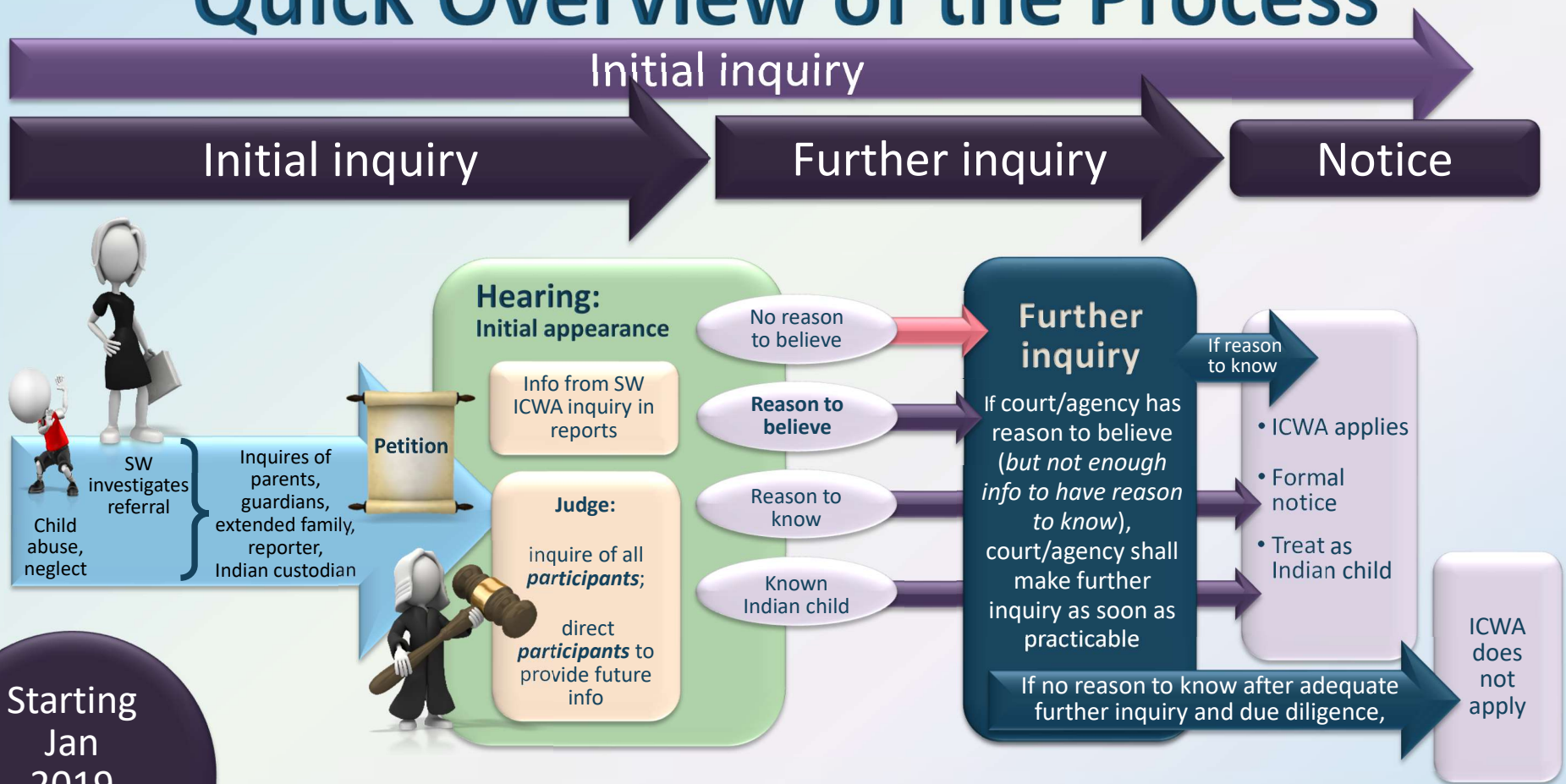


December 19, 2024 Webinar

ICWA Inquiry Judicial Best Practices, Tips and
Tricks for Avoiding ICWA Inquiry Reversals

Materials

Quick Overview of the Process



Starting
Jan
2019
AB3176

WIC 224.2

ICWA Inquiry, Notice & Findings Overview

Agency completes initial ICWA inquiry under WIC §224.2(a) & (b), and if there is reason to believe child is Indian child¹, further inquiry per §224.2(e). Agency shall include all inquiry details in court report.

At first appearance, on record the court shall:

Inquire of each party and each participant present whether s/he knows or has reason to know that the child is an Indian child.¹ (See specific questions.²)

Court shall instruct³ all parties to inform court if they later receive information that provides reason to know the child is an Indian child.¹

(Simply asking if the family has Native American / Eskimo heritage is no longer sufficient.)

- Court findings:**
- There is **NO** reason to believe or know child is an Indian child.¹
 - There is reason to **BELIEVE**⁴ the child is an Indian child.¹
 - There is reason to **KNOW**⁵ the child is an Indian child.¹
 - It is **KNOWN** that the child is an Indian child.¹

Findings:

- ICWA notice is not necessary.
- ICWA does not apply.

Regular statutes apply.

At every hearing court shall instruct parties to inform³ if any new ICWA information.

Findings:

- Agency has done further §224.2(e) inquiry and there is no reason to know child is Indian child; and
- ICWA does not apply.

OR

- Agency is ordered to complete further §244.2(e) inquiry, and
- File evidence of the inquiry, including contacts w/ extended family members, tribes, BIA, CA DSS, and/or others.
- Court assesses if “reason to know” child is Indian child.

Findings:

Agency has presented evidence of due diligence to identify and work with tribes child may be member of or eligible for.

OR Agency is required to exercise due diligence to identify, work with tribes to verify child’s status, provide notice, and file proof of due diligence and notice.

AND Notice has been given as required by law.

Apply ICWA unless and until Court can confirm child is NOT an Indian child.⁶

Agency sends notice (ICWA-030) to:

- Federally-recognized tribes (all bands, if family does not specify which),
- The Bureau of Indian Affairs, and
- The Secretary of the Interior.

RESPONSES

Return receipts

- Before proceeding, confirm that tribe(s) received notice at least 10 days before hearing.
- Continue to send notice for each hearing until responses from all tribes.

What if no response from all tribes?

- No more “60-day rule.”
- Based on evaluation of underlying evidence, all of the circumstances and evaluation of agency due diligence reports, upon finding of “proper and adequate further inquiry and due diligence,” court can determine there is “no reason to know” and find ICWA does not apply. (WIC §224.2(i)(2))

Findings:

- ICWA does not apply.
- No more notice unless further information gives reason to know child is Indian child.

Letter: child not member, not eligible for membership

Letter: child is member of tribe

Letter: child eligible for membership and is biological child of member

OR

All responses (letters and return receipts) must be part of court file.

