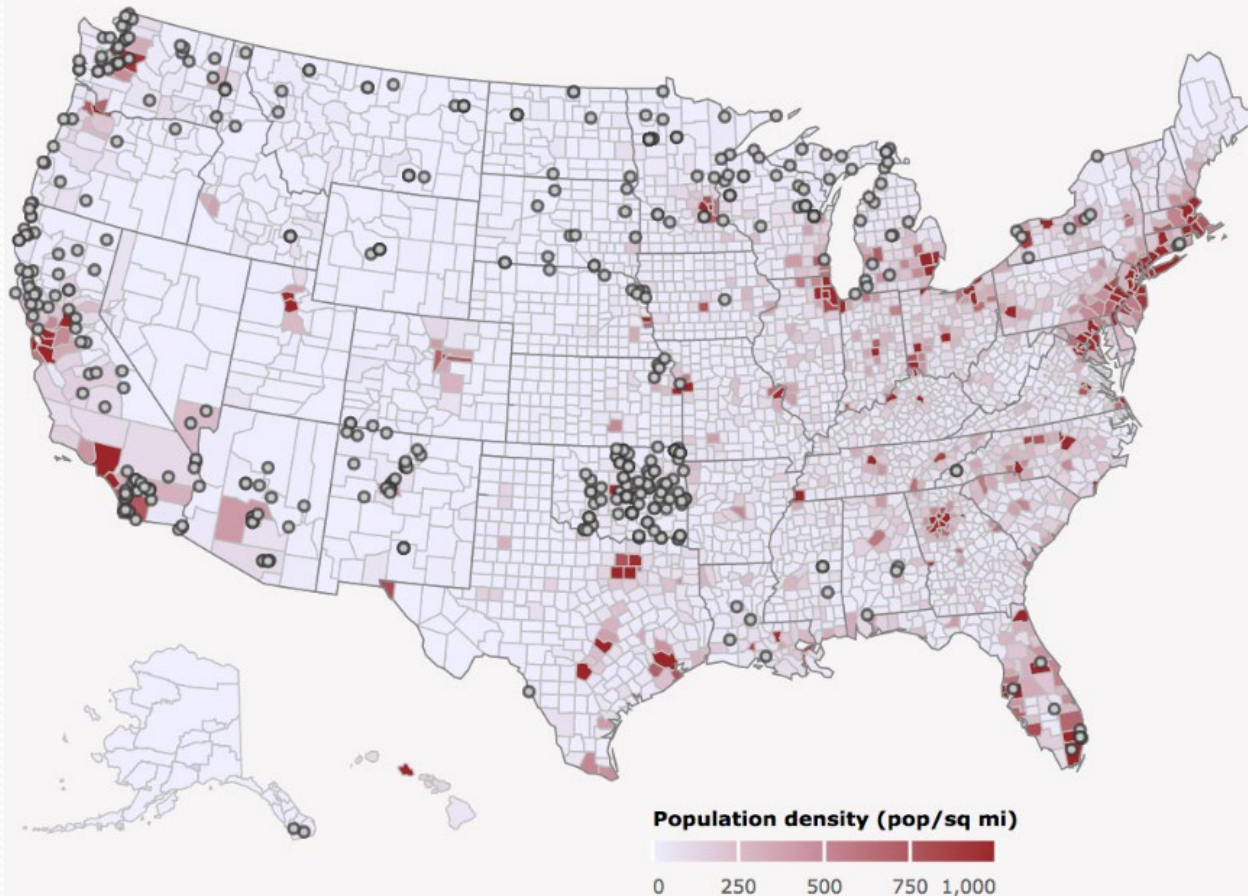
- Oklahoma tribes support 113,442 jobs in the state, representing \$5.4 billion in wages and benefits to Oklahoma workers. While direct employment exceeds 54,000 jobs, tribal investment spurs job growth in many different industries.
 - <http://www.oknativeimpact.com>
- The Iowa Tribe of Oklahoma is the largest employer in the area.
- The Confederated Salish and Kootenai Tribes are the largest employer in northwest Montana.
- The Oneida Nation is the largest employer in Oneida and Madison counties in New York.
 - <https://www.tmj4.com/news/local-news/stealth-economy-for-tribes-hides-billions-of-dollars-in-jobs-growth-and-revenue-for-rural-communities>

