

Invitation to Comment

<p>Title</p>	<p>Family, Juvenile, and Probate Law: Enactment of the Federal Indian Child Welfare Act as California Law in the Family, Probate, and Welfare and Institutions Codes (adopt Cal. Rules of Court, rules 5.480–5.487 and 7.1015; repeal rule 5.664; revise forms GC-210(CA), JV-100, JV-101, JV-110, JV 600; adopt forms ICWA-005-INFO, ICWA-010(A), ICWA-020, ICWA-030, ICWA-030(A), ICWA-040, ICWA-050, and ICWA-060; and revoke forms ADOPT-226, JV-130, and JV-135).</p>
<p>Summary</p>	<p>Rule 5.664 of the California Rules of Court was originally adopted and subsequently amended to give guidance on the requirements of the federal Indian Child Welfare Act (ICWA) in juvenile court proceedings. With the passage of Senate Bill 678 (Ducheny; Stats. 2006, ch. 838), effective January 1, 2007, ICWA has been substantially enacted as California law and placed in Family, Probate, and Welfare & Institutions Code provisions governing juvenile court proceedings, as well as some child custody matters in family law, adoptions, probate guardianships, certain probate conservatorships, and proceedings for termination of parental rights and the voluntary relinquishment of a child by a parent.</p> <p>Because the statutory changes affect three areas of the law, the advisory committees propose repealing rule 5.664 and replacing it with a series of rules, 5.480 through 5.487, applicable to all proceedings, and rule 7.1015, which concerns the application of ICWA in probate proceedings. In addition, the committees propose adoption of an ICWA group of forms responsive to the statutory changes, revision of other probate and juvenile law forms, and revocation of three forms that will be replaced by the ICWA forms. All of these changes would facilitate judicial consistency in the application of ICWA to the broad range of California court proceedings affecting Indian children.</p>
<p>Source</p>	<p>Family and Juvenile Law Advisory Committee Hon. Jerilyn L. Borack and Hon. Susan D. Huguenor, Cochairs</p> <p>Probate and Mental Health Advisory Committee Hon. Don Edward Green, Chair</p>
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Rule 5.664

The Indian Child Welfare Act (25 U.S.C. §§ 1901 et seq.) (ICWA), passed by Congress in 1978, is a federal mandate for those involved in the child custody system to work collaboratively with tribes to prevent the break up of Indian families and tribes and to redress past wrongs of the American child custody system. However, after almost 30 years, compliance with ICWA procedural and substantive requirements has remained problematic in most states, including California.

In 1995, to facilitate compliance in juvenile dependency cases, federal ICWA provisions were incorporated into California Rules of Court, rule 5.664. While ICWA applied to a broad range of proceedings, the rule did not expressly apply to family or probate cases involving Indian children.

Effective January 1, 2005, the rule was amended to apply to juvenile delinquency cases in which the child is at risk of entering foster care or is placed in foster care. The revised rule generated concerns from social workers, probation officers, attorneys, judges, and tribal representatives. Those concerns were addressed in a large ICWA rules and forms proposal, which was sent out for comment in Spring 2006. That proposal was withdrawn before being submitted to the Judicial Council because of the then-pending Ducheny legislation and because of uncertainty caused by the Court of Appeal, Fifth Appellate District decision in *In re Enrique O.* (2006) 137 Cal.App.4th 728, which held on the facts of that case that ICWA did not apply to a juvenile delinquency case in which the juvenile court's placement decision was based on the child's criminal acts.

SB 678

In the 2006 Legislative Session, the California Legislature passed and the Governor signed Senate Bill 678 (Ducheny; Stats. 2006, ch. 838), effective January 1, 2007, a comprehensive act affecting Indian children that revises existing provisions of state law governing child custody, adoption, guardianship, conservatorship, and juvenile proceedings, including termination of parental rights and the voluntary relinquishment of a child by a parent. While prior existing state law recognized ICWA and its application to those proceedings when the subject of the proceedings was or might have been an Indian child and conformed procedures to the ICWA requirements regarding the right to notice and intervention and the standard of proof, it did not incorporate ICWA provisions into the state codes. The new bill

codifies ICWA into state law, tracking key ICWA provisions in the Family, Probate, and Welfare and Institutions Codes. Among other provisions, SB 678 provides that a parent, Indian custodian, or tribe may intervene in child custody proceedings involving children with Indian ancestry, authorizes a tribe to participate in proceedings involving an Indian child, provides that consent to adoption or guardianship by the parent of an Indian child is invalid unless it meets certain standards, and in the case of guardianship, is revocable at any time and for any reason. SB 678 also specifies that when an Indian custodian or biological parent of an Indian child in guardianship proceedings lacks the financial ability to retain counsel and requests appointment of counsel, certain provisions of ICWA regarding court-appointed counsel apply. The new law also specifically applies the ICWA notice requirements, inquiry mandates, “active efforts” provisions, and “qualified expert witness” requirements to delinquency placements in Welfare and Institutions Code section 600 cases when a child is at risk of entering foster care or is in foster care.¹

February 2007 Amendment to Rule 5.664

As a result of the new legislation, a minor substantive change to rule 5.664, which affects only juvenile law notice requirements, was adopted by the Judicial Council without prior circulation, effective February 23, 2007.² This amendment was adopted under the council’s authority to adopt or amend a rule without prior circulation “[i]f the proposal presents . . . a minor substantive change that is unlikely to create controversy.”³ While ICWA provisions in general are quite controversial, that rule change, though substantive, merely conformed the language of the rule to that of the new statute to avoid a conflict between the statutory language and the language of the rule. With the proposed repeal of rule 5.664, that language would be included in proposed rule 5.481. The committees invite comment on the language of that amendment in this proposal.⁴

Repeal Rule 5.664; Adopt a Series of Unified Rules and One Rule Specific to Probate; Adopt Unified ICWA Form Group

¹ Welf. & Inst. Code, § 727.4(a)(2), (d)(5)(D), and new Welf. & Inst. Code, § 224.3.

² The change affected subdivision (f) of the existing rule, which specifies notice requirements. In addition to removing notice provisions from the rule that have now been added to the Welfare and Institutions Code by SB 678, the proposal specifically changed the language of subdivision (f) from “If at any time after the filing of the petition the court knows or has reason to know that the child is or may be an Indian child” to “If there is reason to know that an Indian child is involved,” to comply with the stricter standard of knowledge imposed by the new statute.

³ Cal. Rules of Court, rule 10.22(d)(2).

⁴ See proposed rule 5.481 and discussion on pp. 6-7 *infra*.

As to the more significant statutory changes, the advisory committees recommend implementing the new probate, family, and juvenile provisions as follows: (1) repeal rule 5.664, which is limited to juvenile court proceedings and is placed in a division of title 5 that is limited to juvenile court proceedings; (2) replace rule 5.664 with eight unified court rules placed in a division of title 5 that includes rules applicable to both family and juvenile law proceedings; (3) adopt one rule specific to probate proceedings that would be placed in title 7, which includes rules applicable to probate proceedings; (4) unify all applicable forms as an ICWA form group for use in any proceeding involving an Indian child. The alternative, extensive cross-referencing and separate rules and forms, could cause confusion and would be less efficient. The advisory committees invite comment on this approach to implementation of the statutory changes.

Summary of Proposed Changes

The primary effect of the new legislation in each of the three affected areas of law is to codify (1) inquiry requirements when an Indian child is or may be involved in an adoption, certain custody proceedings, guardianships, conservatorships, or juvenile proceedings, including termination of parental rights and the voluntary relinquishment of a child by a parent; (2) notice requirements when there is reason to know the child is an Indian child; (3) procedures for transfer of certain custody cases to tribal court; and (4) other minimum federal requirements such as “active efforts” and “qualified expert witness” testimony.

The proposed rules would eliminate provisions that were in rule 5.664, but now would be repetitive because they are adequately covered by statute, and would focus on those areas that need further procedural or substantive clarification. In addition, there are a number of statutory provisions that are addressed in detail in the Welfare and Institutions Code, but are only incorporated by reference in the Family and Probate Codes. Those statutory provisions have been addressed by the rules for the convenience of the court, practitioners, and the public.

Highlights of the proposal include:

- Adoption of a notice standard in juvenile delinquency cases that gives the probation officer discretion to wait to give notice under ICWA until it is ‘probable’ that the child will be entering foster care or is already in foster care;
- Clarification of inquiry requirements to include the broader range of persons and entities who are involved in custody

proceedings under the Family, Probate, and Welfare and Institutions Codes;

- Adoption of a rule on transferring cases to tribal jurisdiction;
- Adoption of rule 7.1015, specific to probate proceedings, which would identify proceedings under the Probate Code to which ICWA applies and would prescribe unique requirements for notice under ICWA in probate proceedings;
- Deletion of ICWA definitions, which are now adequately and consistently codified into the Family, Probate, and Welfare and Institutions Codes;
- Deletion of jurisdictional requirements, which have now been adequately and consistently codified into the Family, Probate, and Welfare and Institutions Codes;
- Elimination of *Petition* section, instead addressing the various new and revised forms and provisions in the rules where they apply;
- Elimination of status determination because the new statutory provisions provide detailed procedures for determining the status of a possible Indian child;
- Expansion of proceedings after notice provisions to clarify ICWA timelines—for example, proposed new rule 5.482 clarifies that the court is not required to delay proceedings pending a response to a notice under ICWA;
- Elimination of required procedures provisions, which have now been adequately addressed by new statutory provisions in the Family, Probate, and Welfare and Institutions Codes;
- Preservation of provisions of rule 5.664 that have been retained to provide additional guidance, including:
 - Petition to invalidate orders of removal or termination of parental rights;
 - Posthearing actions; and
 - Record keeping in adoption cases.

Proposed New Rules

Rule 5.480 (Application)

This rule would clarify that ICWA applies to all proceedings under Welfare and Institutions Code section 300 et seq. (juvenile dependency proceedings); all proceedings under Welfare and Institutions Code sections 601 and 602 (juvenile delinquency proceedings) in which the child is at risk of entering foster care or is in foster care; all proceedings under Family Code section 3041; all proceedings under the Family Code that may result in adoption; all proceedings to terminate parental rights; all proceedings to declare a child free from the custody and control of one or both parents; all proceedings listed in Probate Code section 1459.5(a) (guardianship and conservatorship proceedings); probate guardianships of the person in which the proposed guardian is not the child's Indian custodian or a parent's nominee; and probate conservatorships of the person of a married or formerly married minor in which the proposed conservator is not a parent or Indian custodian and physical custody of the child would be changed from a parent or Indian custodian.

Rule 5.481 (Inquiry and notice)

Inquiry

This rule would expand ICWA inquiry requirements to include the broader range of persons and entities who are involved in custody proceedings under the Family, Probate, and Welfare and Institutions Codes, rather than only on juvenile proceedings as rule 5.664 currently exists.

It would also conform its language concerning the ICWA duty to inquire into a child's Indian status to the stricter standard of knowledge in the new statutory changes, specifically addressing a change in the trigger for a duty of further inquiry from "reason to believe" (in rule 5.664) to "reason to know" (in the new statutes) that a child is an Indian child. In addition, the proposed rule includes more specific inquiry requirements based on the statutory changes.

Notice

(1) Notice requirements—February 23, 2007, amendment to rule 5.664. The notice provision of rule 5.664, as applied to juvenile cases, was amended as of February 23, 2007 to promptly comply with the new legislation and thereby avoid confusion in the courts by the possible application of two different notice standards, one in the statute and another in the rule. That revision was made without circulating the rule for public comment. The Family and Juvenile Law Advisory Committee recommended that the rule amendment be adopted without public comment because, while the change was

substantive, it was unlikely to create controversy because the change conformed the rule to the statute. (See Cal. Rules of Court, rule 10.22(d)(2).) The amendment adopted in February conformed the notice standard to the standard specified in new Welfare and Institutions Code section 224.2, and deleted all notice procedures from the rule because they are specified in great detail in the statute. Following the February amendment rule 5.664(f) reads as follows:

(f) Notice; 25 U.S.C. § 1912

If there is reason to know that an Indian child is involved, the social worker or probation officer must send *Notice of Involuntary Child Custody Proceedings for an Indian Child (Juvenile Court)* (form JV-135) to the parent or legal guardian and Indian custodian of an Indian child, and the Indian child's tribe, in accordance with Welfare and Institutions Code section 224.2.

Although the committees are recommending in this proposal that rule 5.664 be repealed, the language in the notice section of proposed rule 5.481 is substantially the same as that adopted with the February 2007 amendment of rule 5.664. Because this text did not circulate for comment, the committees invite comment on this language as well as the additional proposed language discussed below.