ICWA applies

Notice on ICWA-030 by registered mail, return receipt requested for hearings that culminate in foster care placement, TPR, preadoptive placement, or adoptive placement.

All other notices to tribe same way as other parties.

Relevant issues:

- Active efforts
- Intervention
- Transfer
- Placement preferences
- Qualified expert witness
- Findings (higher standards)
- Tribal customary adoption

1 Definition of Indian child:

25 U.S. Code § 1903(4): Indian child means any unmarried person who is under age eighteen and is either (a) a member of an Indian tribe or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe; and
WIC §224.1(b): An unmarried person who is 18 years of age or over, but under 21 years of age, who is a member of an Indian tribe or eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe, and who is under the jurisdiction of the dependency court, unless that person or their attorney elects not to be considered an Indian child for purposes of the Indian child custody proceeding.

2 At the first appearance in court of each party, the court must ask each participant present at the hearing:

From JV-410:

- Whether the participant is aware of any information indicating that the child is a member or citizen or eligible for membership or citizenship in an Indian tribe or Alaska Native Village and if yes, the name of the tribe or village;
- Whether the residence or domicile of the child, either of the child's parents, or Indian custodian is on a reservation or in an Alaskan Native Village, and if yes, the name of the tribe or village;
- Whether the child is or was ever a ward of a tribal court, and if yes, the name of the tribe or village; and
- If the child, either of the child's parents, or the child's Indian custodian possesses an identification card indicating membership or citizenship in a tribe or Alaska Native Village, and if so, the name of the tribe or village.

Or...

§ 224.2(c)

Ask whether the participant knows or has reason to know that the child is an Indian child. (see fn. 5 for "reason to know")

Rule 5.668(c), whether:

- The participant knows or has reason to know the child is an Indian child;
- The residence or domicile of the child, the child's parents, or Indian custodian is on a reservation or in an Alaska Native village;
- The child is or has ever been a ward of a tribal court; and
- Either parent or the child possesses an identification card indicating membership or citizenship in an Indian tribe.

3 Rule 5.668(c)(2) The court must also instruct all parties to inform the court if they subsequently receive information that provides reason to know the child is an Indian child, and order the parents, Indian custodian, or guardian, if available, to complete *Parental Notification of Indian Status* (form ICWA-020).

4 WIC § 224.2(e)(1) Reason to believe. There is reason to believe child is Indian child whenever court/SW/PO has information suggesting that either parent of child or child is member or may be eligible for membership in tribe. Information suggesting membership or eligibility includes, but is not limited to, information that indicates, but does not establish, the existence of one or more of the grounds for reason to know in § 224.2(d)(1)-(6).

Rule 5.668(c)(3) If there is reason to believe that the case involves an Indian child, the court must require the agency to conduct further inquiry per WIC §224.2(e).

5 WIC § 224.2(d) Reason to know. The circumstances that may provide reason to know the child is an Indian child include the following:

- Person having an interest in the child, including the child, an officer of the court, a tribe, an Indian organization, a public or private agency, or a member of the child's extended family informs the court that the child is an Indian child;
- The residence or domicile of the child, the child's parents, or Indian custodian is on a reservation or in an Alaska Native village;
- Any participant in the proceeding, officer of the court, Indian tribe, Indian organization, or agency informs the court that it has discovered information indicating that the child is an Indian child;
- The child who is the subject of the proceeding gives the court reason to know he or she is an Indian child;
- The court is informed that the child is or has been a ward of a tribal court; or
- The court is informed that either parent or the child possess an identification card indicating membership or citizenship in an Indian tribe.

Rule 5.668(d) If it is known, or there is reason to know, the case involves an Indian child, the court must proceed in accordance with rules 5.481 et seq. and treat the child as an Indian child unless and until the court determines on the record after review of the report of due diligence described in WIC §224.2(g) that the child does not meet the definition of an Indian child.

6 WIC § 224.2(i) Treat child as Indian child

When there is reason to know that the child is an Indian child, **the court shall treat the child as an Indian child unless and until** the court determines on the record and after review of the report of due diligence as described in WIC §224.2(g), and a review of the copies of notice, return receipts, and tribal responses required pursuant to §224.3, that the child does not meet the definition of an Indian child as used in §224.1 and the federal Indian Child Welfare Act of 1978 (25 U.S.C. Sec. 1901 et seq.).

ICWA Inquiry & Further Inquiry At-a-Glance

Inquiry

Possible inquiry results

What is triggered by responses

Court & Agency have affirmative and continuing duty to inquire whether child for whom petition may be or has been filed, is or may be Indian child. (WIC § 224.2(a))

Initial inquiry

Duty to inquire begins at initial contact, including inquiring of reporter of abuse/neglect if child may be Indian child. (WIC § 224.2(a))

If child is placed into temporary custody, Agency has duty to inquire whether child is Indian child. (WIC § 224.2(b))

At first appearance, court shall inquire of each participant present whether s/he knows or has reason to know child is an Indian child. Court shall instruct parties to inform court if party later receives information that provides reason to know child is Indian child. (WIC § 224.2(c) & (d))

Further inquiry

If court or Agency has reason to believe child is Indian child, but does not have sufficient information to determine there is reason to know that child is Indian child, court and Agency shall make further inquiry as soon as practicable.

(WIC § 224.2(e))

Non-federally recognized Indian child

Indian child

Reason to know
(WIC § 224.2(d))

Reason to believe
(WIC § 224.2(e))

Non-Indian

- ICWA does not apply
- Court may allow child's non-federally recognized tribe to participate (WIC § 306.6)

- Child whose Indian status can be confirmed
- ICWA applies
- Tribe may intervene

- Further inquiry
- Treat as Indian child until court declares on record child is not Indian child

- Further inquiry

Application of ICWA minimum federal standards:

- Notice
- Active efforts
- Qualified expert witness
- Placement preferences
- Findings (higher standards)
- Transfer

If court finds that proper and adequate further inquiry and due diligence have been conducted and there is no reason to know child is Indian child, court may make finding that ICWA does not apply; however, later receipt of new information requires further inquiry. (WIC § 224.2(i)(2))

- Continuing duty to inquire throughout life of case
- ICWA does not apply

1 **INDIAN CHILD WELFARE ACT COMPLIANCE REPORT**

2 Report by: **SW NAME, WR****

3 Name of Child: **CHILD'S NAME**

4 Court Number:

5 X-Ref. Number:

6 Case Number:

7 Date of Birth:

8 Age:

9 Name of Child: **CHILD'S NAME**

10 Court Number:

11 X-Ref. Number:

12 Case Number:

13 Date of Birth:

14 Age:

15 Name of Child: **CHILD'S NAME**

16 Court Number:

17 X-Ref. Number:

18 Case Number:

19 Date of Birth:

20 Age:

21 Hearing Date: ****** **, 202***

22 **ICWA COMPLIANCE REPORT, CALENDARED FOR _____, IN DEPARTMENT _____:**

23 The purpose of this report is to provide the Court with an update regarding the Department's
24 efforts comply with inquiry and further inquiry as required by ICWA and California law.