Tribal Employers cont-d

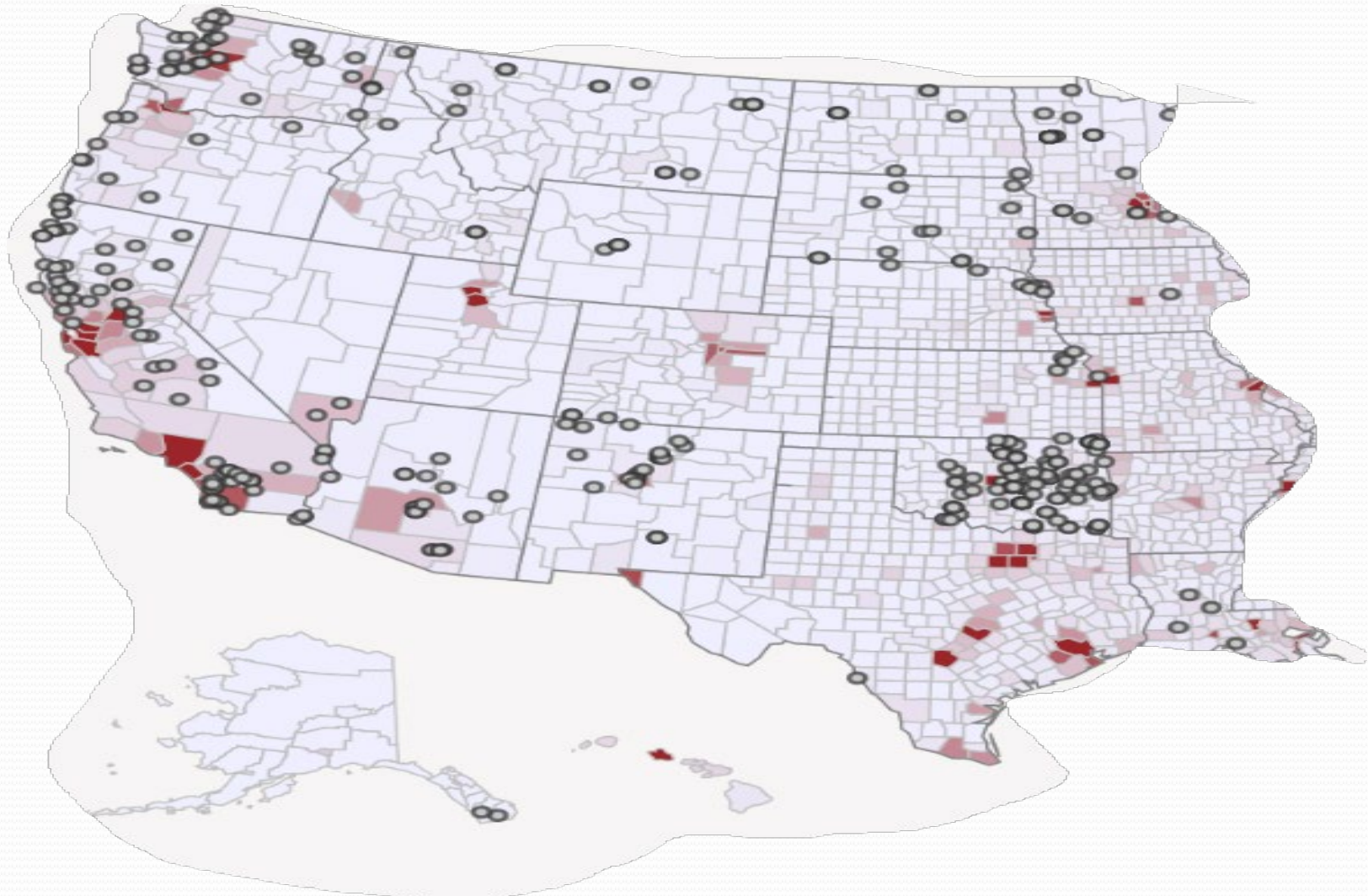
- The HCN typically (pre-Covid) employed over 3,000 people in Wisconsin, which is comparable to those companies ranked in the 100 largest employers in Wisconsin.
<https://www.zippia.com/advice/largest-companies-in-wisconsin/>
- Lac Courte Oreilles Band of Lake Superior Chippewa is the largest employer in Sawyer County, WI.
- <https://dpi.wi.gov/amind/tribalnationswi/redcliff>
- The Yurok Tribe government is one of the largest employers in Del Norte County, CA with over 500 employees, this is NOT including employees in 5 other Yurok Tribe Corporations throughout Humboldt, Del Norte and Trinity counties.