(2) *Notice requirements—Current proposal.* This proposal to adopt rule 5.481 changes the notice language of the February revision to rule 5.664 in two ways: (1) it includes the additional Family Code and Probate Code proceedings that are now implicated as a result of the new statutory changes; and (2) it introduces a notice standard in juvenile delinquency cases that gives the probation officer discretion to wait to give notice under ICWA until it is “probable” that the child will be entering foster care or is already in foster care, instead of at an earlier stage of the proceedings when disposition is unclear and the child may be committed to a ranch or camp rather than foster care. Rule 5.481 makes no such distinction for the “inquiry” duty, which attaches at the beginning of any case that may involve an Indian child.

Because the new statutory changes expressly apply to delinquency cases when the child is at risk of entering foster care or is in foster care, the committees wanted to shape a notice standard that is both consistent with the legislation and respectful of the realities of the juvenile delinquency system. A review of the legislative history of California's delinquency foster care statutes underscores that California has consistently treated delinquent foster care children the

same as dependent foster care children. With the passage of Assembly Bill 575 (Aroner; Stats. 1999, ch. 997) and Assembly Bill 1695 (Aroner; Stats. 2001, ch. 831), California codified in delinquency statutes the federal foster care requirements of the Adoption and Safe Families Act of 1997 (ASFA) (Pub. L. No. 105-89) applicable to dependent foster care children in order to ensure compliance with federal law as well as continued reimbursement to counties for the placement and administrative costs associated with delinquent foster care children. (See AB 575—Bill Analysis Comments.) The committees' approach to the notice standard attempts to reflect both this long history and the reality that very few delinquency dispositions will result in foster care placements. The advisory committees are particularly interested in receiving comment on this approach to notice in juvenile delinquency cases.

Rule 5.482 (Proceedings after notice)

This rule would (1) expand the *Proceedings after notice* subdivision of rule 5.664 to clarify the ICWA timelines, (2) clarify the requirements for proof of notice, (3) clarify the court's responsibility for proceeding if it knows or has reason to know that the child is an Indian child, (4) clarify procedures to follow in the absence of a response after notice, (5) clarify a procedure for tribal intervention in the proceedings, (6) affirm the need to follow ICWA procedures for any change in placement of an Indian child, and (7) affirm the need to solicit tribal input in seeking a placement of an Indian child and in supervising the placement.

The committees encourage comment on section (g) of rule 5.482, which tracks the language of Welfare and Institutions Code section 361.31(g) concerning the need to use tribal services in securing placement of an Indian child and supervising the placement. This has been in effect for some time in juvenile cases, but the committees would like to receive comments on how this process would work with all proceedings covered by the new legislation. And, because juvenile courts have experience using the services of the tribes in disposition, case management, and judicial oversight, comment from the juvenile courts is particularly encouraged.

Rule 5.483 (Transfer of case)

This proposed rule includes detailed procedures for transferring cases to tribal jurisdiction, including information on the proper forms for optional and mandatory use, along with information on discretionary and mandatory reasons the court may or must deny a request to

transfer.

As currently proposed, the rule allows the state court discretion to deny a request for transfer of a case to tribal jurisdiction for good cause. In light of SB 678 and current case law, the committees invite comment on the circumstances, if any, under which the juvenile delinquency court should have discretion to deny transfer of a juvenile delinquency case to tribal jurisdiction. For example, when an Indian child who is already in foster care allegedly violates the law, resulting in the filing of a 601 or 602 petition, should the juvenile court have discretion to deny a request to transfer the case to tribal jurisdiction at any stage of the proceedings prior to disposition?

Rule 5.484 (Placement of an Indian child)

The proposed rule specifies evidentiary burdens and procedures for placement of Indian children in foster care because, while the procedures are specified in detail in the Welfare and Institutions Code, they are only incorporated by reference in the Family and Probate Codes, and including the procedures in the rule makes sense for the convenience of the courts and the public.

In addition, the proposed rule provides standards and preferences in the placement of an Indian child, but does not include information that is adequately covered in the statutes. The proposed rule includes information on evidentiary burdens and procedures for modification and adds a procedure to address the situation when no preferred placement is available.

Finally, the proposed rule describes the requirement that the court make a finding that active efforts have been made to prevent the breakup of the Indian family before placement of an Indian child out of the custody of a parent or Indian custodian or before terminating parental rights. Though the requirement is specified in the Welfare and Institutions Code, it is only incorporated by reference in the Family and Probate Codes. Including the active efforts provision in the rule makes sense for the convenience of the courts and the public.

Rule 5.485 (Termination of parental rights)

The proposed rule tracks the new statutory language of both the Family and Welfare and Institutions Codes concerning the courts' responsibility prior to terminating parental rights to an Indian child. This procedure does not exist in probate proceedings.

Rule 5.486 (Petition to invalidate orders)

This proposed rule specifies the rights of an Indian child, parent,

Indian custodian, or the child's tribe to request that the juvenile court invalidate a foster placement, guardianship, or termination of parental rights when ICWA applies to the proceeding. It also gives guidance on requesting a return of custody of an Indian child after a final decree of adoption has been set aside.

Rule 5.487 (Adoption record keeping)

This rule details the record-keeping procedures the court must follow after granting a decree of adoption of an Indian child.

Rule 7.1015 (Indian Child Welfare Act in guardianship and certain conservatorship proceedings)

In the fall and winter of 2006, in response to SB 678, the Probate and Mental Health Advisory Committee developed and circulated for public comment a proposal for adoption, effective July 1, 2007, of a rule of court applying ICWA to probate proceedings and two forms to be used to serve notices required by ICWA in a guardianship or conservatorship. This separate proposal was withdrawn before being submitted to the Judicial Council at that time, to merge with this more comprehensive proposal. Proposed rule 7.1015 has been rewritten in light of the current proposal.

The proposed rule would identify the proceedings under the Probate Code to which ICWA applies, although these matters are also listed in new Probate Code section 1459.5. Their identification in the rule as well as the statute is intended to emphasize to probate departments, parties, and the probate bar when they must consider ICWA. The rule also expressly applies rules 5.480 through 5.487 to the listed matters when an Indian child is involved. This cross-reference is appropriate to ensure that parties involved in probate matters will receive the proper guidance on the application of ICWA to the matters before the court.

The proposed rule would also prescribe unique requirements for service of notice under ICWA in probate matters. Such matters, unlike the juvenile court cases where most ICWA issues arise, usually do not involve governmental-entity petitioners with staffs who may have expertise and experience in handling the entity's responsibilities under ICWA. Virtually all guardianship petitioners are private citizens and are generally not represented by counsel. For this reason, the rule would place responsibility for service of the ICWA notice on either the petitioner's or appointed fiduciary's attorney, or if self-represented, on the court. The petitioner or appointed fiduciary would be responsible for completing the notice form in all cases, but service would be

completed by the court for self-represented petitioners or fiduciaries.

Proposed Form Revisions

This proposal would revise forms GC-210(CA), JV-100, JV-101, JV-110, and JV-600 to address required Indian child inquiry and notice procedures.

The juvenile court forms would include a statement indicating that the petitioner had conducted the required Indian child inquiry for every child and had completed and attached the *Indian Child Inquiry Attachment* (proposed new form ICWA-010(A)) to the petition. The forms that would be affected by this change include *Juvenile Dependency Petition (Version One)* (JV-100), *Additional Children Attachment* (JV-101), *Juvenile Dependency Petition (Version Two)* (JV-110), and *Juvenile Wardship Petition* (JV-600).

The guardianship form, *Child Information Attachment* (GC-210(CA)), is a new form, adopted effective January 1, 2007. A separate copy of the form must be attached to every general guardianship petition for each child for whom a guardian is requested. This proposal would expand the form's ICWA inquiry to ask the guardianship petitioner specific questions about the proposed ward's Indian background and instruct the petitioner that *Notice of Child Custody Proceeding for Indian Child* (proposed form ICWA-030) must be completed and served if the child named in the attachment is or may be an Indian child.

Proposed New Forms

This proposal recommends adoption of a new form group, "Indian Child Welfare Act," abbreviation "ICWA," in which unified forms for all ICWA proceedings under the Family, Probate, and Welfare and Institutions Codes would be placed. Forms included in this group include:

Information Sheet on Indian Child Inquiry Attachment and Notice of Child Custody Proceedings for Indian Child (ICWA-005-INFO)

This form is an information sheet to help petitioners and others fill out forms *Indian Child Inquiry Attachment* (ICWA-010) and *Notice of Child Custody Proceeding for Indian Child* (ICWA-030).

Indian Child Inquiry Attachment (ICWA-010(A))

This form is the proposed mandatory Indian child inquiry attachment for use with revised juvenile forms described above: JV-100, JV-101,

JV-110, and JV-600.

Parental Notification of Indian Status (ICWA-020)

This is a proposed mandatory form to be filled out by the parent or guardian in every proceeding covered by ICWA during the ICWA inquiry process. The form would replace *Parental Notification of Indian Status (JV-130)*, which was limited in its use to juvenile court proceedings.

Notice of Child Custody Proceeding for Indian Child (ICWA-030)

This proposed form would replace *Notice of Involuntary Child Custody Proceedings for an Indian Child (JV-135)* and *Notice of Adoption Proceedings for a Possible Indian Child (ADOPT-226)* for giving notice to tribes and others about proceedings involving Indian children. It would also serve as the mandatory ICWA notice form for all proceedings covered by the new statutory provisions.

Attachment to Notice of Child Custody Proceeding for Indian Child (ICWA-030(A))

This proposed attachment form would be used when additional space is needed to list tribes or bands that must be served with the notice.

Notice of Designation of Tribal Representative and Notice of Intervention in a Court Proceeding Involving an Indian Child (ICWA-040)

This form is proposed for optional use by a tribe or band to intervene in a child custody proceeding covered by ICWA.

Notice of Petition and Petition to Transfer Case Involving Indian Child to Tribal Jurisdiction (ICWA-050)

This is a proposed optional form for use when a parent, Indian custodian, or the child's tribe wishes to request transfer of a child custody case covered by ICWA to tribal jurisdiction.

Order on Petition to Transfer Case Involving an Indian Child to Tribal Jurisdiction (ICWA-060)

This is a proposed mandatory form for the court to issue its final order on a request to transfer a case to tribal jurisdiction.

Revoked Forms

This proposal would revoke forms ADOPT-226, *Notice of Adoption Proceedings for a Possible Indian Child*, JV-130, *Parental Notification of Indian Status*, and JV-135, *Notice of Involuntary Child*

Custody Proceedings for an Indian Child, all three of which would be replaced by equivalent forms in the proposed new ICWA form group.

The text of the proposed rules and forms, the repealed rule, and the revoked forms are attached at pages 14–89.

Attachments

SB 678 is 73 pages in length, so the committees have provided the URL that follows for those who would like to refer to the bill while considering this proposal. www.leginfo.ca.gov/pub/05-06/bill/sen/sb_0651-0700/sb_678_bill_20060930_chaptered.pdf

Rules 5.480–5.487 and 7.1015 of the California Rules of Court would be adopted, and rule 5.664 would be repealed, effective January 1, 2008 to read as follows:

1 **Title 5. Family and Juvenile Rules**
2 **Division 2. Rules Applicable in Family and Juvenile Proceedings**

3
4 **Chapter 1. Contact and Coordination**

5
6 **Rules 5.400–5.475 *****

7
8 **Chapter 2. Indian Child Welfare Act**

9
10 **Rule 5.480. Application (Fam. Code, §§ 177, 3041; Prob. Code, § 1459.5; Welf. &**
11 **Inst. Code, § 224.3)**

12
13 This chapter of the California Rules of Court, addressing the Indian Child Welfare
14 Act (25 U.S.C. § 1901 et seq.) as codified in various sections of the California
15 Family, Probate, and Welfare and Institutions Codes, applies to all proceedings
16 involving Indian children that may result in a voluntary or involuntary foster care
17 placement; guardianship or conservatorship placement; custody placement under
18 Family Code section 3041; declaration freeing a child from the custody and control of
19 one or both parents; termination of parental rights; or adoptive placement, including:

- 20
21 (1) Proceedings under Welfare and Institutions Code sections 300 et seq., and under
22 Welfare and Institutions Code sections 601 and 602 et seq., in which the child is
23 at risk of entering foster care or is in foster care, including detention hearings,
24 jurisdiction hearings, disposition hearings, review hearings, hearings under
25 section 366.26, and subsequent hearings affecting the status of the Indian child;
26
27 (2) Proceedings under Family Code section 3041;
28
29 (3) Proceedings under the Family Code resulting in adoption;
30
31 (4) Proceedings listed in Probate Code section 1459.5 and rule 7.1015.