25 **Indian Child Welfare Act:**

26 The Indian Child Welfare Act does not apply.

27 The Indian Child Welfare Act does apply.

28 The Indian Child Welfare Act may apply.

29 **ICWA Inquiry/Further Inquiry:**

30 The following efforts were made to inquire/further inquire as to the **child/ren**'s possible Indian status,
31 if individuals were available:

- 2 Interviewed the parent(s)/guardian(s);
- 3 Interviewed relatives/extended family members/NREFM;
- 4 Interviewed the child/ren;
- 5 Interviewed the Indian Custodian.

6 **INFORMATION ABOUT PERSONS INTERVIEWED AND INITIAL INQUIRY (WIC 224.2(a)-(b))**

8 On 00/00/0000, social worker, [specify name], interviewed [specify name(s)], [specify relationship],
 9 who stated the child/ren, [child/ren'(s) name(s)], is an/are/may be an **OR** is not an/are not Indian
 10 Child/ren and the child/ren and/or the parent(s)' primary residence is/is not on an Indian reservation
 11 or Alaska Native Village.
 12

13 **FURTHER INQUIRY, ADDITIONAL FAMILY HISTORY INFORMATION PROVIDED BY**
 14 **PERSONS INTERVIEWED (WIC 224.2(e))**

15 **a. Child's Biological Mother**

16 Source of Information and Date Information Provided: Mother/Father/Guardian/name and
 17 relationship of extended family member; (date)

18 Name:

19 Any Maiden or Married Name, Former Names, or Aliases:

20 Current Address:

21 Former Address:

22 Birth Date and Place: ;

23 Tribal, Band, or Alaska Native Village Affiliation, Including Name and Location:

24 Membership or Enrollment Number, if Known:

25 If Deceased, Date and Place of Death: ;

26 Telephone Number:

27 **b. Child's Biological Father** (note that ICWA generally requires a biological connection to a father that has
 28 acknowledged or established paternity)

Source of Information and Date Information Provided: Mother/Father/Guardian/name and
 relationship of extended family member; (date)

Name:

2 Any Maiden or Married Name, Former Names, or Aliases:
 3 Current Address:
 4 Former Address:
 5 Birth Date and Place: ;
 6 Tribal, Band, or Alaska Native Village Affiliation, Including Name and Location:
 7 Membership or Enrollment Number, if Known:
 8 If Deceased, Date and Place of Death: ;
 9 Telephone Number:

7 c. **Mother’s Biological Mother** (i.e., child’s maternal grandmother)

8 Source of Information and Date Information Provided: Mother/Father/Guardian/name and
 9 relationship of extended family member; (date)

10 Name:
 11 Any Maiden or Married Name, Former Names, or Aliases:
 12 Current Address:
 13 Former Address:
 14 Birth Date and Place: ;
 15 Tribal, Band, or Alaska Native Village Affiliation, Including Name and Location:
 16 Membership or Enrollment Number, if Known:
 17 If Deceased, Date and Place of Death: ;
 18 Telephone Number:

16 d. **Mother’s Biological Father** (i.e., child’s maternal grandfather)

17 Source of Information and Date Information Provided: Mother/Father/Guardian/name and
 18 relationship of extended family member; (date)

19 Name:
 20 Any Maiden or Married Name, Former Names, or Aliases:
 21 Current Address:
 22 Former Address:
 23 Birth Date and Place: ;
 24 Tribal, Band, or Alaska Native Village Affiliation, Including Name and Location:
 25 Membership or Enrollment Number, if Known:
 26 If Deceased, Date and Place of Death: ;
 27 Telephone Number:

24 e. **Father’s Biological Mother** (i.e., child’s paternal grandmother)

25 Source of Information and Date Information Provided: Mother/Father/Guardian/name and
 26 relationship of extended family member; (date)

27 Name:
 28 Any Maiden or Married Name, Former Names, or Aliases:

2 Current Address:
 3 Former Address:
 4 Birth Date and Place: ;
 5 Tribal, Band, or Alaska Native Village Affiliation, Including Name and Location:
 6 Membership or Enrollment Number, if Known:
 7 If Deceased, Date and Place of Death: ;
 8 Telephone Number:

9 **f. Father’s Biological Father** (i.e., child’s paternal grandfather)

10 Source of Information and Date Information Provided: Mother/Father/Guardian/name and
11 relationship of extended family member; (date)

12 Name:
 13 Any Maiden or Married Name, Former Names, or Aliases:
 14 Current Address:
 15 Former Address:
 16 Birth Date and Place: ;
 17 Tribal, Band, or Alaska Native Village Affiliation, Including Name and Location:
 18 Membership or Enrollment Number, if Known:
 19 If Deceased, Date and Place of Death: ;
 20 Telephone Number:

21 **g. Mother’s Biological Grandmother on Her Mother’s Side** (i.e., child’s maternal great-grandmother)

22 Source of Information and Date Information Provided: Mother/Father/Guardian/name and
23 relationship of extended family member; (date)

24 Name:
 25 Any Maiden or Married Name, Former Names, or Aliases:
 26 Current Address:
 27 Former Address:
 28 Birth Date and Place: ;
 29 Tribal, Band, or Alaska Native Village Affiliation, Including Name and Location:
 30 Membership or Enrollment Number, if Known:
 31 If Deceased, Date and Place of Death: ;
 32 Telephone Number:

33 **h. Mother’s Biological Grandmother on Her Father’s Side** (i.e., child’s maternal great-grandmother)

34 Source of Information and Date Information Provided: Mother/Father/Guardian/name and
35 relationship of extended family member; (date)

36 Name:
 37 Any Maiden or Married Name, Former Names, or Aliases:
 38 Current Address:

2 Former Address:
 3 Birth Date and Place: ;
 4 Tribal, Band, or Alaska Native Village Affiliation, Including Name and Location:
 5 Membership or Enrollment Number, if Known:
 6 If Deceased, Date and Place of Death: ;
 7 Telephone Number:

8 **i. Mother’s Biological Grandfather on Her Mother’s Side** (i.e., child’s maternal great-grandfather)

9 Source of Information and Date Information Provided: Mother/Father/Guardian/name and
 10 relationship of extended family member; (date)

11 Name:
 12 Any Maiden or Married Name, Former Names, or Aliases:
 13 Current Address:
 14 Former Address:
 15 Birth Date and Place: ;
 16 Tribal, Band, or Alaska Native Village Affiliation, Including Name and Location:
 17 Membership or Enrollment Number, if Known:
 18 If Deceased, Date and Place of Death: ;
 19 Telephone Number:

