



DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

DATE: September 18, 2019

TO: Representative Jennifer Williamson, Chair of the House Judiciary Committee
Senator Floyd Prozanski, Chair of the Senate Judiciary Committee

FROM: Rahela Rehman and Shannon Dennison
Attorneys in Charge, Child Advocacy Section, Civil Enforcement Division
Oregon Department of Justice

SUBJECT: Oregon State Indian Child Welfare Act (ICWA) Statute

This testimony is presented in support of an Oregon State Indian Child Welfare Act (ICWA) Statute.

Background:

The Indian Child Welfare Act (ICWA) is a federal law that was enacted in 1978 in order to provide guidance to States regarding the handling of child abuse and neglect and adoption cases involving Native children. The law sets minimum standards for the handling of these cases which have been codified in state laws throughout the country.

Oregon does not currently have a stand-alone state ICWA statute. Oregon's statutes currently incorporate ICWA throughout multiple chapters, including Oregon Revised Statutes Chapters 109, 419A, and 419B. The Department of Human Services (DHS) Child Welfare Program amended its administrative rules in 2017 to align with the ICWA's 2016 federal regulations. Despite those efforts, ICWA compliance has remained inconsistent throughout the state.

A state Indian Child Welfare Act statute would better ensure ICWA compliance when Indian children are involved in juvenile dependency cases, termination of parental rights cases, status offense delinquency matters, and adoption cases throughout Oregon.

While some of the ICWA's requirements are incorporated into Oregon law, others are not. This has resulted in a confusing legal landscape for juvenile law practitioners and Oregon judges hearing ICWA cases. Very few juvenile law practitioners specialize in litigating ICWA cases in Oregon and the unique procedures those cases require. There are no Oregon family or juvenile dependency court judges who specialize in ICWA cases. When attempting to ensure compliance with the ICWA, juvenile attorneys and judges who have referenced existing Oregon law have been left with insufficient and inadequate guidance – resulting in a history of inconsistent ICWA application throughout the state of Oregon. These attorneys and judges carry challenging and demanding caseloads in some of the most important legal cases pending for Oregon's citizens.

Efforts should be pursued to assist these dedicated professionals in better serving Oregon's families through the enactment of an ICWA statute that is comprehensive, accurate, and well-organized.

Concept:

This bill will amend Oregon's adoptions, juvenile dependency, and termination of parental rights statutes to provide a comprehensive, stand-alone Oregon ICWA statute.

Contact: Shannon Dennison, shannon.dennison@doj.state.or.us or (503) 934 – 4400