32
33 **Rule 5.481. Inquiry and notice**

34
35 **(a) Inquiry (Welf. & Inst. Code, § 224.3, Fam. Code, § 177(a), Prob. Code, §**
36 **1459.5(b))**

37
38 The court and the party seeking foster care placement, guardianship,
39 conservatorship, a custody placement under Family Code section 3041, a
40 declaration freeing a child from the custody or control of one or both parents,
41 termination of parental rights, or adoption, including a county welfare
42 department, a probation department, a licensed adoption agency or adoption
43 service provider, an investigator, a petitioner, an appointed guardian or
44 conservator of the person, or the appointed fiduciary, have an affirmative and

1 continuing duty to inquire whether a child is or may be an Indian child in all
2 proceedings identified in rule 5.480.

3
4 (1) The party seeking foster care placement, guardianship, conservatorship, a
5 custody placement under Family Code section 3041, a declaration freeing
6 a child from the custody or control of one or both parents, termination of
7 parental rights, or adoption must ask the child, if the child is old enough,
8 and the parents or legal guardians whether the child may be an Indian
9 child and must complete the *Indian Child Inquiry Attachment* (form
10 ICWA-010(A)) and attach it to the petition, if applicable.

11
12 (2) At the first appearance by a parent or guardian in any dependency case, or
13 in juvenile wardship proceedings in which the child is at risk of entering
14 foster care or is in foster care, or at the initiation of any guardianship,
15 conservatorship, proceeding for custody under Family Code section 3041,
16 proceeding to terminate parental rights, proceeding to declare a child free
17 of the custody and control of one or both parents, or adoption proceeding,
18 the court must order the parent or guardian, if available, to complete
19 *Parental Notification of Indian Status* (form ICWA-020).

20
21 (3) If the parent or guardian does not appear at the first hearing, or is
22 unavailable at the initiation of a proceeding, the court must order the
23 person or entity that has the inquiry duty under this subdivision of the rule
24 to use reasonable diligence to find and ask the parent or guardian to
25 complete *Parental Notification of Indian Status* (form ICWA-020).

26
27 (4) If the court, social worker, probation officer, licensed adoption agency,
28 adoption service provider, investigator, petitioner, or appointed guardian
29 or conservator knows or has reason to know that an Indian child is
30 involved, that person or entity must make further inquiry as soon as
31 practicable by:

32
33 (A) Interviewing the parents, Indian custodian, and “extended family
34 members” as defined by the law or custom of the Indian child’s tribe
35 or, in the absence of such law or custom, persons who have reached
36 the age of 18 years and who are the Indian child’s grandparent, aunt
37 or uncle, brother or sister, brother-in-law or sister-in-law, niece or
38 nephew, first or second cousin, or stepparent to gather the
39 information listed in Welfare and Institutions Code section
40 224.2(a)(5), Family Code section 180(b)(5), or Probate Code section
41 1460.2(b)(5), which is required to complete the *Notice of Child*
42 *Custody Proceeding for Indian Child* (form ICWA-030);

43
44 (B) Contacting the U.S. Department of the Interior, Bureau of Indian
45 Affairs and the California Department of Social Services for

1 assistance in identifying the names and contact information of the
2 tribes in which the child may be a member or eligible for
3 membership; and

4
5 (C) Contacting the tribes and any other person that reasonably can be
6 expected to have information regarding the child's membership
7 status or eligibility.

8
9 (5) The circumstances that may provide reason to know the child is an Indian
10 child include the following:

11
12 (A) A person having an interest in the child, including the child, an
13 Indian tribe, an Indian organization, an officer of the court, a public
14 or private agency, or a member of the child's extended family,
15 informs or otherwise provides information suggesting that the child
16 is an Indian child to the court, the county welfare agency, the
17 probation department, the licensed adoption agency or adoption
18 service provider, the investigator, the petitioner, or any appointed
19 guardian or conservator;

20
21 (B) The residence or domicile of the child, the child's parents, or an
22 Indian custodian is in a predominantly Indian community; or

23
24 (C) The child or the child's family has received services or benefits from
25 a tribe or services that are available to Indians from tribes or the
26 federal government, such as the U.S. Department of Health and
27 Human Services, Indian Health Service.

28
29 (b) **Notice (Fam. Code, § 180; Prob. Code, § 1460.2; Welf. & Inst. Code, §**
30 **224.2)**

31
32 (1) If there is reason to know that an Indian child is involved in a proceeding
33 listed in rule 5.480, the social worker, petitioner, or clerk, if the petitioner
34 is unrepresented, must send *Notice of Child Custody Proceeding for*
35 *Indian Child* (form ICWA-030) to the parent or legal guardian and Indian
36 custodian of an Indian child, and the Indian child's tribe, in the manner
37 specified in Welfare and Institutions Code section 224.2, Family Law
38 Code section 180, and Probate Code section 1460.2.

39
40 (2) If there is reason to know that an Indian child is involved in a wardship
41 proceeding, and the probation officer has assessed that it is probable the
42 child will be entering foster care, or if the child is already in foster care,
43 the probation officer must send *Notice of Child Custody Proceeding for*
44 *Indian Child* (form ICWA-030) to the parent or legal guardian and Indian

1 custodian of an Indian child, and the Indian child's tribe, in accordance
2 with Welfare and Institutions Code section 727.4(a)(2).

- 3
4 (3) The circumstances that may provide reason to know the child is an Indian
5 child include the circumstances specified in (a)(5).

6
7 **Rule 5.482. Proceedings after notice**

8
9 **(a) If Indian Child Welfare Act applies (Fam. Code, § 180(d), (e); Prob. Code,**
10 **§ 1460.2(d), (e); Welf. & Inst. Code, § 224.2(c), (d))**

11
12 If it is determined that a child is entitled to the protections and procedures of the
13 Indian Child Welfare Act, as set forth in state law, the court hearing must not
14 proceed until at least 10 days after those entitled to notice under the act have
15 received notice.

- 16
17 (1) The detention hearing in dependency cases and in delinquency cases in
18 which the probation officer has assessed that it is probable the child will
19 be entering foster care may proceed without delay, provided that:

20
21 (A) Notice of the detention hearing must be given as soon as possible
22 after the filing of the petition initiating the proceeding; and

23
24 (B) Proof of notice must be filed with the court within 10 days after the
25 filing of the petition.

- 26 (2) With the exception of the detention hearing, the parent, Indian custodian,
27 or tribe must be granted a continuance, if requested, of up to 20 days to
28 prepare for the proceeding.

29
30 **(b) Proof of notice**

31
32 Proof of notice filed with the court must include the Indian Child Welfare Act
33 notice, return receipts, and any responses received from the Bureau of Indian
34 Affairs and tribes.

35
36 **(c) Proceeding prior to tribal response**

37
38 If, based on the petition or other information, the court knows or has reason to
39 know the child is an Indian child, the court must proceed as if the child were an
40 Indian child.

41
42 **(d) Proceeding in the absence of a response**

1 (1) If notice has been provided as required by federal and state law and
2 neither the tribe nor the Bureau of Indian Affairs has provided a
3 determinative response within 60 days after receiving that notice, the court
4 may determine that the Indian Child Welfare Act does not apply to the
5 proceedings, provided that the court must reverse its determination of the
6 inapplicability of the act and must apply it prospectively if a tribe or the
7 Bureau of Indian Affairs subsequently confirms that the child is an Indian
8 child.

9
10 (2) The court is not required to delay proceedings until a response to the
11 notice is received that determines the issue of Indian ancestry.

12
13 **(e) Intervention**

14
15 The Indian child’s tribe and Indian custodian may intervene at any point in the
16 proceedings and may file *Notice of Designation of Tribal Representative and*
17 *Notice of Intervention in a Court Proceeding Involving an Indian Child* (form
18 ICWA-040) in court to give notice of its intent to intervene.

19
20 **(f) Posthearing actions**

21
22 Whenever an Indian child is removed from a guardian, conservator, other
23 custodian, foster home, or institution for placement with a different guardian,
24 conservator, custodian, foster home, institution, or preadoptive or adoptive
25 home, the placement must comply with all state ICWA statutory requirements
26 and all relevant sections of this chapter.

27
28 **(g) Consultation with tribe**

29
30 Any person or court involved in the placement of an Indian child must use the
31 services of the Indian child’s tribe, whenever available through the tribe, in
32 seeking to secure placement within the order of placement preference specified
33 in rule 5.484 and in the supervision of the placement.

34
35 **Rule 5.483. Transfer of case**

36
37 **(a) Transfer of case to tribal jurisdiction (Welf. & Inst. Code, § 305.5, Fam.**
38 **Code, § 177(a), Prob. Code, § 1459.5(b); Bureau of Indian Affairs**
39 **Guideline C.1)**

40
41 (1) Either parent, the Indian custodian, or the child’s tribe may request, either
42 orally or in writing or by filing *Notice of Petition and Petition to Transfer*
43 *Case Involving an Indian Child to Tribal Jurisdiction* (form ICWA-050),
44 that the court transfer the proceeding to the tribal court of the child’s tribe.
45

1 (2) If the request is made orally, the court must reduce the request to writing
2 and make it part of the record.

3
4 (3) The court must transfer the proceeding to the child’s tribe unless the court
5 finds good cause not to transfer.

6
7 **(b) Cause to deny a request to transfer**

8
9 (1) One or more of the following circumstances constitutes mandatory good
10 cause to deny a request to transfer:

11
12 (A) One or both of the child’s parents objects to the transfer.

13
14 (B) The child’s tribe does not have a “tribal court” as defined in section
15 1903 of the Indian Child Welfare Act: “a court with jurisdiction over
16 child custody proceedings and which is either a Court of Indian
17 Offenses, a court established and operated under the code or custom
18 of an Indian tribe, or any other administrative body of a tribe which
19 is vested with authority over child custody proceedings.”

20
21 (C) The tribal court of the child’s tribe declines the transfer.

22
23 (2) One or more of the following circumstances constitutes discretionary good
24 cause to deny a request to transfer:

25
26 (A) The evidence necessary to decide the case cannot be presented in the
27 tribal court without undue hardship to the parties or the witnesses,
28 and the tribal court is unable to mitigate the hardship by making
29 arrangements to receive and consider the evidence or testimony by
30 use of remote communication, by hearing the evidence or testimony
31 at a location convenient to the parties or witnesses, or by use of
32 other means permitted in the tribal court’s rules of evidence or
33 discovery.

34
35 (B) The proceeding was at an advanced stage when the request to
36 transfer was received and the petitioner did not make the request
37 within a reasonable time after receiving notice of the proceeding,
38 provided the notice complied with statutory requirements. Waiting
39 until reunification efforts have failed and reunification services have
40 been terminated before filing a request to transfer may not, by itself,
41 be considered an unreasonable delay.

42
43 (C) The Indian child is over 12 years of age and objects to the transfer.
44

1 (D) The parents of a child over five years of age are not available and
2 the child has had little or no contact with his or her tribe or members
3 of the child’s tribe.

4
5 **(c) Evidentiary considerations and burdens**

- 6
7 (1) The court may not consider socioeconomic conditions and the perceived
8 adequacy of tribal social services or judicial systems in its determination
9 that good cause exists to deny a request to transfer.
- 10
11 (2) The burden of establishing good cause to deny a request to transfer is on
12 the party opposing the transfer.
- 13
14 (3) If the court believes, or any party asserts, that good cause to deny the
15 request exists, the reasons for that belief or assertion must be stated in
16 writing and made available to all parties who are requesting the transfer,
17 and the petitioner must have the opportunity to provide information or
18 evidence in rebuttal of the belief or assertion.

19
20 **(d) Order on request to transfer**

21
22 The court must issue its final order on the *Order on Petition to Transfer Case*
23 *Involving an Indian Child to Tribal Jurisdiction* (form ICWA-060).

24
25 **(e) Proceeding after transfer**

26
27 When, under Welfare and Institutions Code section 305.5, Family Code section
28 177(a), or Probate Code section 1459.5(b), the court transfers any proceeding
29 listed in rule 5.480, the court must proceed as follows:

- 30
31 (1) Dismiss the proceeding or terminate jurisdiction only after receiving proof
32 that the tribal court has accepted the transfer of jurisdiction;
- 33
34 (2) Make an order transferring the physical custody of the child to a
35 designated representative of the tribal court; and
- 36
37 (3) Include in the *Order on Petition to Transfer Case Involving an Indian*
38 *Child to Tribal Jurisdiction* (form ICWA-060) all contact information for
39 the designated tribal court representative.

40
41 **Rule 5.484. Placement of an Indian child**

42
43 **(a) Evidentiary burdens (Welf. & Inst. Code, §§ 361, 361.31, 361.7(c), Fam.**
44 **Code, § 177(a), Prob. Code, § 1459.5(b))**

1 If the court determines that a child is entitled to the protections and procedures
2 of the Indian Child Welfare Act in any proceeding listed in rule 5.480, the court
3 may not order placement of an Indian child unless it finds by clear and
4 convincing evidence that continued custody with the parent or Indian custodian
5 is likely to cause the Indian child serious emotional or physical damage.
6

7 (1) Testimony by a “qualified expert witness,” as defined in Welfare and
8 Institutions Code section 224.6, Family Code section 177(a), and Probate
9 Code section 1459.5(b), is required.