20 **j. Mother’s Biological Grandfather on Her Father’s Side** (i.e., child’s maternal great-grandfather)

21 Source of Information and Date Information Provided: Mother/Father/Guardian/name and
 22 relationship of extended family member; (date)

23 Name:
 24 Any Maiden or Married Name, Former Names, or Aliases:
 25 Current Address:
 26 Former Address:
 27 Birth Date and Place: ;
 28 Tribal, Band, or Alaska Native Village Affiliation, Including Name and Location:
 29 Membership or Enrollment Number, if Known:
 30 If Deceased, Date and Place of Death: ;
 31 Telephone Number:

32 **k. Father’s Biological Grandmother on His Mother’s Side** (i.e., child’s paternal great-grandmother)

33 Source of Information and Date Information Provided: Mother/Father/Guardian/name and
 34 relationship of extended family member; (date)

35 Name:
 36 Any Maiden or Married Name, Former Names, or Aliases:
 37 Current Address:
 38 Former Address:

2 Birth Date and Place: ;
 3 Tribal, Band, or Alaska Native Village Affiliation, Including Name and Location:
 4 Membership or Enrollment Number, if Known:
 5 If Deceased, Date and Place of Death: ;
 6 Telephone Number:

7 **i. Father’s Biological Grandmother on His Father’s Side** (i.e., child’s paternal great-grandmother)

8 Source of Information and Date Information Provided: Mother/Father/Guardian/name and
 9 relationship of extended family member; (date)

10 Name:
 11 Any Maiden or Married Name, Former Names, or Aliases:
 12 Current Address:

13 Former Address:
 14 Birth Date and Place: ;
 15 Tribal, Band, or Alaska Native Village Affiliation, Including Name and Location:
 16 Membership or Enrollment Number, if Known:
 17 If Deceased, Date and Place of Death: ;
 18 Telephone Number:

19 **m. Father’s Biological Grandfather on His Mother’s Side** (i.e., child’s paternal great-grandfather)

20 Source of Information and Date Information Provided: Mother/Father/Guardian/name and
 21 relationship of extended family member; (date)

22 Name:
 23 Any Maiden or Married Name, Former Names, or Aliases:
 24 Current Address:

25 Former Address:
 26 Birth Date and Place: ;
 27 Tribal, Band, or Alaska Native Village Affiliation, Including Name and Location:
 28 Membership or Enrollment Number, if Known:
If Deceased, Date and Place of Death: ;
Telephone Number:

n. Father’s Biological Grandfather on His Father’s Side (i.e., child’s paternal great-grandfather)

Source of Information and Date Information Provided: Mother/Father/Guardian/name and
 relationship of extended family member; (date)

Name:
Any Maiden or Married Name, Former Names, or Aliases:
Current Address:

Former Address:
Birth Date and Place: ;

2 Tribal, Band, or Alaska Native Village Affiliation, Including Name and Location:

3 Membership or Enrollment Number, if Known:

4 If Deceased, Date and Place of Death: ;

Telephone Number:

5 **The following efforts were made to further inquire, as to the child/ren’s possible Indian status:**

6 Utilized the BIA and its resources for assistance in identifying the names and contact
7 information of the tribe(s) in which the child/ren may be a member or eligible for
8 membership. (WIC 224.2(e))

9 On [insert date], the undersigned reviewed the BIA ICWA Designated Agents
10 Listing search engine, <https://www.bia.gov/bia/ois/dhs/icwa/agents-listing/>, which
11 identified the following Tribes and their Designated Agents:

12 **Tribe:**
13 **Agent:**
14 **Phone No.**
15 **Email:**

16 **Tribe:**
17 **Agent:**
18 **Phone No.**
19 **Email:**

20 **Tribe:**
21 **Agent:**
22 **Phone No.**
23 **Email:**

24 **AND/OR**

25 The undersigned was unable to obtain accurate contact information for the tribe(s) from
26 the BIA ICWA Designated Agents Listing search engine. On [insert date], contacted the
27 BIA (Pacific Regional Office) at (916) 978-6000 to obtain assistance in identifying the
28 contact information for the tribe. The BIA representative, [insert name], provided the
following contact
information for the tribe(s):

Tribe:
Agent:
Phone No.
Email:

Tribe:

2 **Agent:**
3 **Phone No.**
4 **Email:**

5 **Tribe:**
6 **Agent:**
7 **Phone No.**
8 **Email:**

9 Contacted the CDSS' Office of Tribal Affairs for assistance in identifying the names and
10 contact information of the tribe(s) in which the child may be a member or eligible for
11 membership by e-mailing ICWAINquiry@dss.ca.gov. (WIC 224.2(e))

12 The undersigned was unable to obtain accurate contact information for the tribe(s)
13 after utilizing the BIA and its resources, on [insert date], the undersigned e-mailed
14 the CDSS Office of Tribal Affairs (OTA) for assistance TribalAffairs@dss.ca.gov.
15 In response, CDSS OTA provided the following contact information for the
16 tribe(s):

17 **Tribe:**
18 **Agent:**
19 **Phone No.**
20 **Email:**

21 **Tribe:**
22 **Agent:**
23 **Phone No.**
24 **Email:**

25 **Tribe:**
26 **Agent:**
27 **Phone No.**
28 **Email:**

The following efforts were made to further inquire, as to the child's possible Indian status:

Contacted by telephone, fax, email, or mail, the tribe(s) or designated agent of the tribe(s)
and contact with any other person that may reasonably be expected to have information
regarding the child's membership or eligibility status. (WIC 224.2(e))

Tribe: [Insert Name]

Designated Agent: [Insert Name]

Dates of Attempted Contact: [insert date], [insert date], [insert date]

1 Youngest child name, et al

Petition Number

2 Means of Attempted Contacts: Telephone E-mail Fax Certified Mail

3 **Information Provided by Social Worker:**

4 **Result of Tribal Contact:**

7 **Tribe:** [Insert Name]

8 Designated Agent: [Insert Name]

9 Dates of Attempted Contact: [insert date], [insert date], [insert date]

10 Means of Attempted Contacts: Telephone E-mail Fax Certified Mail

11 **Information Provided by Social Worker:**

12 **Result of Tribal Contact:**

15 **Tribe:** [Insert Name]

16 Designated Agent: [Insert Name]

17 Dates of Attempted Contact: [insert date], [insert date], [insert date]

18 Means of Attempted Contacts: Telephone E-mail Fax Certified Mail

19 **Information Provided by Social Worker:**

20 **Result of Tribal Contact:**

22 **ICWA Formal Notice:**

24 The Department has complied with the ICWA notice provisions contained in California
25 Rules of Court, Rule 5.480 et seq.