Location of Tribal Casinos

<https://www.aeaweb.org/research/has-tribal-gaming-been-a-boon-for-American-Indians.php>



WICSEC Specific Tribal Casinos

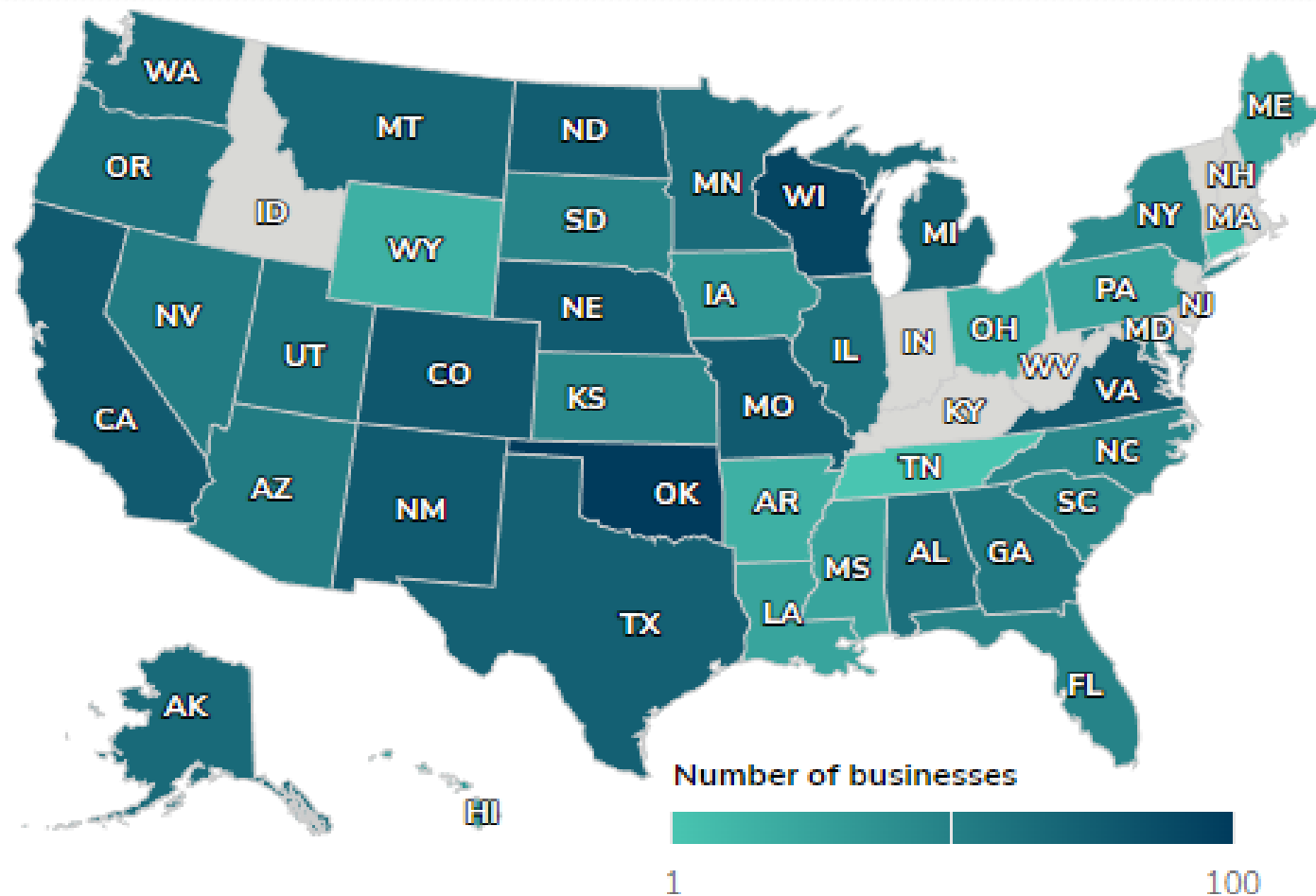


Tribal Non-Gaming Employers

- Seventy percent of all tribal enterprises are located away from reservations (i.e., in counties without any federally recognized reservation land).
- Tribal enterprises are widely distributed across the country: while reservations are mostly located in the rural parts of the Great Plains and Western states, non-gaming tribal enterprise contractors can be found in the majority of the lower 48 states.
- Tribal enterprises have a large presence in Virginia (adjacent to Washington, D.C.) and also in Georgia and Alabama, which contain large military bases.