10
11 (2) Stipulation by the parent, Indian custodian, or tribe or failure to object
12 may waive the requirement of producing evidence of the likelihood of
13 serious damage only if the court is satisfied that the person or tribe has
14 been fully advised of the requirements of the Indian Child Welfare Act
15 and has knowingly, intelligently, and voluntarily waived them.
16

17 (3) If a child is entitled to the protections and procedures of the Indian Child
18 Welfare Act, failure to meet non-Indian family and child-rearing
19 community standards, or the existence of other behavior or conditions that
20 meet the removal standards of Welfare and Institutions Code section 361,
21 will not support an order for placement absent the finding that continued
22 custody with the parent or Indian custodian is likely to cause serious
23 emotional or physical damage.
24

25 **(b) Standards and preferences in placement of an Indian child (Fam. Code, §**
26 **177(a); Prob. Code, § 1459(b); Welf. & Inst. Code, § 361.31)**
27

28 (1) Unless there is good cause to the contrary, all placements of Indian
29 children in any proceeding listed in rule 5.480 must follow the specified
30 placement preferences in Welfare and Institutions Code section 361.31,
31 Family Code section 177(a), and Probate Code section 1459(b).
32

33 (2) The court may modify the preference order only for good cause, which
34 may include the following considerations:
35

36 (A) The requests of the parent or Indian custodian;

37 (B) The requests of the Indian child;

38 (C) The extraordinary physical or emotional needs of the Indian child as
39 established by a qualified expert witness; or

40 (D) The unavailability of suitable families based on a documented
41 diligent effort to identify families meeting the preference criteria.
42
43
44
45

- 1 (3) The burden of establishing good cause for the court to alter the preference
2 order is on the party requesting that a different order be considered.
3
4 (4) The tribe, by resolution, may establish a different preference order, which,
5 absent good cause, must be followed if it provides for the least restrictive
6 setting.
7
8 (5) The preferences and wishes of the Indian child and the parent must be
9 considered, and weight given to a consenting parent’s request for
10 anonymity.
11
12 (6) When no preferred placement is available, active efforts must be made and
13 documented to place the child with a family committed to enabling the
14 child to have visitation with “extended family members,” as defined in
15 rule 5.481(a)(4)(A), and participation in the cultural and ceremonial
16 events of the child’s tribe.

17
18 **(c) Active efforts (Welf. & Inst. Code, § 361.7, Fam. Code, § 177(a), Prob.**
19 **Code, § 1459.5(b))**

20
21 In addition to any other required findings to place an Indian child out of the
22 custody of a parent or Indian custodian, or to terminate parental rights, the court
23 must find that active efforts have been made, at every stage of any proceeding
24 listed in rule 5.480, to provide remedial services and rehabilitative programs
25 designed to prevent the breakup of the Indian family, and must find that these
26 efforts were unsuccessful.

- 27
28 (1) The court must consider the prevailing social and cultural conditions of
29 the Indian child’s tribe.
30
31 (2) Efforts to provide services must include attempts to use the available
32 resources of extended family members, the tribe, Indian social service
33 agencies, and individual Indian caregivers.
34

35 **Rule 5.485. Termination of parental rights (Fam. Code, § 7892.5, Welf. & Inst.**
36 **Code, § 366.26(c)(2)(B))**

37
38 The court may only terminate parental rights to an Indian child or declare an Indian
39 child free of the custody and control of one or both parents if at the hearing
40 terminating parental rights or declaring the child free of the custody and control of
41 one or both parents, the court:

- 42
43 (1) Finds that active efforts to provide remedial services and rehabilitative
44 programs designed to prevent the breakup of the Indian family were made; and
45

1 (2) Makes a determination, supported by evidence beyond a reasonable doubt,
2 including testimony of one or more “qualified expert witnesses” as defined in
3 Welfare and Institutions Code section 224.6 and Family Code section 177(a),
4 that the continued custody of the child by the parent is likely to result in serious
5 emotional or physical damage to the child.

6
7 **Rule 5.486. Petition to invalidate orders (Fam. Code, § 175(e); Welf. & Inst. Code,**
8 **§ 224(e))**

9
10 (1) Any Indian child who is the subject of any action for foster care placement or
11 termination of parental rights, any parent or Indian custodian from whose
12 custody such child was removed, and the Indian child's tribe may petition the
13 court to invalidate the action upon a showing that the action violated the Indian
14 Child Welfare Act.

15
16 (2) If the Indian child is a dependent child of the juvenile court or the subject of a
17 pending petition, the juvenile court is the only court of competent jurisdiction
18 with the authority to hear the request to invalidate the foster placement or
19 termination of parental rights.

20
21 (3) If a final decree of adoption is set aside, or if the adoptive parents voluntarily
22 consent to the termination of their parental rights, a biological parent or prior
23 Indian custodian may request a return of custody of the Indian child.

24
25 (A) The court must grant the request for return unless there is a showing that
26 return is contrary to the best interest of the Indian child.

27
28 (B) The hearing on the request to return must be conducted in accordance with
29 statutory requirements and the relevant sections of this rule.

30
31 **Rule 5.487. Adoption record keeping**

32
33 (1) After granting a decree of adoption of an Indian child, the court must provide
34 the U.S. Department of the Interior, Bureau of Indian Affairs with a copy of the
35 decree and other information needed to show:

36
37 (A) The name and tribal affiliation of the Indian child;

38
39 (B) The names and addresses of the biological parents;

40
41 (C) The names and addresses of the adoptive parents; and

42
43 (D) The agency maintaining files and records regarding the adoptive
44 placement.

1 (2) If a biological parent has executed an affidavit requesting that his or her identity
2 remain confidential, the court must provide the affidavit to the U.S. Department
3 of the Interior, Bureau of Indian Affairs, which must ensure the confidentiality
4 of the information.

5
6 **Advisory Committee Comment**

7
8 This chapter was adopted, effective January 1, 2008, as the result of the passage of Senate Bill
9 678 (Ducheny; Stats. 2006, ch. 838), which codified the federal Indian Child Welfare Act into
10 California's Family, Probate, and Welfare and Institutions Codes affecting all proceedings listed
11 in rule 5.480. Rule 5.664, which applied the Indian Child Welfare Act but was limited in its effect
12 to juvenile proceedings, was repealed effective January 1, 2008, and was replaced by this chapter.

13
14 As of January 1, 2004, only the Washoe Tribe of Nevada and California is authorized under the
15 Indian Child Welfare Act to exercise exclusive jurisdiction as discussed in rule 5.483. An updated
16 list of tribes authorized to exercise exclusive jurisdiction can be found on the California Courts
17 Web site at www.courtinfo.ca.gov/programs/cfcc.

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Title 7. Probate Rules
Chapter 21. Conservatorships

Rule 7.1015. Indian Child Welfare Act in Guardianship and Certain Conservatorship Proceedings

(a) Definitions

As used in this rule, unless the context or subject matter otherwise requires:

(1) “Act” means the Indian Child Welfare Act (25 U.S.C. §§ 1901–1963).

(2) “Petitioner” means and refers to a petitioner for the appointment of a guardian of the person of a child or a petitioner for the appointment of a conservator of the person of a formerly married minor child.

(b) Applicability of this rule and rules 5.480 through 5.487

(1) This rule applies to the following proceedings under division 4 of the Probate Code when the proposed ward or conservatee is an Indian child, within the meaning of the act:

(A) A guardianship of the person or the person and estate in which the proposed guardian of the person is not the proposed ward’s natural parent or Indian custodian within the meaning of the act;

(B) A conservatorship of the person or the person and estate of a formerly married minor in which the proposed conservator is not a natural parent or Indian custodian of the minor and is seeking physical custody of the proposed conservatee.

(2) Unless the context otherwise requires, rules 5.480 through 5.487 apply to the proceedings listed in (1).

(3) When applied to the proceedings listed in (1), references in rules 5.480 through 5.487 to social workers, probation officers, county probation departments, or county social welfare departments are references to the petitioner or petitioners for the appointment of a guardian or conservator of the person of an Indian child and to an Indian child’s appointed temporary or general guardian or conservator of the person.

1 (4) The duties and responsibilities of a petitioner under this rule are
2 transferred to and become the duties and responsibilities of an
3 appointed temporary or general guardian or conservator of the person
4 of the child involved in a proceeding listed in (1). In that event, the
5 petitioner must cooperate with and provide any information the
6 petitioner has concerning the child to the appointed guardian or
7 conservator.

8
9 (c) **Notice**

10
11 If, at any time after the filing of a petition for appointment of a guardian or
12 conservator for a minor child, the court knows or has reason to know, within
13 the meaning of Probate Code sections 1449 and 1459.5 and Welfare and
14 Institutions Code section 224.3(b), that an Indian child is involved, the
15 petitioner and the court must notify the child's parents or legal guardian and
16 Indian custodian, and the Indian child's tribe, of the pending proceeding and
17 the right of the tribe to intervene, as follows:

- 18
19 (1) Notice to the Indian child's parents, Indian custodian, and Indian tribe
20 of the commencement of a guardianship or conservatorship must be
21 given by serving copies of the completed *Notice of Child Custody*
22 *Proceeding for Indian Child* (form ICWA-030), the petition for
23 appointment of a guardian or conservator, and all attachments, by first-
24 class certified or registered mail, fully prepaid with return receipt
25 requested.
- 26
27 (2) The petitioner and his or her attorney, if any, must complete the *Notice*
28 and the petitioner must date and sign the declaration. If there is more
29 than one petitioner, the statements about the child's ancestors and
30 background provided in the *Notice of Child Custody Proceeding for*
31 *Indian Child* (form ICWA-030) must be based on all information
32 known to each petitioner, and all of them must sign the declaration.
- 33
34 (3) When the petitioner is represented by an attorney in the proceeding, the
35 attorney must serve copies of the *Notice of Child Custody Proceeding*
36 *for Indian Child* (form ICWA-030) in the manner described in (1) and
37 sign the declaration of mailing on the notice.
- 38
39 (4) When the guardianship or conservatorship petitioner or petitioners are
40 not represented by an attorney in the proceeding, the clerk of the court
41 must serve the *Notice* in the manner described in (1) and sign the
42 certificate of mailing on the notice.
- 43

- 1 (5) The original of all *Notices of Child Custody Proceeding for Indian*
2 *Child* (form ICWA-030) served under the act, and all return receipts
3 and responses received, must be filed with the court.
4
- 5 (6) Notice to an Indian child’s tribe must be sent to the tribal chairperson
6 unless the tribe has designated another agent for service.
7
- 8 (7) Notice must be served on all tribes of which the child may be a member
9 or eligible for membership. If there are more tribes or bands to be
10 served than can be listed on the last page of the *Notice*, the additional
11 tribes or bands may be listed on an *Attachment to Notice of Child*
12 *Custody Proceeding for Indian Child* (form ICWA-030(A)).
13
- 14 (8) Notice under the act must be served whenever there is any reason to
15 know that the child is or may be an Indian child and for every hearing
16 after the first hearing unless and until it is determined that the act does
17 not apply to the proceeding.
18
- 19 (9) If, after a reasonable time following the service of notice under the
20 act—but in no event less than 60 days—no determinative response to
21 the *Notice of Child Custody Proceeding for Indian Child* (form ICWA-
22 030) is received, the court may determine that the act does not apply to
23 the proceeding unless further evidence of its applicability is later
24 received.
25
- 26 (10) If an Indian child’s tribe intervenes in the proceeding, service of the
27 *Notice of Child Custody Proceeding for Indian Child* (form ICWA-
28 030) is no longer required and subsequent notices may be sent in the
29 form and in the manner required to all other parties under the Probate
30 Code and these rules. All other provisions of the act, this rule, and rules
31 5.480 through 5.487 continue to apply.
32
- 33 (11) Notice under the act must be served in addition to all notices required
34 for the particular proceeding under the provisions of the Probate Code
35 in cases not involving an Indian child.
36

37 **(d) Duty of Inquiry**
38

- 39 (1) The court, a court investigator or county officer appointed to conduct
40 an investigation under Probate Code section 1513 or 1826, a petitioner;
41 and an appointed temporary or general guardian or conservator of the
42 person of a minor child each have an affirmative and continuing duty to

1 inquire whether the child involved in the matters identified in (b)(1) is
2 or may be an Indian child.

3
4 (2) Before filing his or her petition, the petitioner must ask the child
5 involved in the proceeding, if the child is old enough, and the parents or
6 any other legal guardian, whether the child may be an Indian child, and
7 must complete the *Indian Child Inquiry Attachment* (form ICWA-
8 010(A)) and attach it to his or her petition.