26 Name of Biological Parent Who is Member of Indian Child's Tribe (25 USC Section 1903):

2 Name of Biological Parent Who May be Eligible for Membership in Indian Child’s Tribe:

4 Name of Indian Child’s Tribe (25 USC Section 1903 Subd. (5)):

7 Date Indian Child’s Tribe Noticed:

9 How Notice was Sent to Indian Child’s Tribe: (Certified Mail, return receipt requested)

11 Response from Indian Child’s Tribe:

13 **RECOMMENDATIONS:**

14 THEREFORE, it is respectfully recommended that the Court adopt the following Findings and or

15 Order(s):

17 The Court finds there is no reason to believe or reason to know the child is an Indian
18 child and ICWA does not apply;

19 **OR**

20 The Court finds there is reason to believe the child is an Indian child;

21 **AND**

22 The agency has completed further inquiry as required by Welfare and Institutions
23 Code, § 224.2(e), and has exercised due diligence, and there is no reason to know that
24 the child is an Indian Child. ICWA does not apply;

25 **OR**

26 The agency is ordered to complete further inquiry as required by Welfare and
27 Institutions Code, § 224.2(e) and file with the Court evidence of this inquiry, including
all contacts with the extended family members, tribes that the child may be affiliated

2 with, the Bureau of Indian Affairs, the California Department of Social Services,
3 and/or others.

4 **OR**

5 The Court finds there is reason to know that the child is an Indian child:

6 **AND**

7 The agency is required to exercise due diligence to identify and contact all of the tribes
8 where the child may be a member or eligible for membership to verify the child's
9 status and provide notice in accordance with Welfare and Institutions Code, §224.3
and file proof of due diligence and notice with the Court;

10 **AND**

11 The Court will treat the child as an Indian child until it is determined on the record that
12 the child is not an Indian child.

13 **OR**

14 The Department has exercised due diligence in attempting to contact the tribe(s) and
15 has provided notice as required by law;

16 **AND**

17 The Court finds that the child does not meet the definition of an Indian child; ICWA
does not apply.

18 **OR**

19 The Court finds that the child is an Indian child through the [Insert Tribe's Name].
20
21
22
23
24
25
26
27

Family Tree or Pedigree Chart

Completed by:

Agency/court:

GREAT-GRANDFATHER
GREAT-GRANDMOTHER

GREAT-GRANDFATHER
GREAT-GRANDMOTHER

GREAT-GRANDFATHER
GREAT-GRANDMOTHER

PATERNAL GRANDFATHER
PATERNAL GRANDMOTHER

MATERNAL GRANDFATHER
MATERNAL GRANDMOTHER

FATHER

MOTHER

CHILD'S NAME

{ Court Case No. }

NOTES

Indian Ancestry Family Tree

DOB = Date of Birth
 POB = Place of Birth
 POD = Place of Death
 DOD = Date of Death

INSTRUCTIONS
 Please add dates and places of birth, and places and dates of death (if applicable/known), as well as full names, including middle, maiden names, aliases and nicknames.
For tribes, clarify the specific band and location (eg. Cherokee, Keetoowah, Oklahoma).

Child(ren):			
DOB:			
POB:			
Enrolled?			
Tribe:			

Maternal Grandfather:		→
DOB:		
POB:		
POD:		
DOD:		
Tribe/Enrolled? Y/N		
Current Address:		
Former Address:		
Telephone Number:		

Maternal Grandmother:		→
DOB:		
POB:		
POD:		
DOD:		
Tribe/Enrolled? Y/N		
Current Address:		
Former Address:		
Telephone Number:		

Maternal Great Grandfather:	
DOB:	
POB:	
POD:	
DOD:	
Tribe/Enrolled? Y/N	
Current Address:	
Former Address:	
Telephone Number:	

Maternal Great Grandmother:	
DOB:	
POB:	
POD:	
DOD:	
Tribe/Enrolled? Y/N	
Current Address:	
Former Address:	
Telephone Number:	

Maternal Great Grandfather:	
DOB:	
POB:	
POD:	
DOD:	
Tribe/Enrolled? Y/N	
Current Address:	
Former Address:	
Telephone Number:	

Maternal Great Grandmother:	
DOB:	
POB:	
POD:	
DOD:	
Tribe/Enrolled? Y/N	
Current Address:	
Former Address:	
Telephone Number:	

MOTHER	
Name:	
AKA:	
DOB:	
POB:	
POD:	
DOD:	
Tribe/Enrolled? Y/N	
Current Address:	
Former Address:	
Telephone Number:	
Email address:	

Other (i.e. direct lineal ancestors)

Indian Ancestry Family Tree

DOB = Date of Birth
POB = Place of Birth
POD = Place of Death
DOD = Date of Death

INSTRUCTIONS
Please add dates and places of birth, and places and dates of death (if applicable/known), as well as full names, including middle, maiden names, aliases, and nicknames.
For tribes, clarify the specific band and location.
(eg. Cherokee, Keetoowah, Oklahoma).

Child(ren):			
DOB:			
POB:			
Enrolled?			
Tribe:			

Paternal Grandfather:		→
DOB:		
POB:		
POD:		
DOD:		
Tribe/Enrolled? Y/N		
Current Address:		
Former Address:		
Telephone Number:		

Paternal Grandmother:		→
DOB:		
POB:		
POD:		
DOD:		
Tribe/Enrolled? Y/N		
Current Address:		
Former Address:		
Telephone Number:		

Paternal Great Grandfather:	
DOB:	
POB:	
POD:	
DOD:	
Tribe/Enrolled? Y/N	
Current Address:	
Former Address:	
Telephone Number:	
Paternal Great Grandmother:	
DOB:	
POB:	
POD:	
DOD:	
Tribe/Enrolled? Y/N	
Current Address:	
Former Address:	
Telephone Number:	
Paternal Great Grandfather:	
DOB:	
POB:	
POD:	
DOD:	
Tribe/Enrolled? Y/N	
Current Address:	
Former Address:	
Telephone Number:	
Paternal Great Grandmother:	
DOB:	
POB:	
POD:	
DOD:	
Tribe/Enrolled? Y/N	
Current Address:	
Former Address:	
Telephone Number:	

FATHER	
Name:	
AKA:	
DOB:	
POB:	
POD:	
DOD:	
Tribe/Enrolled? Y/N	
Current Address:	
Former Address:	
Telephone Number:	
Email address:	

Other (i.e. direct lineal ancestors)

INDIAN ANCESTRY QUESTIONNAIRE

Name (person completing form): _____ Phone #: _____

Petition number(s) of children: _____

The information requested below is necessary to determine whether the Indian Child Welfare Act (ICWA) applies to this case. The ICWA provides legal protections designed to prevent the breakup of Indian families, and may provide important rights and benefits to the Indian parent(s) and their child/ren. Please complete as much of the requested information to assist the family in determining whether the ICWA applies to the case.