Non-Gaming Tribal Enterprises

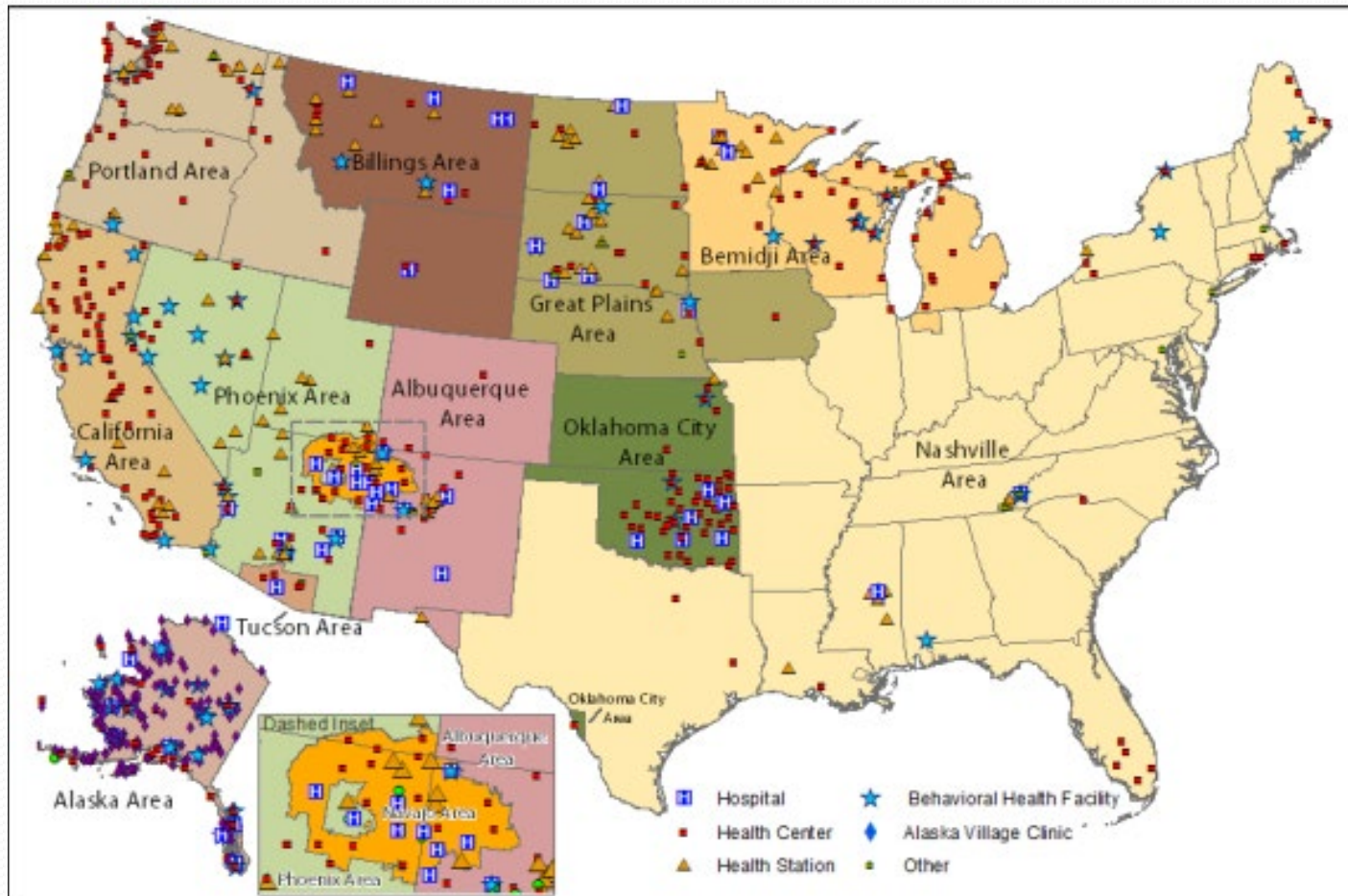
<https://www.minneapolisfed.org/article/2021/examining-tribal-enterprises-to-understand-native-economic-development>



Medical Insurance and Indian Health Services Coverage

- Indian Health Services qualifies as medical coverage.
- More than 2,000 service centers provide health services for 2 million American Indians and Alaskan Natives and descendants.
 - Verify membership/ descendant either through the individual or through the tribal CSA.