9
10 (3) At the first personal appearance by a parent or previously appointed
11 legal guardian at a hearing in a guardianship or conservatorship, the
12 court must if requested by petitioner, or may on its own motion, order
13 the parent or legal guardian to complete a *Parental Notification of*
14 *Indian Status* (form ICWA-020) and deliver the completed form to the
15 petitioner.

16
17 (4) If the parent or guardian does not personally appear at a hearing in a
18 proceeding identified in (b)(1), the court may order the petitioner to use
19 reasonable diligence to find and ask the parent or legal guardian to
20 complete and deliver to petitioner a *Parental Notification of Indian*
21 *Status* (form ICWA-020).

22
23 (5) If the court or county investigator, petitioner, appointed guardian or
24 conservator, or the attorney for a petitioner or appointed guardian or
25 conservator, knows or has reason to know that an Indian child is
26 involved in the proceeding, he or she must make further inquiry as soon
27 as practicable by:

28
29 (A) Interviewing the parents, Indian custodian, and “extended family
30 members” as defined by the law or custom of the Indian child’s
31 tribe or, in the absence of such law or custom, persons who have
32 reached the age of 18 years and who are the Indian child’s
33 grandparent, aunt or uncle, brother or sister, brother-in-law or
34 sister-in-law, niece or nephew, first or second cousin, or
35 stepparent to gather the information listed in Probate Code section
36 1460.2(b)(5) that is required to complete the *Notice*;

37
38 (B) Contacting the U.S. Department of the Interior, Bureau of Indian
39 Affairs and the California Department of Social Services for
40 assistance in identifying the names and contact information of the
41 tribes of which the child may be a member or eligible for
42 membership; and

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(C) Contacting the tribes and any other person who reasonably can be expected to have information regarding the child's tribal membership status or eligibility for membership.

(6) If the court knows or has reason to know that an Indian child is involved in the proceeding, the court may direct any of the persons named in (5) to conduct the inquiry described in that paragraph.

(7) The circumstances that may provide reason to know the child is an Indian child include the following:

(A) A person having an interest in the child, including the child, an Indian tribe, an Indian organization, an officer of the court, a public or private agency, or a member of the child's extended family, informs or otherwise provides information suggesting that the child is an Indian child to the court or to any person listed in (5);

(B) The residence or domicile of the child, the child's parents, or an Indian custodian is in a predominantly Indian community; or

(C) The child or the child's family has received services or benefits from a tribe or services that are available to Indians from tribes or the federal government, such as the Indian Health Service.

1 Title 5. Family and Juvenile Rules
2 Division 3. Juvenile Rules
3 Chapter 12. Indian Child Welfare Act
4

5 Rule 5.664. Indian Child Welfare Act (25 U.S.C. § 1901 et seq.)
6

7 (a) Definitions; 25 U.S.C. § 1903
8

9 As used in this rule, unless the context or subject matter otherwise requires:

10
11 (1) “Indian child” means an unmarried person under the age of 18 who:

12
13 (A) Is a member of an Indian tribe; or

14
15 (B) Is eligible for membership in an Indian tribe and is the biological
16 child of a member of an Indian tribe.

17
18 (2) “Indian child’s tribe” means:

19
20 (A) The Indian tribe in which the child is a member or is eligible for
21 membership; or

22
23 (B) In the case of an Indian child who is a member of or eligible for
24 membership in more than one tribe, the Indian tribe with which
25 the Indian child has more significant contacts.

26
27 (3) “Indian custodian” means any Indian person who has:

28
29 (A) Legal custody of an Indian child under tribal law or custom, or
30 under state law; or

31
32 (B) Temporary physical care, custody, and control of an Indian child
33 whose parent or parents have transferred custody to that person.

34
35 (4) “Parent of an Indian child” means the biological parent of an Indian
36 child or any Indian person who has lawfully adopted an Indian child,
37 including adoptions under tribal law or custom. (This definition does
38 not include a non-Indian adoptive parent or an unwed alleged father
39 where paternity has not been determined or acknowledged.)

40
41 (5) “Custody” means legal or physical custody or both as provided under
42 state law or tribal law or custom.
43

1 (6) ~~“Indian tribe” means any tribe, band, nation, or other organized group~~
2 ~~or community of Indians eligible for services provided to Indians by the~~
3 ~~Secretary of the Interior because of their status as Indians, including~~
4 ~~any Alaskan Native Villages as defined by section 1602(c) of title 43 of~~
5 ~~the United States Code.~~

6
7 (7) ~~“Extended family” means those persons defined by the law or custom~~
8 ~~of the Indian child’s tribe or, in the absence of such law or custom, an~~
9 ~~adult grandparent, aunt, uncle, brother, sister, sister in law, brother in~~
10 ~~law, niece, nephew, first or second cousin, or stepparent of the Indian~~
11 ~~child.~~

12
13 (8) ~~“Child custody proceeding” means and includes a proceeding at which~~
14 ~~the court considers foster care placement, appointment of a guardian,~~
15 ~~termination of parental rights, preadoptive placement, or adoptive~~
16 ~~placement.~~

17
18 (9) ~~“Foster care placement” means any temporary placement from which a~~
19 ~~child may not be removed by the parent or Indian custodian on demand,~~
20 ~~including a shelter care home, a foster home, or an institution or the~~
21 ~~home of a guardian or conservator.~~

22
23 (10) ~~“Qualified expert witness” means a person qualified to address the~~
24 ~~issue of whether continued custody by a parent or Indian custodian is~~
25 ~~likely to result in serious physical or emotional damage to the child.~~
26 ~~Persons most likely to be considered such experts are:~~

27
28 ~~(A) A member of a tribe with knowledge of Indian family~~
29 ~~organization and child rearing;~~

30
31 ~~(B) A lay expert with substantial experience in Indian child and~~
32 ~~family services and extensive knowledge of the social and cultural~~
33 ~~standards and child rearing practices of Indian tribes, specifically~~
34 ~~the child’s tribe, if possible;~~

35
36 ~~(C) A professional person with substantial education and experience~~
37 ~~in Indian child and family services and in the social and cultural~~
38 ~~standards of Indian tribes, specifically the child’s tribe, if~~
39 ~~possible; or~~

40
41 ~~(D) A professional person having substantial education and~~
42 ~~experience in the area of his or her specialty.~~

1 (11) ~~“Act” means the Indian Child Welfare Act (25 U.S.C. §§ 1901–1963).~~

2
3 (12) ~~“Tribal court” means a court with jurisdiction over child custody~~
4 ~~proceedings, identified as a Court of Indian Offenses, a court~~
5 ~~established and operated under the code or custom of an Indian tribe, or~~
6 ~~any other administrative body of a tribe that is vested with authority~~
7 ~~over child custody proceedings. If applicable, the tribal court has met~~
8 ~~the requirements for resumption of jurisdiction over child custody~~
9 ~~proceedings as approved by the Department of the Interior.~~

10
11 **(b) — Applicability of rule; 25 U.S.C. §§ 1911, 1912**

12
13 ~~This rule applies to all proceedings under section 300 et seq. and to~~
14 ~~proceedings under section 601 and section 602 et seq. in which the child is at~~
15 ~~risk of entering foster care or is in foster care, including detention hearings,~~
16 ~~jurisdiction hearings, disposition hearings, reviews, hearings under section~~
17 ~~366.26, and subsequent hearings affecting the status of the Indian child.~~

18
19 **(e) — Jurisdiction; 25 U.S.C. § 1911**

20
21 (1) ~~If the Indian child resides or is domiciled on an Indian reservation that~~
22 ~~exercises exclusive jurisdiction under the act over child custody~~
23 ~~proceedings, the petition under section 300 must be dismissed.~~

24
25 (A) ~~If the Indian child is temporarily off a reservation that exercises~~
26 ~~exclusive jurisdiction, the juvenile court must exercise temporary~~
27 ~~jurisdiction if there is an immediate threat of serious physical~~
28 ~~harm to the child.~~

29
30 (B) ~~Absent extraordinary circumstances, temporary emergency~~
31 ~~eustody must terminate within 90 days, unless the court~~
32 ~~determines by clear and convincing evidence, including the~~
33 ~~testimony of at least one qualified expert witness, that return of~~
34 ~~the child is likely to cause serious damage to the child.~~

35
36 (C) ~~The child must be returned immediately to the parent or Indian~~
37 ~~eustodian when the emergency placement is no longer necessary~~
38 ~~to prevent serious harm to the child.~~

39
40 (2) ~~If the Indian child is not domiciled or residing on a reservation that~~
41 ~~exercises exclusive jurisdiction, the tribe, parent, or Indian custodian~~
42 ~~may petition the court to transfer the proceedings to the tribal~~

1 jurisdiction, and the juvenile court must transfer the proceedings to
2 tribal jurisdiction unless there is good cause not to do so.

3
4 (A) ~~Either parent may object to the transfer.~~

5
6 (B) ~~The tribe may decline the transfer of the proceedings.~~

7
8 (3) ~~If the tribe does not intervene or the tribal court does not request~~
9 ~~transfer to tribal jurisdiction, the court should proceed to exercise its~~
10 ~~jurisdiction regarding the Indian child under section 300 et seq., in~~
11 ~~accordance with the procedures and standards of proof as required by~~
12 ~~both juvenile court law and the act.~~

13
14 **(d) ~~Inquiry~~**

15
16 ~~The court, the county welfare department, and the probation department have~~
17 ~~an affirmative and continuing duty to inquire whether a child for whom a~~
18 ~~petition under section 300, 601, or 602 is to be, or has been, filed is or may~~
19 ~~be an Indian child.~~

20
21 (1) ~~In juvenile wardship proceedings, if the probation officer believes that~~
22 ~~the child is at risk of entering foster care or is in foster care, he or she~~
23 ~~must ask the child, if the child is old enough, and the parents or legal~~
24 ~~guardians whether the child may be an Indian child or may have Indian~~
25 ~~ancestors.~~

26
27 (2) ~~In dependency cases, the social worker must ask the child, if the child~~
28 ~~is old enough, and the parents or legal guardians whether the child may~~
29 ~~be an Indian child or may have Indian ancestors.~~

30
31 (3) ~~At the first appearance by a parent or guardian in any dependency case,~~
32 ~~or in juvenile wardship proceedings in which the child is at risk of~~
33 ~~entering foster care or is in foster care, the parent or guardian must be~~
34 ~~ordered to complete *Parental Notification of Indian Status (Juvenile*~~
35 ~~*Court*) (form JV 130).~~

36
37 (4) ~~The circumstances that may provide probable cause for the court to~~
38 ~~believe the child is an Indian child include, but are not limited to, the~~
39 ~~following:~~

40
41 (A) ~~A person having an interest in the child, including the child, an~~
42 ~~Indian tribe, an Indian organization, an officer of the court, or a~~
43 ~~public or private agency, informs the court or the county welfare~~

1 agency or the probation department or provides information
2 suggesting that the child is an Indian child;

3
4 (B) The residence of the child, the child's parents, or an Indian
5 custodian is in a predominantly Indian community; or

6
7 (C) The child or the child's family has received services or benefits
8 from a tribe or services that are available to Indians from tribes or
9 the federal government, such as the Indian Health Service.

10
11 ~~(e) Petition~~

12
13 (1) Section 1(l) or 1(m) on either the initial or an amended *Juvenile*
14 *Dependency Petition (Version One)* (form JV 100) or section 1(i) or
15 1(j) of the initial or an amended *Juvenile Dependency Petition (Version*
16 *Two)* (form JV 110) must be checked if the county welfare department
17 knows or has reason to know that the child may be a member of or
18 eligible for membership in a federally recognized Indian tribe or if
19 there is reason to believe the child may be of Indian ancestry, as
20 appropriate.

21
22 (2) Section 1(m) or 1(n) on either the initial or an amended *Juvenile*
23 *Wardship Petition* (form JV 600) must be checked if the county
24 probation department knows or has reason to know that the child may
25 be a member of or eligible for membership in a federally recognized
26 Indian tribe or if there is reason to believe the child may be of Indian
27 ancestry, as appropriate.

28
29 (3) If section 1(l) of the *Juvenile Dependency Petition (Version One)* (form
30 JV 100) or section 1(i) of the *Juvenile Dependency Petition (Version*
31 *Two)* (form JV 110) or section 1(m) of the *Juvenile Wardship Petition*
32 (form JV 600) is checked, or if, on inquiry, or based on other
33 information, the court has reason to know the child may be an Indian
34 child, the court must proceed as if the child were an Indian child and
35 must proceed with all dependency and wardship hearings, observing
36 the Welfare and Institutions Code timelines while complying with the
37 act and this rule.

38
39 (A) A determination by the identified tribe or tribes that the child is or
40 is not an Indian child is definitive.