1. Name of Person Interviewed: _____

2. Relationship to child: Parent Indian Custodian Guardian Other: _____

3. a) The mother or father may be a member of or eligible for membership in a federally recognized Indian tribe (*Circle one of the underlined*):

Traditional and official tribe(s) name(s): _____

State/Location of tribe(s): _____

List name of reservation or Alaska Native Village, if known (list all): _____

b) The child/ren is/are or may be a member(s) of or eligible for membership in, a federally recognized Indian tribe:

Name, (including middle names), date and place of birth of each child this information applies

to: _____

Name of tribe(s) (name each): _____

State/Location of tribe(s): _____

c) One or more of the parents, grandparents, or other lineal ancestors is or was a member of a federally recognized tribe:

Name of tribe(s) (name each): _____

State/Location of tribe(s): _____

Name and relationship of ancestor(s): _____

d) The child's mother and/or father is a resident of or domiciled on a reservation or an Alaska Native Village (*Circle one of the underlined*)

e) The child/ren is/are a resident(s) of or domiciled on a reservation or an Alaska Native Village.

Name, (including middle names) of each child this information applies

to: _____

f) The child/ren is or has been a ward of a tribal court:
Name, (including middle names) of each child this information applies
to: _____

g) Either parent or the child possess an Indian identification card indicating membership or citizenship
in an Indian tribe.
Name of tribe(s) (name each): _____

4. Describe any known Indian ancestry of the child/ren by completing the attached family tree, **filling in as much information as possible**. Indicate on the family tree who is an enrolled member or eligible for enrollment and include his/her enrollment number. If more space is needed, use the box at the bottom of the form.

5. Have any members of your family ever received services from the Bureau of Indian Affairs? If yes, name of family member, type of service(s), where and when services(s) were received.

6. Has parent or any family member received medical treatment at an Indian health clinic or public health services hospital? If yes, name of family member, type of treatment, date and location where treated.

7. Has parent or any family member attended an Indian school? If so, name the family member, Indian school, dates attended, and location of school.

8. Has parent or any family member lived on federal trust land, or reservation? If yes, specify the name and address of location, date, and name of person.

9. If the parent claiming Indian heritage is the child's father, has paternity been established? If so, by what means? (biological testing, paternity judgment, Declaration of Paternity, etc.)

10. Please provide any additional information that would help in determining if the child/ren is/may be considered an Indian child/ren, including names and contact information for family members who have additional family and tribal information.

Superior Court of California, County of Los Angeles, Court Rules, Rule 17.16

WEST'S ANNOTATED CALIFORNIA CODES

CALIFORNIA LOCAL COURT RULES

LOS ANGELES COUNTY

SUPERIOR COURT

SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES COURT RULES

CHAPTER SEVENTEEN. SUPERIOR COURT, JUVENILE DIVISION DEPENDENCY AND DELINQUENCY PROCEEDINGS

Rule 17.16. Legal Representation

(a) Appointment of Counsel for Adults. A "client" is defined as any parent, or guardian, or other adult who has been determined by the Court to have standing. A client is entitled to be represented by competent legal counsel if they so desire. Competency is defined by Rule 5.660 of the California Rules of Court.

When it appears to the Court that a client is presently financially unable to afford and cannot for that reason employ counsel, the Court shall appoint counsel unless the client has made a knowing and intelligent waiver of the right to counsel.

Attorneys shall be appointed to represent clients in dependency proceedings at the earliest possible stage of proceedings when parties must appear before the Juvenile Court and at all subsequent proceedings. Appointed counsel shall continue to represent the client unless properly relieved by the Court.

All attorneys representing clients in the dependency court shall affirmatively inquire of their client as to whether he/she has reason to believe that any child appearing in the dependency court has Indian heritage under the **Indian Child Welfare Act (ICWA)**. Every effort should be made by counsel to assist confirmation of a child's Indian status and tribal membership.

Any client who is appointed legal counsel by the Court shall go to the financial office in the Children's Court, or as directed, on the date of the appointment, or as soon thereafter as possible, for a determination of the client's ability to reimburse the County for the cost of appointed counsel. It shall be the responsibility of appointed counsel to make sure the client has all of the necessary paperwork for the financial office and has given the client directions on how to get there.

(b) Appointment of Counsel for Children.

(1) At the arraignment and detention hearing, or as soon thereafter as possible, the Court shall appoint counsel for each child who is the subject of any dependency petition who shall also serve in the capacity of a Child Abuse Prevention and

Treatment Act (CAPTA) Guardian ad Litem for the child, unless the Court finds that the child would not benefit from the appointment of counsel for any purpose and makes this finding, and the reasons therefor, on the record. See Rule 5.660 of the California Rules of Court for the specific factual findings that the Court must make in order to not appoint counsel for a child.

(2) If, pursuant to California Rules of Court, rule 5.660, the Court does not appoint an attorney for the child, the Court shall make a referral for the appointment of a CASA (Court-Appointed Special Advocate) for the child to act in the capacity of a GAL (Guardian ad Litem).

(3) Any appointment of counsel for a child shall first be referred to the Children's Law Center of Los Angeles (CLC) for representation.

(4) In the event that no CLC attorney is available to represent a child, an attorney from the Welfare and Institutions Code section 317 attorney panel who, by training and experience, is competent to represent the interests of children in dependency court proceedings shall be appointed to represent the child.

(5) No child shall be represented by any attorney from County Counsel, or by any other attorney representing the Department of Children and Family Services (DCFS).

(c) Eligibility for Appointment as Counsel for Adults.

(1) *California State Bar Membership.* The attorney must be in good standing with the California State Bar at all times in order to be appointed to represent any party in dependency proceedings.

(2) *Education/Training.* An attorney must complete a minimum of 8 hours of training or education in the area of juvenile dependency law or be able to show recent experience which demonstrates a competency in the area of juvenile dependency law to become eligible for appointment to represent any party in a dependency proceeding.

i. The attorney shall have a solid familiarity with Welfare and Institutions Code statutory requirements, the Evidence Code, local and state court rules, court policies, relevant case law, the practice guidelines set forth in the Local Rules, and the substantive, ethical, and procedural issues unique to the Dependency Court.

ii. The attorney shall be familiar with the various stages of the court proceedings from arraignment and detention through review of permanency hearings. This includes, but is not limited to, the following: the structure and functioning of the Juvenile Court, the Court-Appointed Special Advocate program (CASA), DCFS programs, policies, and procedures, issues related to reunification, placement, reasonable efforts, adoption, and permanency, and familiarity with the Court Mediation program.

iii. The attorney shall be familiar with appellate and other review procedures including writs, rehearings, appeals, and other extraordinary remedies.

iv. An attorney new to Dependency Court must observe and/or be available to participate in each type of dependency hearing from detention through review of a permanency plan prior to accepting an appointment in Dependency Court.

v. With the exception of CLC attorneys, an attorney new to Dependency Court should work and consult with an assigned mentor (experienced dependency attorney) for the first three months of initial appointment. A mentor shall be assigned to the new attorney by the Juvenile Courts Bar Association (JCBA) or the Court to which the attorney is assigned.

vi. An attorney new to Dependency Court shall visit three types of placements used to house dependent children such as emergency shelters, foster homes, or group homes.

vii. All attorneys shall be familiar with the effects of racial, cultural, ethnic, sexual orientation issues, and language differences with regard to child rearing, treatment, and placement practices and issues.