Locations of Indian Health Service Facilities by Area - 2016. <https://crsreports.congress.gov/product/pdf/R/R43330>



Putting it All Together: Tribal CSAs

- Because tribes are sovereigns tribes can:
 - Regulate tribal land & individually owned land
 - Make laws & govern members & people on the reservation
 - Establish courts and enforce laws
 - Determine membership
 - Sovereign immunity

Putting it All Together: Tribal CSAs

- Core Child Support Services are the Same as State Programs
 - Establish paternity
 - Locate parents
 - Establish and modify child support orders
 - Enforce orders
 - Collect and disburse payments

Unique Aspects of the Tribal Program

- Unique Aspects of the Tribal Program
 - Optional to operate a child support or TANF program
 - Tribal culture and values play important role
 - May use cash and/or in-kind to meet tribal share of program costs
 - Non-cash support payments allowed (examples: firewood, salmon)
 - Compliance with Full Faith and Credit for Child Support Orders Act (FFCCSOA)
 - UIFSA adoption is not required
 - Federal tax refund offset with IRS is not available

Unique Aspects of the Tribal Program

- Tribal laws/code may be unexpectedly different from your own jurisdictions code in regards to child support practices. For Example:
 - Tribal nations are not required to adopt UIFSA
 - But may choose to do so in whole or in part
 - Tribal nations are required to comply with FFCSOA
 - *Up to the limits of our own codes/capacity of agency/tribe.*
 - Jailing? Suspending licenses? - Only if the tribal code allows it.
 - Garnishment limits on per capita or General Welfare Exclusion benefits
- Judicial complications – we can only push through what we can get through, the tribal court capacity dictates the pace.

Unique Aspects of the Tribal Program- Enforcing Orders in Tribal Jurisdiction

- Each tribal nation can have different requirements to register an order in their court.
- It's most helpful 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 just over 60 comprehensive tribes operating child support while there are over 574 federally recognized tribes in contiguous U.S.
- Remember: even those without an agency may have a law in place regarding family matters including child support.

Unique Aspects of the Tribal Program - Enforcing Orders in Tribal Jurisdiction

- Things To Consider:
 - Terms and abbreviations may not be the same across the board.
 - Forms and processes will not always match
 - It is going to take time, patience and understanding.
 - Tribes do not have access to CSOS, this is being addressed hopefully within the next couple of years.
 - Goals may change to fit future needs of the program

Examples of State & Tribal CSA Collaboration

- Federal tax refund offset
- Access to state systems
- Intergovernmental case processing
- Case transfers

Tribal Examples

- Yurok Tribe
- Lac Courte Oreilles Band of Lake Superior Indians
- Ho-Chunk Nation



Yurok Tribe

- The largest Native American Tribe in California.
- One of the few tribes to never be moved from their ancestral lands.
- The 84.714 square miles (219.41 km²) reservation is serviced by California Route 169 from the south, which dead ends within the reservation

Yurok Tribe Intergovernmental Work

- Yurok Child Support Services provides some information and links in the Intergovernmental Reference Guide as a starting point.
<https://ocsp.acf.hhs.gov/irg/welcome.html>
- Yurok Family Code (Title 13) 13.40 outlines law for the Recognition of Foreign Spousal Support, Child Support and Child Custody Orders.
 - Foreign meaning any judgments or orders not originally made in Yurok Tribal Court.
 - <https://yurok.tribal.codes/YTC/13.40>

Yurok Tribe Intergovernmental Work with California

- Child Support Services Agreement (2014)
 - Yurok Tribe/ YCSS
 - State of California/ DCSS
 - Sets out procedure for
 - Notification of New Cases
 - Case Transfer Process
 - Payment Processing
 - Intergovernmental Case Processing
- CA Rule of Court 5.372 Transfer of Title IV-D cases between tribal court and state court (2014, amended 2018)
 - In-person Cross Court Exchanges between key parties to the process