1 ~~(B) If no particular tribe can be reasonably identified, a determination~~
2 ~~by the Bureau of Indian Affairs (BIA) that the child is not an~~
3 ~~Indian child is definitive.~~

4
5 ~~(4) If section 1(m) of the *Juvenile Dependency Petition (Version One)*~~
6 ~~(form JV 100) is checked and section 1(l) is not, or section 1(j) of the~~
7 ~~*Juvenile Dependency Petition (Version Two)* (form JV 110) is checked~~
8 ~~and section 1(i) is not, or if section 1(n) of the *Juvenile Wardship*~~
9 ~~*Petition* (form JV 600) is checked and section 1(m) is not, notice of the~~
10 ~~proceedings to the Bureau of Indian Affairs and further inquiry~~
11 ~~regarding the possible Indian status of the child are the only~~
12 ~~requirements.~~

13
14 ~~(f) Notice; 25 U.S.C. § 1912~~

15
16 ~~If there is reason to know that an Indian child is involved, the social~~
17 ~~worker or probation officer must send *Notice of Involuntary Child*~~
18 ~~*Custody Proceedings for an Indian Child (Juvenile Court)* (form JV-~~
19 ~~135) to the parent or legal guardian and Indian custodian of an Indian~~
20 ~~child, and the Indian child's tribe, in accordance with Welfare and~~
21 ~~Institutions Code section 224.2.~~

22 ~~(g) Determination of status; 25 U.S.C. § 1911 (Welf. & Inst. Code, §~~
23 ~~360.6(e))~~

24
25 ~~Determination of tribal membership or eligibility for membership is made~~
26 ~~exclusively by the tribe.~~

27
28 ~~(1) A tribe's determination that the child is or is not a member of or~~
29 ~~eligible for membership in the tribe is conclusive.~~

30
31 ~~(2) Information that the child is not enrolled in the tribe is not~~
32 ~~determinative of Indian child status.~~

33
34 ~~(3) The tribe must be a federally recognized tribe, group, or community as~~
35 ~~defined by the Bureau of Indian Affairs of the Department of the~~
36 ~~Interior as eligible for services provided to Indians by the Secretary of~~
37 ~~the Interior because of their status as Indians, including any Alaskan~~
38 ~~Native Villages as defined by section 1602(c) of title 43 of the United~~
39 ~~States Code.~~

40
41 ~~(4) Absent a contrary determination by the tribe, a determination by the~~
42 ~~BIA that a child is or is not an Indian is conclusive.~~

1
2 (5) ~~The Indian Child Welfare Act applies when a tribe determines that an~~
3 ~~unmarried minor is:~~

4
5 (A) ~~A member of an Indian tribe; or~~

6
7 (B) ~~Eligible for membership in an Indian tribe and a biological child~~
8 ~~of a member of an Indian tribe.~~

9
10 **~~(h) Proceedings after notice; 25 U.S.C. § 1911~~**

11
12 ~~If it is determined that the act applies, the juvenile court hearing must not~~
13 ~~proceed until at least 10 days after those entitled to notice under the act have~~
14 ~~received notice. If requested, the parent, Indian custodian, or tribe must be~~
15 ~~granted a continuance of up to 20 days to prepare for the proceeding. The~~
16 ~~tribe may intervene at any point in the proceeding.~~

17
18 (1) ~~An indigent parent and an indigent Indian custodian have a right to~~
19 ~~court appointed counsel.~~

20
21 (2) ~~All parties, including the parent, Indian child, Indian custodian, and~~
22 ~~tribe, and their respective attorneys, have the right to examine all court~~
23 ~~documents related to the dependency case.~~

24
25 **~~(i) Required procedures, findings, and orders for foster care placement and~~**
26 **~~guardianships; 25 U.S.C. § 1912~~**

27
28 ~~The court may not order foster care placement of an Indian child, or establish~~
29 ~~a guardianship of an Indian child, unless the court finds by clear and~~
30 ~~convincing evidence that continued custody with the parent or Indian~~
31 ~~custodian is likely to cause the Indian child serious emotional or physical~~
32 ~~damage.~~

33
34 (1) ~~Testimony by a qualified expert witness is required.~~

35
36 (2) ~~Stipulation by the parent or Indian custodian or failure to object may~~
37 ~~waive the requirement of producing evidence of the likelihood of~~
38 ~~serious damage only if the court is satisfied that the party has been fully~~
39 ~~advised of the requirements of the act and has knowingly, intelligently,~~
40 ~~and voluntarily waived them.~~

41
42 (3) ~~Failure to meet non Indian family and community child rearing~~
43 ~~standards, or the existence of other behavior or conditions that meet the~~

1 removal standards of section 361, will not support an order for
2 placement absent the finding that continued custody with the parent or
3 Indian custodian is likely to cause serious emotional or physical
4 damage.

5
6 ~~(4) In addition to the findings required under section 361, in order to place~~
7 ~~an Indian child out of the custody of a parent or Indian custodian, the~~
8 ~~court must find that active efforts have been made to provide remedial~~
9 ~~services and rehabilitative programs designed to prevent the breakup of~~
10 ~~the Indian family, and that these efforts were unsuccessful. Stipulation~~
11 ~~by the parent or Indian custodian or failure to object may waive the~~
12 ~~requirement of this finding only if the court is satisfied that the party~~
13 ~~has been fully advised of the requirements of the act and has~~
14 ~~knowingly, intelligently, and voluntarily waived them.~~

15
16 ~~(A) The court must consider all available information regarding the~~
17 ~~prevailing social and cultural conditions of the Indian child's~~
18 ~~tribe.~~

19
20 ~~(B) Efforts to provide services must include attempts to use the~~
21 ~~available resources of extended family members, the tribe, Indian~~
22 ~~social service agencies, and individual Indian caregivers.~~

23
24 ~~**(j) Placement of an Indian child in a foster care placement; 25 U.S.C. §**~~
25 ~~**1912**~~

26
27 ~~If it is determined that the act applies, the court may not order foster care~~
28 ~~placement of an Indian child unless the court finds by clear and convincing~~
29 ~~evidence that continued custody with the parent or Indian custodian is likely~~
30 ~~to cause the Indian child serious emotional or physical damage.~~

31
32 ~~(1) Testimony by a qualified expert witness is required.~~

33
34 ~~(2) Stipulation by the parent, Indian custodian, or tribe or failure to object~~
35 ~~may waive the requirement of producing evidence of the likelihood of~~
36 ~~serious damage only if the court is satisfied that the party has been fully~~
37 ~~advised of the requirements of the act and has knowingly, intelligently,~~
38 ~~and voluntarily waived them.~~

39
40 ~~(3) If it is determined that the act applies, failure to meet non-Indian family~~
41 ~~and child rearing community standards, or the existence of other~~
42 ~~behavior or conditions that meet the removal standards of section 361,~~
43 ~~will not support an order for placement absent the finding that~~

1 continued custody with the parent or Indian custodian is likely to cause
2 serious emotional or physical damage.

3
4 ~~(k) Standards and preferences in placement of an Indian child; 25 U.S.C. §~~
5 ~~1915~~

6
7 Foster and adoptive placements of Indian children must follow a specified
8 order in the absence of good cause to the contrary. Placement standards must
9 be the prevailing social and cultural standards of the Indian community in
10 which the parent or extended family member resides, or with which the
11 parent or extended family member maintains social and cultural contacts.
12 The foster or preadoptive placement must be in the least restrictive setting,
13 within reasonable proximity to the Indian child's home, and capable of
14 meeting any special needs of the Indian child.

15
16 (1) ~~In a foster or preadoptive placement, preference must be given in the~~
17 ~~following order:~~

18
19 ~~(A) To a member of the Indian child's extended family;~~

20
21 ~~(B) To a foster home licensed or approved by the Indian child's tribe;~~

22
23 ~~(C) To a state or county licensed or certified Indian foster home; or~~

24
25 ~~(D) To a children's institution approved by the tribe or operated by an~~
26 ~~Indian organization and offering a program to meet the Indian~~
27 ~~child's needs.~~

28
29 (2) ~~In an adoptive placement, preference must be given in the following~~
30 ~~order:~~

31
32 ~~(A) To a member of the Indian child's extended family;~~

33
34 ~~(B) To other members of the Indian child's tribe; or~~

35
36 ~~(C) To other Indian families.~~

37
38 (3) ~~An Indian child may be placed in a non Indian home only if the court~~
39 ~~finds that a diligent search has failed to locate a suitable Indian home.~~

40
41 (4) ~~The court may modify the preference order only for good cause, which~~
42 ~~may include the following considerations:~~

- 1 (A) ~~The requests of the parent or Indian custodian;~~
2
3 (B) ~~The requests of the Indian child;~~
4
5 (C) ~~The extraordinary physical or emotional needs of the Indian child~~
6 ~~as established by a qualified expert witness; or~~
7
8 (D) ~~The unavailability of suitable families based on a diligent effort to~~
9 ~~identify families meeting the preference criteria.~~

10
11 (5) ~~The burden of establishing good cause for the court to alter the~~
12 ~~preference order is on the party requesting that a different order be~~
13 ~~considered.~~

14
15 (6) ~~The tribe, by resolution, may establish a different preference order,~~
16 ~~which, absent good cause, must be followed if it provides for the least~~
17 ~~restrictive setting.~~

18
19 (7) ~~The preferences and wishes of the Indian child and the parent must be~~
20 ~~considered, and weight given to a consenting parent's request for~~
21 ~~anonymity.~~

22
23 ~~(l) **Active efforts; 25 U.S.C. § 1912**~~

24
25 ~~In addition to the findings required under section 361, in order to place an~~
26 ~~Indian child out of the custody of a parent or Indian custodian, or to issue~~
27 ~~orders under section 366.26, the court must find that active efforts have been~~
28 ~~made to provide remedial services and rehabilitative programs designed to~~
29 ~~prevent the breakup of the Indian family, and that these efforts were~~
30 ~~unsuccessful.~~

31
32 (1) ~~The court must consider the prevailing social and cultural conditions of~~
33 ~~the Indian child's tribe.~~

34
35 (2) ~~Efforts to provide services must include attempts to use the available~~
36 ~~resources of extended family members, the tribe, Indian social service~~
37 ~~agencies, and individual Indian caregivers.~~

38
39 ~~(m) **Termination of parental rights; 25 U.S.C., § 1912**~~

40
41 ~~The court may not terminate parental rights to an Indian child unless there is~~
42 ~~proof beyond a reasonable doubt that continued custody by the parent or~~

1 ~~Indian custodian is likely to result in serious emotional or physical damage to~~
2 ~~the child.~~

3
4 (1) ~~The evidence must be supported by the testimony of a qualified expert~~
5 ~~witness.~~

6
7 (2) ~~Stipulation by the parent or Indian custodian or failure to object may~~
8 ~~waive the requirement of producing evidence of the likelihood of~~
9 ~~serious damage only if the court is satisfied that the party has been fully~~
10 ~~advised of the requirements of the act and has knowingly, intelligently,~~
11 ~~and voluntarily waived them.~~

12
13 (3) ~~Consent to a voluntary termination of parental rights, relinquishment of~~
14 ~~parental rights, or consent to adoption must be executed in writing and~~
15 ~~recorded before a judicial officer of competent jurisdiction. The court~~
16 ~~must certify that the terms and consequences of the consent were~~
17 ~~explained in detail, in the language of the parent or Indian custodian,~~
18 ~~and fully understood by the parent or Indian custodian. If~~
19 ~~confidentiality is requested or appropriate, the consent may be executed~~
20 ~~in chambers.~~

21
22 (4) ~~In order to terminate parental rights to an Indian child, the court must~~
23 ~~find that active efforts have been made to provide remedial services and~~
24 ~~rehabilitative programs designed to prevent the breakup of the Indian~~
25 ~~family, and that these efforts were unsuccessful. Stipulation by the~~
26 ~~parent or Indian custodian or failure to object may waive the~~
27 ~~requirement of this finding only if the court is satisfied that the party~~
28 ~~has been fully advised of the requirements of the act and has~~
29 ~~knowingly, intelligently, and voluntarily waived them.~~

30
31 ~~(n) **Petition to invalidate orders of removal or termination of parental**~~
32 ~~**rights; 25 U.S.C., § 1914**~~

33
34 ~~If it is determined that the act applies, the Indian child, a parent, an Indian~~
35 ~~custodian, or the child's tribe may petition any court of competent~~
36 ~~jurisdiction to invalidate a foster placement or termination of parental rights.~~

37
38 (1) ~~If the Indian child is a dependent child of the juvenile court or the~~
39 ~~subject of a pending petition, the juvenile court is the only court of~~
40 ~~competent jurisdiction with the authority to hear the petition to~~
41 ~~invalidate the foster placement or termination of parental rights.~~

1 ~~(2) If a final decree of adoption is set aside, or if the adoptive parents~~
2 ~~voluntarily consent to the termination of their parental rights, a~~
3 ~~biological parent or prior Indian custodian may petition for a return of~~
4 ~~custody of the Indian child.~~

5
6 ~~(A) The court must grant the petition for return unless there is a~~
7 ~~showing that return is contrary to the best interest of the Indian~~
8 ~~child.~~

9
10 ~~(B) The hearing on the petition to return must be conducted in~~
11 ~~accordance with the act and the relevant sections of this rule.~~

12
13 ~~**(o) Post-hearing actions; 25 U.S.C., § 1916**~~

14
15 ~~Whenever an Indian child is removed from a foster home or institution for~~
16 ~~placement in a different foster home, institution, or preadoptive or adoptive~~
17 ~~home, the placement must be in accordance with the act and the relevant~~
18 ~~sections of this rule.~~

19
20 ~~**(p) Record keeping; 25 U.S.C., § 1951**~~

21
22 ~~(1) After granting a decree of adoption of an Indian child, the court must~~
23 ~~provide the Secretary of the Interior with a copy of the decree and other~~
24 ~~information needed to show:~~

25
26 ~~(A) The name and tribal affiliation of the Indian child;~~

27
28 ~~(B) The names and addresses of the biological parents;~~

29
30 ~~(C) The names and addresses of the adoptive parents; and~~

31
32 ~~(D) The agency maintaining files and records regarding the adoptive~~
33 ~~placement.~~

34
35 ~~(2) If a biological parent has executed an affidavit requesting that his or her~~
36 ~~identity remain confidential, the court must provide the affidavit to the~~
37 ~~Secretary of the Interior, who must ensure the confidentiality of the~~
38 ~~information.~~

39
40 ~~**Advisory Committee Comment**~~

41
42 ~~As of January 1, 2004, only the Washoe Tribe of Nevada and California is authorized under the~~
43 ~~act to exercise exclusive jurisdiction. An updated list of tribes authorized to exercise exclusive~~

1 jurisdiction can be found on the Web site of the Administrative Office of the Courts, Center for
2 Families, Children & the Courts at www.courtinfo.ca.gov/programs/cfcc.