(d) Eligibility for Appointment as Counsel for Children In addition to meeting the eligibility requirements for appointment as counsel for adults as provided in Local Rule 17.16(c) above, the attorney shall be familiar with the following areas:

(1) Child development stages including a child's cognitive, emotional, and social growth stages, language development, and patterns of child growth related to neglect and non-organic failure to thrive.

(2) Interviewing techniques for children. The techniques used by the attorney should be age-appropriate and take into consideration the type of abuse the child is alleged to have suffered.

(3) Child development as it relates to children as witnesses and the impact of the court process on the child.

(4) The types of placements available to children, and issues related to placement including, but not limited to:

i. A working knowledge of licensing requirements for foster care and relative placements.

ii. The impact of multiple placements on the child, and the importance of maintaining sibling groups versus the best interests of each child in the sibling group.

iii. The effect placement will have on visitation issues and on the delivery of services to children in placement.

(5) The educational, medical, mental health, dental, and other resources available for children in the dependency court system, and the funding therefor, and the means of identifying the need for and the accessing of such resources.

(6) A working knowledge of the emancipation laws, and the resources available to assist the dependent child to emancipate, including, but not limited to, knowledge of DCFS's Independent Living Program, the requirements for and the availability of transitional housing, and the availability of funding to assist emancipating children in living independently.

(7) Familiarity with the Court's policy regarding joint reports for Welfare and Institutions Code section 300/602 children pursuant to Welfare and Institutions Code section 241.1; and familiarity with all other policies and protocols regarding dependent children contained in Chapter Seventeen of the Los Angeles Superior Court Local Rules.

(e) General Practice Guidelines for Court-Appointed Attorneys in Dependency Court.

(1) The attorney shall make inquiries necessary to determine at the outset of the proceedings whether a conflict exists in the representation of a party.

(2) At a party's first appearance, the attorney shall verify with the client, to the extent the information is known, the names, addresses, telephone numbers, and relationships of all persons entitled to receive notice of the proceedings, including the birth dates of each party and child. The attorney shall also inquire as to the name, address, telephone number, and relationship of all known relatives and/or non-relative family members for possible placement of any detained child. If any relative and/or non-relative family member is identified, then the Los Angeles County Dependency Court form entitled "Relative Information Sheet" shall be completed and filed with the Court.

(3) At a mother and/or father's first appearance, the attorney shall make inquiry of the client as to the applicability of **ICWA**, and so inform the Court, in order for the Court to comply with Local Rule 17.8(a).

(4) At a mother and/or father's first appearance, the attorney shall make inquiry of the client as to paternity issues in order to resolve the status of paternity. The Los Angeles County Dependency Court paternity questionnaire form shall be completed by mother and father in all cases and filed with the Court. The "Paternity -- Waiver of Rights" form (Judicial Council form JV-505) shall be completed by any person claiming paternity status or non-paternity, which shall also be filed with the Court.

(5) The attorney should have a complete familiarity with the facts of the case by reviewing the court file, especially when appointed to represent a party in the middle of an ongoing case, and by bringing discovery motions, interviewing witnesses, procuring experts, and otherwise conducting an independent investigation.

(6) The attorney should make all reasonable efforts to ensure that the client understands the court processes, proceedings, and the potential and actual consequences of the proceedings. Special efforts should be taken to ensure that a client understands these matters if the client demonstrates any evidence of being developmentally delayed, or exhibits signs that he/she is suffering from any cognitive or emotional problems which would affect the client's ability to comprehend any aspect of the dependency proceedings.

(7) The attorney shall maintain a current business address and working telephone number and promptly notify clients of any change of address or telephone number. The attorney should provide the client with his or her business card.

(8) The attorney shall show courtesy and respect to judicial officers, DCFS social workers, CASA, DCFS court officers, courtroom personnel, witnesses and all counsel.

(9) The attorney should be aware of children present in the courtroom, so that discussions of sensitive case issues, whether pertaining to a particular child or other children, are not overheard by the children or made in an insensitive manner.

(10) Settlement should be considered as soon as enough information is known about the case to make settlement discussions meaningful. In every case, the attorney should consider whether the client's interests could best be served and whether the case could be more appropriately resolved by mediation or other settlement discussions. In that regard, the attorney should be familiar with the Court Mediation program. Mediation is an integral part of the Dependency Court procedures which can be utilized at any state of a proceeding.

(f) Practice Guidelines for Representing Children in Dependency Court. In addition to the general practice guidelines, attorneys representing children shall have the following additional duties and responsibilities:

(1) The attorney shall be thoroughly familiar with the requirements of Welfare and Institutions Code section 317(e) for the representation of children, Rule 5.660 of the California Rules of Court regarding standards of representation, and Rule 5.660 of the California Rules of Court regarding caseload size.

(2) The attorney or his/her staff shall separately interview each child four years of age or older unless it is determined that the child has sufficient language skills to communicate at an earlier age. The attorney shall ascertain the child's wishes, needs, and background. Interviews should be done in an atmosphere where the child feels comfortable and privacy is ensured.

(3) At the initial interview, where possible, the attorney shall inform the child, in language the child can comprehend, the nature of dependency proceedings, the role of a lawyer, the child's rights including the right to confidentiality, and the nature of the subject matter of any petition and the contents of any related report.

(4) The attorney should be actively involved in, and vigorously advocate at, every stage of the proceedings involving a child client and take any necessary legal steps that would promote and advance a child's right to receive all appropriate reunification and permanent placement services and all other services and resources to meet the child's educational, dental, medical, and mental health needs.

(g) Eligibility for Continued Practice in Dependency Court.

(1) *Education/Training.*

i. Attorneys must complete a total of 12 hours of continuing education credits each year. This training shall include, but not be limited to mandatory attendance at the annual conference sponsored by the Juvenile Court and the California State University, Los Angeles, and at least five hours of training offered at the Children's Court, or, in lieu thereof, other training approved by the Juvenile Court.

ii. Ongoing training shall also include, but not be limited to, summaries of current changes in the dependency laws and statutes, summaries of recent and relevant case law, and information and instruction on child development, child abuse and neglect, family reunification and preservation, reasonable efforts, domestic violence, substance abuse, special education, mental health, government benefits, and cultural diversity issues.

(2) *Evidence of Competence.* The attorney shall file in the Office of the Presiding Judge, a certification of satisfaction, signed under penalty of perjury, of the continuing education requirements specified in this Rule not later than February 15 of each year (Appendix 4). Failure to comply with this requirement may result in the Court not appointing the attorney to represent clients.