TRIBES IN WISCONSIN



• TRIBAL MEMBERSHIP (AS OF 2020)

- Bad River Band of the Lake Superior Tribe of Chippewa Indians (app. 6,945 population)
- Forest County Potawatomi Community (1,625 pop.)
- Ho-Chunk Nation (7,825 pop.)
- Lac Courte Oreilles Band of Lake Superior Chippewa Indians (7,275 pop.)
- Lac du Flambeau Band of Lake Superior Chippewa Indians (6,610 pop.)
- Menominee Indian Tribe (9,082 pop.)
- Oneida Nation (16,567 pop.)
- Red Cliff Band of Lake Superior Chippewa Indians (7,311 pop.)
- St. Croix Chippewa Indians (1,054 pop.)
- Sokaogon Chippewa Community (1,542 pop.)
- Stockbridge Munsee Community (app. 1,565 pop.)

LAC COURTE OREILLES

- LCO tribal membership about 7,500 but the entire city of Hayward population 2,466.
 - Rural, remote, seasonal jobs, cash jobs
- LCO CSP rec'd start up funding 2010; comprehensive and started transferring cases 2012
- **MISSION STATEMENT**
 - Lac Courte Oreilles Child Support Services is dedicated to working in collaboration with tribal, state and national agencies and departments to help meet the needs of the entire family and to maintain an effective program, improve the welfare of children, and strengthen tribal sovereignty. We make every effort to strengthen family responsibilities and values through quality service and cultural integrity.

LAC COURTE OREILLES CONT'D

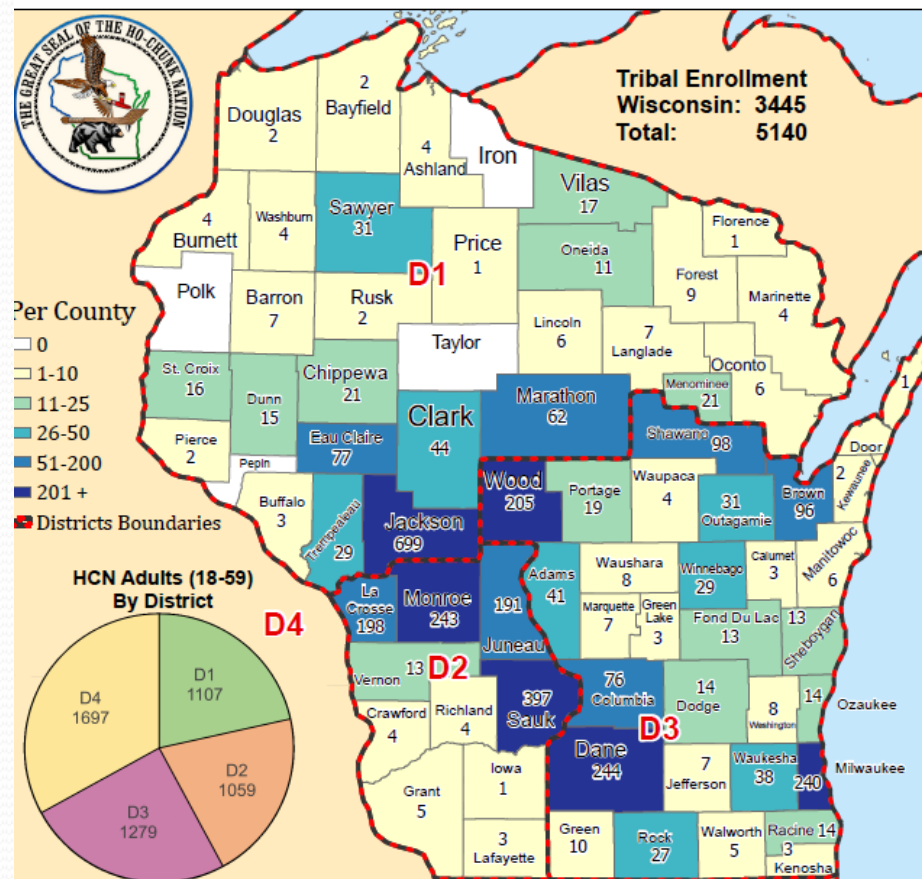
- CODES/ORDINANCES FOUND ONLINE
 - PATERNITY AND CHILD SUPPORT CODE
 - <https://law.lco-nsn.gov/us/nsn/lco/council/code/DMR.6>
- Wisconsin Statue 801.54(2m)
 - Tribal child support programs. The circuit court may, on its own motion or the motion of any party, after notice to the parties of their right to object, transfer a post-judgment child support, custody or placement provision of an action in which the state is a real party in interest pursuant to s. 767.205 (2) to a tribal court located in Wisconsin that is receiving funding from the federal government to operate a child support program under Title IV-D of the federal Social Security Act (42 U.S.C. 654 et al.). The circuit court must first make a threshold determination that concurrent jurisdiction exists. If concurrent jurisdiction is found to exist, the transfer will occur unless a party objects in a timely manner. Upon the filing of a timely objection to the transfer the circuit court shall conduct a hearing on the record considering all the relevant factors set forth in sub. (2).
- MOU between DCF/County/Tribe