1
2
3
4
5
6
7

Chapter ~~13~~12. Cases Petitioned Under Section 300

Articles 1–4. ***

Chapter ~~14~~13. Cases Petitioned Under Sections 601 and 602

Articles 1–5. ***

GC-210(CA)

Guardianship Petition—Child Information Attachment

Case Number: _____

Guardianship of *(all children's names)*: _____

This child's name: _____

Fill out a separate copy of this form for **each** child for whom you want the court to appoint a guardian.

This form is attached to **item 2 of form GC-210.** **item 8 of form GC-210(P).**

That form asks for the appointment of a guardian of this child's *(specify)*: person estate person and estate

1 Tell the court about this child

a. Child's full legal name: _____ Date of birth: _____
First Middle Last Month/Day/Year

b. Child's current address: _____

 Current telephone number: _____

c. (1) Is this child a member of, or eligible for membership in, an Indian tribe recognized by the federal government? No Not sure Yes *(specify tribe)*: _____

(If you checked "Yes" at item (1), this guardianship case is subject to the Indian Child Welfare Act (ICWA) (25 U.S.C. § 1901 et seq.). If you checked "Not sure" or "No" at item (1), answer item (2)).

(2) Do you know or have reason to know (within the meaning of Prob. Code, § 1460.2, Welf. & Inst. Code, § 224.3; and Cal. Rules of Court, rule 7.1015 that this child may be an Indian child?
 No Yes

(If you checked "Yes" at either item (1) or item (2), you must fill out a Notice of Child Custody Proceeding for Indian Child (Form ICWA-030) (the "Notice"). Your attorney must serve copies of the Notice, together with copies of your petition and all attachments, including this one, on the child's parents; any Indian custodian (as defined in ICWA, at 25 U.S.C. § 1903, and Probate Code section 1449); any Indian tribe that may have a connection to the child; the Bureau of Indian Affairs; and possibly the U.S. Secretary of the Interior, by certified or registered U.S. mail, return receipt requested. If you are not represented by an attorney in this case, the court will serve copies of these papers, but you must first fill out the original Notice and deliver it to the court. After service, the original Notice and all return receipts must be filed with the court. Service of the Notice is in addition to service of any other notices required in this case.)

d. Is this child married? Yes No Never married If you checked "No," was this child formerly married but the marriage was dissolved or ended in divorce? Yes No
(The court cannot appoint a guardian of the person for a minor child who is married or whose marriage was dissolved or ended in divorce.)

e. Is this child receiving public assistance? Yes No Unknown *(If you checked "Yes," fill out below.)*

Type of Aid	Monthly Benefit	Type of Aid	Monthly Benefit
<input type="checkbox"/> TANF (Temporary Asst. for Needy Families)	\$ _____	<input type="checkbox"/> Other <i>(explain)</i> :	\$ _____
<input type="checkbox"/> Social Security	\$ _____	<input type="checkbox"/> Other <i>(explain)</i> :	\$ _____
<input type="checkbox"/> Dept. Veterans Affairs Benefits	\$ _____		

f. Name and address of the person with *legal* custody of this child: _____

Guardianship of (all children's names): _____

Case Number:

This child's name: _____

1 Tell the court about this child (continued)

g. (Check this box and fill out below if the person the child lives with is not the person with legal custody.)
 Name and address of the person this child lives with (has the care of the child): _____

h. (Check this box if this child has been involved in an adoption, juvenile court, marriage dissolution (divorce), domestic relations, custody, or other similar court case.) Describe the court case below:

Type of Case	Court District or County and State	Case Number (if known)

i. (Check this box if this child is in or on leave from an institution supervised by the California Department of Developmental Services or the California Department of Mental Health.) Write the name of the institution here: _____

2 List the names and addresses of this child's relatives and other persons shown below:

Relationship	Name	Home Address (Street, City, State, Zip)
Father	_____	_____
Mother	_____	_____
Grandfather (Father's father)	_____	_____
Grandmother (Father's mother)	_____	_____
Grandfather (Mother's father)	_____	_____
Grandmother (Mother's mother)	_____	_____
Brother/Sister	_____	_____
Brother/Sister	_____	_____
Brother/Sister	_____	_____



Guardianship of (all children's names): _____

Case Number: _____

This child's name: _____

2 Names and addresses of this child's relatives and other persons (continued):

Relationship	Name	Home Address (Street, City, State, Zip)
Brother/Sister	_____	_____
Brother/Sister	_____	_____

Check here if this child has additional brothers or sisters, including half-brothers and half-sisters, and list their names and addresses on a separate sheet of paper. Write "Form GC-210(CA)," the name of this child, and "Item 2:—Other Siblings" at the top of the paper and attach it to this form.

Spouse (Guardianship of the estate only)	_____	_____
Person nominated as guardian of this child (Other than a proposed guardian listed in 3)	_____	_____

3 Information about the proposed guardian:

a. Name (name all proposed guardians if more than one): _____

b. Relationship(s) to the child named in 1 (check all that apply):

Relative (specify relationships of all proposed guardians to the child): _____

Not a relative (explain interest in or connection to this child): _____

4 Explain why appointing the person in 3 guardian would be best for this child: _____

Check here if you need more space. Continue your explanation on a separate sheet of paper. Write "Form GC-210(CA)," the name of this child, and "Attachment 4:—Best Interest of Child" at the top of the paper and attach it to this form.



Guardianship of (all children's names): _____

Case Number:

This child's name: _____

5 Do one or both of this child's parents agree that the person in 3 can be the child's guardian?
a. Father: Yes No Not known at this time.
b. Mother: Yes No Not known at this time.
(You may file a filled-out Consent to Appointment of Guardian and Waiver of Notice (form GC-211, item 4) signed by the child's parent or parents (or any adult relative listed in 2) who agree. The court may excuse you from having to give notice of the court hearing on your request for appointment of a guardian to a parent or other relative who signs that form.)

6 Suitability for guardianship of this child
a. Does this child live with the person in 3 now? Yes No
b. If the guardianship is approved, will this child live with the person in 3? Yes No
c. Does the person in 3 plan to adopt this child now? Yes No

7 Check this box if you (the petitioner) are not the person in 3, and fill in below.
Your relationship to this child:
 Relative (specify): _____
 Not a relative (explain your interest in or connection to this child): _____

8 Except as otherwise stated in this form, the statements made in form GC-210 or form GC-210(P) to which this form is attached fully apply to this child.

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, State Bar number, and address</i>): TELEPHONE NO.: _____ FAX NO. (<i>Optional</i>): _____ E-MAIL ADDRESS (<i>Optional</i>): _____ ATTORNEY FOR (<i>Name</i>): _____	FOR COURT USE ONLY DRAFT 7 03/20/07 mc Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	
JUVENILE DEPENDENCY PETITION (VERSION ONE) (Welf. & Inst. Code, § 300 et seq.) <input type="checkbox"/> § 300—Original <input type="checkbox"/> § 342—Subsequent <input type="checkbox"/> § 387—Supplemental	CASE NUMBER: RELATED CASES (<i>if any</i>):

1. Petitioner on information and belief alleges the following:

a. The child named below comes within the jurisdiction of the juvenile court under the following subdivisions of section 300 of the Welfare and Institutions Code (<i>check applicable boxes; see attachment 1a for concise statements of facts</i>): <input type="checkbox"/> (a) <input type="checkbox"/> (b) <input type="checkbox"/> (c) <input type="checkbox"/> (d) <input type="checkbox"/> (e) <input type="checkbox"/> (f) <input type="checkbox"/> (g) <input type="checkbox"/> (h) <input type="checkbox"/> (i) <input type="checkbox"/> (j)			
b. Child's name:	c. Age:	d. Date of birth:	e. Sex:
f. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (<i>check all that apply</i>): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	g. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (<i>check all that apply</i>): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged		
h. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (<i>check all that apply</i>): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	i. Other (<i>state name, address, and relationship to child</i>): <input type="checkbox"/> No known parent or guardian resides within this state. This adult relative lives in this county or is closest to this court.		
j. Prior to intervention, child resided with <input type="checkbox"/> parent (<i>name</i>): <input type="checkbox"/> parent (<i>name</i>): <input type="checkbox"/> guardian (<i>name</i>): <input type="checkbox"/> other (<i>state name, address, and relationship to child</i>):	k. Child is <input type="checkbox"/> not detained <input type="checkbox"/> detained Date and time of detention: Current place of detention (<i>address</i>): <input type="checkbox"/> Relative <input type="checkbox"/> Shelter/foster care <input type="checkbox"/> Other		

2. I have asked about Indian ancestry for this child and have completed and attached the required *Indian Child Inquiry Attachment*, form ICWA-010(A).


(See important notice on page 2.)

CHILD'S NAME: _____	CASE NUMBER: _____
------------------------	-----------------------

3. Petitioner requests that the court find these allegations to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.

Date:

_____  _____
 (TYPE OR PRINT NAME) (SIGNATURE OF PETITIONER)

Address and telephone number (if different person signing than listed in caption above):

Number of pages attached: _____ Other children are listed on *Additional Children Attachment* (form JV-101)

— NOTICE —

TO PARENT

Your parental rights may be permanently terminated. To protect your rights, you must appear in court and answer this petition.

**TO PARENTS OR OTHERS LEGALLY RESPONSIBLE
FOR THE SUPPORT OF THE CHILD**

You and the estate of your child may be jointly and severally liable for the cost of the care, support, and maintenance of your child in any placement or detention facility, the cost of legal services for you or your child by a public defender or other attorney, and the cost of supervision of your child by order of the juvenile court.