(h) Caseloads for Children's Attorneys. The Superior Court for the County of Los Angeles hereby adopts any caseload standards for children's attorneys established by the Judicial Council.

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WELFARE AND INSTITUTIONS CODE - WIC

DIVISION 2. CHILDREN [100 - 1500] (*Division 2 enacted by Stats. 1937, Ch. 369.*)

PART 1. DELINQUENTS AND WARDS OF THE JUVENILE COURT [100 - 1459] (*Part 1 enacted by Stats. 1937, Ch. 369.*)

)

CHAPTER 2. Juvenile Court Law [200 - 987] (*Chapter 2 repealed and added by Stats. 1961, Ch. 1616.*)

ARTICLE 1. General Provisions [200 - 224.7] (*Article 1 added by Stats. 1976, Ch. 1068.*)

224.3. (a) If the court, a social worker, or probation officer knows or has reason to know, as described in subdivision (d) of Section 224.2, that an Indian child is involved, notice pursuant to Section 1912 of the federal Indian Child Welfare Act of 1978 (25 U.S.C. Sec. 1901 et seq.) shall be provided for hearings that may culminate in an order for foster care placement, termination of parental rights, preadoptive placement, or adoptive placement, as described in paragraph (1) of subdivision (d) of Section 224.1. The notice shall be sent to the minor's parents or legal guardian, Indian custodian, if any, and the child's tribe. Copies of all notices sent shall be served on all parties to the dependency proceeding and their attorneys. Notice shall comply with all of the following requirements:

- (1) Notice shall be sent by registered or certified mail with return receipt requested. Additional notice by first-class mail is recommended, but not required.
- (2) Notice to the tribe shall be to the tribal chairperson, unless the tribe has designated another agent for service.
- (3) Notice of all Indian child custody hearings shall be sent by the party seeking placement of the child to all of the following:
 - (A) All tribes of which the child may be a member or citizen, or eligible for membership or citizenship, unless either of the following occur:
 - (i) A tribe has made a determination that the child is not a member or citizen, or eligible for membership or citizenship.
 - (ii) The court makes a determination as to which tribe is the child's tribe in accordance with subdivision (e) of Section 224.1, after which notice need only be sent to the Indian child's tribe.
 - (B) The child's parents.
 - (C) The child's Indian custodian.
- (4) Notice, to the extent required by federal law, shall be sent to the Secretary of the Interior's designated agent.
- (5) In addition to the information specified in other sections of this article, notice shall include all of the following information:
 - (A) The name, birth date, and birthplace of the Indian child, if known.
 - (B) The name of the Indian tribe in which the child is a member or citizen, or may be eligible for membership or citizenship, if known.
 - (C) All names known of the Indian child's biological parents, grandparents, and great-grandparents, or Indian custodians, including maiden, married, and former names or aliases, as well as their current and former addresses, birth dates, places of birth and death, tribal enrollment, membership, or citizenship information of other direct lineal ancestors of the child, and any other identifying information, if known.

- (D) A copy of the petition by which the proceeding was initiated.
- (E) A copy of the child's birth certificate, if available.
- (F) The location, mailing address, and telephone number of the court and all parties notified pursuant to this section.
- (G) The information regarding the time, date, and any location of any scheduled hearings.
- (H) A statement of all of the following:
- (i) The name of the petitioner and the name and address of the petitioner's attorney.
 - (ii) The absolute right of the child's parents, Indian custodians, and tribe to intervene in the proceeding.
 - (iii) The right of the child's parents, Indian custodians, and tribe to petition the court to transfer the proceeding to the tribal court of the Indian child's tribe, absent objection by either parent and subject to declination by the tribal court.
 - (iv) The right of the child's parents, Indian custodians, and tribe to, upon request, be granted up to an additional 20 days from the receipt of the notice to prepare for the proceeding.
 - (v) The potential legal consequences of the proceedings on the future custodial and parental rights of the child's parents or Indian custodians.
 - (vi) That if the parents or Indian custodians are unable to afford counsel, counsel will be appointed to represent the parents or Indian custodians pursuant to Section 1912 of the federal Indian Child Welfare Act of 1978.
 - (vii) In accordance with Section 827, the information contained in the notice, petition, pleading, and other court documents is confidential. Any person or entity notified shall maintain the confidentiality of the information contained in the notice concerning the particular proceeding and not reveal that information to anyone who does not need the information in order to exercise the tribe's rights under the federal Indian Child Welfare Act of 1978.
- (b) Notice shall be sent whenever it is known or there is reason to know that an Indian child is involved, and for every hearing that may culminate in an order for foster care placement, termination of parental rights, preadoptive placement, or adoptive placement, as described in paragraph (1) of subdivision (d) of Section 224.1, unless it is determined that the federal Indian Child Welfare Act of 1978 does not apply to the case in accordance with Section 224.2. After a tribe acknowledges that the child is a member of, or eligible for membership in, that tribe, or after a tribe intervenes in a proceeding, the information set out in subparagraphs (C), (D), (E), and (H) of paragraph (5) of subdivision (a) need not be included with the notice.
- (c) Proof of the notice, including copies of notices sent and all return receipts and responses received, shall be filed with the court in advance of the hearing, except as permitted under subdivision (d).
- (d) A proceeding shall not be held until at least 10 days after receipt of notice by the parent, Indian custodian, the tribe, or the Bureau of Indian Affairs, except for a hearing held pursuant to Section 319, provided that notice of the hearing held pursuant to Section 319 shall be given as soon as possible after the filing of the petition to declare the Indian child a dependent child. Notice to tribes of the hearing pursuant to Section 319 shall be consistent with the requirements for notice to parents set forth in Sections 290.1 and 290.2. With the exception of the hearing held pursuant to Section 319, the parent, Indian custodian, or tribe shall, upon request, be granted up to 20 additional days to prepare for that proceeding. This subdivision does not limit the rights of the parent, Indian custodian, or tribe to more than 10 days' notice when a lengthier notice period is required by law.
- (e) With respect to giving notice to Indian tribes, a party is subject to court sanctions if that person knowingly and willfully falsifies or conceals a material fact concerning whether the child is an Indian child, or counsels a party to do so.
- (f) The inclusion of contact information of any adult or child that would otherwise be required to be included in the notification pursuant to this section shall not be required if that person is at risk of harm as a result of domestic violence, child abuse, sexual abuse, or stalking.
- (g) For any hearing that does not meet the definition of an Indian child custody proceeding set forth in subdivision (d) of Section 224.1, or is not an emergency proceeding, notice to the child's parents, Indian custodian, and tribe shall be sent in accordance with Sections 292, 293, and 295.

(Amended by Stats. 2024, Ch. 656, Sec. 4. (AB 81) Effective September 27, 2024.)