LAC COURTE OREILLES APPROACH

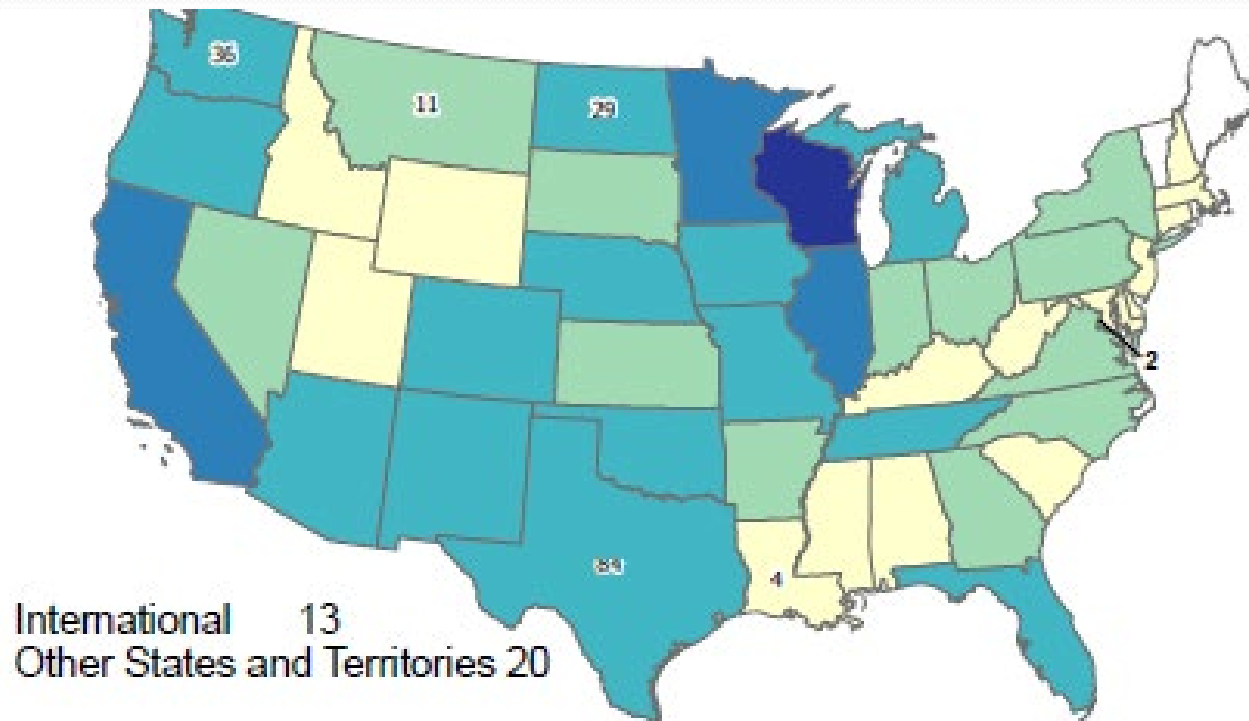
- Trauma Informed Approach
 - Barriers Assessments and Purge Conditions
- When all else fails:
 - Jailing
 - LCO PD + SAWYER COUNTY PD
 - Warrants

Ho-Chunk Nation Adult Population in Wisconsin

Ho-Chunk Nation Adults(18-59): February 2022

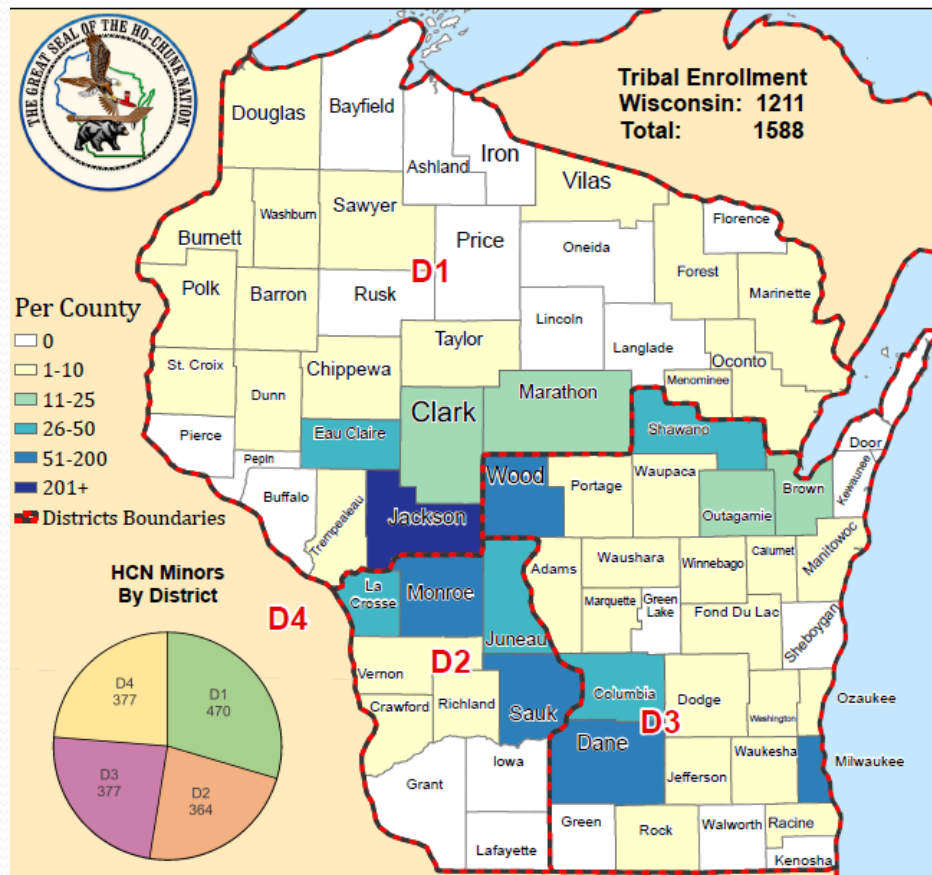


Adult Population Nationwide



Ho-Chunk Nation Minor Population

Ho-Chunk Nation Minors(0-17): February 2022



Ho Chunk Nation

- Code: https://ho-chunknation.com/wp-content/uploads/2020/05/02.18.20-Child-Support-Code-4_HCC_7_Clean_.pdf
- Around 7,000 members
- Per cap (past – might resume)
- General Welfare Exclusion Act Payment (GWEA) (present)
- One of few jurisdictions that overcomes the marital presumption.
 - Even for same-sex marriage.
- Genetic tests for everyone – highly encouraged even for VPAs

Working Together - Summary

- If you know one Tribe's legal history, you know one Tribe's legal history.
- Tribal and State CSAs are more alike than different in purpose, but perhaps differ greatly in approach/delivery of services/capacity.
- Each Tribe is an expert on its own jurisdiction.

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 per capita income and garnishment of said income
- Link to tribal child support agencies under federal funding:

<https://www.acf.hhs.gov/css/resource/state-and-tribal-child-support-agency-contacts>

Thank you! Please feel free to contact us for assistance.

- Elysia Rodriguez, Ho-Chunk Nation
Elysia.Rodriguez@ho-chunk.com
- Naomi Rich, Ho-Chunk Nation
Naomi.Rich@ho-chunk.com
- Jennifer Burgess, Yurok Tribe,
jburgess@yuroktribe.nsn.us
- Monica Chase, Lac Courte Oreilles Band of Lake Superior Chippewa Indians, monica.chase@lco-nsn.gov