CHILD'S NAME: 	CASE NUMBER:
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4. Petitioner on information and belief further alleges the following:

a. The child named below comes within the jurisdiction of the juvenile court under the following subdivisions of section 300 of the Welfare and Institutions Code (<i>check applicable boxes; see attachment 3a for concise statements of facts</i>): <input type="checkbox"/> (a) <input type="checkbox"/> (b) <input type="checkbox"/> (c) <input type="checkbox"/> (d) <input type="checkbox"/> (e) <input type="checkbox"/> (f) <input type="checkbox"/> (g) <input type="checkbox"/> (h) <input type="checkbox"/> (i) <input type="checkbox"/> (j)				
b. Child's name:		c. Age:	d. Date of birth:	e. Sex:
<input type="checkbox"/> Information is the same as that given for the child in item 1. (<i>If not the same, provide different information below.</i>)				
f. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (<i>check all that apply</i>): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	g. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (<i>check all that apply</i>): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged			
h. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (<i>check all that apply</i>): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	i. Other (<i>state name, address, and relationship to child</i>): <input type="checkbox"/> No known parent or guardian resides within this state. This adult relative lives in this county or is closest to this court.			
j. Prior to intervention, child resided with <input type="checkbox"/> parent (<i>name</i>): <input type="checkbox"/> parent (<i>name</i>): <input type="checkbox"/> guardian (<i>name</i>): <input type="checkbox"/> other (<i>state name, address, and relationship to child</i>):	k. Child is <input type="checkbox"/> not detained <input type="checkbox"/> detained Date and time of detention: Current place of detention (<i>address</i>): <input type="checkbox"/> Relative <input type="checkbox"/> Shelter/foster care <input type="checkbox"/> Other			

5. a. The child named below comes within the jurisdiction of the juvenile court under the following subdivisions of section 300 of the Welfare and Institutions Code (<i>check applicable boxes; see attachment 3a for concise statements of facts</i>): <input type="checkbox"/> (a) <input type="checkbox"/> (b) <input type="checkbox"/> (c) <input type="checkbox"/> (d) <input type="checkbox"/> (e) <input type="checkbox"/> (f) <input type="checkbox"/> (g) <input type="checkbox"/> (h) <input type="checkbox"/> (i) <input type="checkbox"/> (j)				
b. Child's name:		c. Age:	d. Date of birth:	e. Sex:
<input type="checkbox"/> Information is the same as that given for the child in item 1. (<i>If not the same, provide different information below.</i>)				
f. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (<i>check all that apply</i>): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	g. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (<i>check all that apply</i>): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged			
h. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (<i>check all that apply</i>): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	i. Other (<i>state name, address, and relationship to child</i>): <input type="checkbox"/> No known parent or guardian resides within this state. This adult relative lives in this county or is closest to this court.			
j. Prior to intervention, child resided with <input type="checkbox"/> parent (<i>name</i>): <input type="checkbox"/> parent (<i>name</i>): <input type="checkbox"/> guardian (<i>name</i>): <input type="checkbox"/> other (<i>state name, address, and relationship to child</i>):	k. Child is <input type="checkbox"/> not detained <input type="checkbox"/> detained Date and time of detention: Current place of detention (<i>address</i>): <input type="checkbox"/> Relative <input type="checkbox"/> Shelter/foster care <input type="checkbox"/> Other			

6. I have asked about Indian ancestry for each child and have completed and attached the required *Indian Child Inquiry Attachment*, form ICWA-010(A).

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, State Bar number, and address</i>): TELEPHONE NO.: _____ FAX NO. (<i>Optional</i>): _____ E-MAIL ADDRESS (<i>Optional</i>): _____ ATTORNEY FOR (<i>Name</i>): _____	FOR COURT USE ONLY DRAFT 7 03/20/07 mc Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	CASE NUMBER:
JUVENILE DEPENDENCY PETITION (VERSION TWO) (Welf. & Inst. Code, § 300 et seq.) <input type="checkbox"/> § 300—Original <input type="checkbox"/> § 342—Subsequent <input type="checkbox"/> § 387—Supplemental	RELATED CASES (<i>If any</i>):

1. Petitioner on information and belief alleges the following:

a. The child named below comes within the jurisdiction of the juvenile court under the following subdivisions of section 300 of the Welfare and Institutions Code (<i>check applicable subdivisions for each child; see attachment 1a for concise statements of facts</i>):																															
b. <table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;"><u>Child's name</u></th> <th style="text-align: left;"><u>Age</u></th> <th style="text-align: left;"><u>Date of birth</u></th> <th style="text-align: left;"><u>Sex</u></th> <th style="text-align: left;"><u>Section 300 subdivisions (<i>check all that apply</i>):</u></th> </tr> </thead> <tbody> <tr> <td>1.</td> <td></td> <td></td> <td></td> <td><input type="checkbox"/> a <input type="checkbox"/> b <input type="checkbox"/> c <input type="checkbox"/> d <input type="checkbox"/> e <input type="checkbox"/> f <input type="checkbox"/> g <input type="checkbox"/> h <input type="checkbox"/> i <input type="checkbox"/> j</td> </tr> <tr> <td>2.</td> <td></td> <td></td> <td></td> <td><input type="checkbox"/> a <input type="checkbox"/> b <input type="checkbox"/> c <input type="checkbox"/> d <input type="checkbox"/> e <input type="checkbox"/> f <input type="checkbox"/> g <input type="checkbox"/> h <input type="checkbox"/> i <input type="checkbox"/> j</td> </tr> <tr> <td>3.</td> <td></td> <td></td> <td></td> <td><input type="checkbox"/> a <input type="checkbox"/> b <input type="checkbox"/> c <input type="checkbox"/> d <input type="checkbox"/> e <input type="checkbox"/> f <input type="checkbox"/> g <input type="checkbox"/> h <input type="checkbox"/> i <input type="checkbox"/> j</td> </tr> <tr> <td>4.</td> <td></td> <td></td> <td></td> <td><input type="checkbox"/> a <input type="checkbox"/> b <input type="checkbox"/> c <input type="checkbox"/> d <input type="checkbox"/> e <input type="checkbox"/> f <input type="checkbox"/> g <input type="checkbox"/> h <input type="checkbox"/> i <input type="checkbox"/> j</td> </tr> <tr> <td>5.</td> <td></td> <td></td> <td></td> <td><input type="checkbox"/> a <input type="checkbox"/> b <input type="checkbox"/> c <input type="checkbox"/> d <input type="checkbox"/> e <input type="checkbox"/> f <input type="checkbox"/> g <input type="checkbox"/> h <input type="checkbox"/> i <input type="checkbox"/> j</td> </tr> </tbody> </table>	<u>Child's name</u>	<u>Age</u>	<u>Date of birth</u>	<u>Sex</u>	<u>Section 300 subdivisions (<i>check all that apply</i>):</u>	1.				<input type="checkbox"/> a <input type="checkbox"/> b <input type="checkbox"/> c <input type="checkbox"/> d <input type="checkbox"/> e <input type="checkbox"/> f <input type="checkbox"/> g <input type="checkbox"/> h <input type="checkbox"/> i <input type="checkbox"/> j	2.				<input type="checkbox"/> a <input type="checkbox"/> b <input type="checkbox"/> c <input type="checkbox"/> d <input type="checkbox"/> e <input type="checkbox"/> f <input type="checkbox"/> g <input type="checkbox"/> h <input type="checkbox"/> i <input type="checkbox"/> j	3.				<input type="checkbox"/> a <input type="checkbox"/> b <input type="checkbox"/> c <input type="checkbox"/> d <input type="checkbox"/> e <input type="checkbox"/> f <input type="checkbox"/> g <input type="checkbox"/> h <input type="checkbox"/> i <input type="checkbox"/> j	4.				<input type="checkbox"/> a <input type="checkbox"/> b <input type="checkbox"/> c <input type="checkbox"/> d <input type="checkbox"/> e <input type="checkbox"/> f <input type="checkbox"/> g <input type="checkbox"/> h <input type="checkbox"/> i <input type="checkbox"/> j	5.				<input type="checkbox"/> a <input type="checkbox"/> b <input type="checkbox"/> c <input type="checkbox"/> d <input type="checkbox"/> e <input type="checkbox"/> f <input type="checkbox"/> g <input type="checkbox"/> h <input type="checkbox"/> i <input type="checkbox"/> j	
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4.				<input type="checkbox"/> a <input type="checkbox"/> b <input type="checkbox"/> c <input type="checkbox"/> d <input type="checkbox"/> e <input type="checkbox"/> f <input type="checkbox"/> g <input type="checkbox"/> h <input type="checkbox"/> i <input type="checkbox"/> j																											
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c. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (<i>check all that apply</i>): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	d. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (<i>check all that apply</i>): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged																														
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g. Prior to intervention, child resided with <input type="checkbox"/> parent (<i>name</i>): <input type="checkbox"/> parent (<i>name</i>): <input type="checkbox"/> guardian (<i>name</i>): <input type="checkbox"/> other (<i>state name, address and relationship to child</i>):	h. Child is <input type="checkbox"/> not detained <input type="checkbox"/> detained Date and time of detention: Current place of detention (<i>address</i>): <input type="checkbox"/> Relative <input type="checkbox"/> Shelter/foster care <input type="checkbox"/> Other																														

2. I have asked about Indian ancestry for each child and have completed and attached the required *Indian Child Inquiry Attachment*, form ICWA-010(A).

(See important notice on page 2.)

CHILD'S NAME: _____	CASE NUMBER: _____
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3. Petitioner requests that the court find these allegations to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.

Date:

_____ (TYPE OR PRINT NAME)	_____ (SIGNATURE OF PETITIONER)
-------------------------------	------------------------------------

Address and telephone number (if different person signing than listed in caption above):

Number of pages attached: _____

— NOTICE —

TO PARENT

Your parental rights may be permanently terminated. To protect your rights, you must appear in court and answer this petition.

TO PARENTS OR OTHERS LEGALLY RESPONSIBLE FOR THE SUPPORT OF THE CHILD

You and the estate of your child may be jointly and severally liable for the cost of the care, support, and maintenance of your child in any placement or detention facility, the cost of legal services for you or your child by a public defender or other attorney, and the cost of supervision of your child by order of the juvenile court.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <hr/> <p style="text-align: center;">TELEPHONE NO.: _____ FAX NO. (Optional): _____</p> <p style="text-align: center;">E-MAIL ADDRESS (Optional): _____</p> <p style="text-align: center;">ATTORNEY FOR (Name): _____</p>	FOR COURT USE ONLY Draft 7 03/20/07 mc Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
JUVENILE WARDSHIP PETITION <input type="checkbox"/> § 601(a) <input type="checkbox"/> § 601(b) <input type="checkbox"/> § 602(a)	CASE NUMBER:

1. Petitioner on information and belief alleges the following:

a. <input type="checkbox"/> The child named below comes within the jurisdiction of the juvenile court under the following sections of the Welfare and Institutions Code (check applicable boxes; see attachments for concise statements of facts): <input type="checkbox"/> 601(a) <input type="checkbox"/> 601(b) <input type="checkbox"/> 602(a) Violation (specify code section):			
b. <input type="checkbox"/> Under a previous order of this court, dated _____, the child was declared a ward under Welfare and Institutions Code section <input type="checkbox"/> 601(a) <input type="checkbox"/> 601(b) <input type="checkbox"/> 602(a).			
c. Child's name and address:	d. Age:	e. Date of birth:	f. Sex:
g. Name: _____ Address: _____ If mother or father (check all that apply): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	<input type="checkbox"/> mother <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown	h. Name: _____ Address: _____ If mother or father (check all that apply): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	
i. Name: _____ Address: _____ If mother or father (check all that apply): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	<input type="checkbox"/> mother <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown	j. Other (state name, address, and relationship to child): <input type="checkbox"/> No known parent or guardian resides within this state. This adult relative lives in this county or is closest to this court.	
k. Attorney for child (if known): Address: Phone number:	l. Child is <input type="checkbox"/> not detained <input type="checkbox"/> detained. Date and time of detention (custody): Current place of detention (address):		

2. I have asked about Indian ancestry for this child and have completed and attached the required *Indian Child Inquiry Attachment*, form ICWA-010(A).

(See important notice on page 2.)

CHILD'S NAME: _____	CASE NUMBER:
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3. Petitioner requests that the court find these allegations to be true.

4. Petitioner requests a hearing to determine whether the child is a fit and proper subject under juvenile court law under Welfare and Institutions Code section 707(a)(1) 707(a)(2) 707(c).

I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF PETITIONER)

Number of pages attached: _____

— NOTICE —

TO PARENTS OR OTHERS LEGALLY RESPONSIBLE FOR THE SUPPORT OF THE CHILD

You and the estate of your child may be jointly and severally liable for the cost of the care, support, and maintenance of your child in any placement or detention facility, the cost of legal services for your child or you by a public defender or other attorney, the cost of supervision of your child by order of the juvenile court, and the cost of any restitution owed to the victim.

INFORMATION SHEET ON INDIAN CHILD INQUIRY ATTACHMENT AND NOTICE OF CHILD CUSTODY PROCEEDING FOR INDIAN CHILD

This is an information sheet to help you fill out forms ICWA-010(A), *Indian Child Inquiry Attachment*, and ICWA-030, *Notice of Child Custody Proceeding for Indian Child*.

ICWA-010, *Indian Child Inquiry Attachment*

You are responsible for finding out if the child is or may be an Indian child and filling out the information requested on ICWA-010, *Indian Child Inquiry Attachment*. These are important responsibilities because if the child is an Indian child, you and the court will need to take specific steps to prevent the breakup of the child's Indian family. Also, if the child is an Indian child, he or she has a right to receive resources and services that are culturally specific to the Indian child's family. The court will check to make sure that the child is receiving these services.

Tips on how to fill out ICWA-010(A), *Indian Child Inquiry Attachment*

1. Try to find contact information for the child's parents, child's Indian custodian if the child is living with an Indian person, the child's grandparents, and great-grandparents by taking the following steps:
(Comments are invited on appropriate steps)
2. Contact the child's parents, child's Indian custodian if the child is living with an Indian person, the child's grandparents, and great-grandparents and ask them these questions:
 - a. Is the child a member of a tribe, and if they think he or she might be, then which tribe or tribes?
 - b. Are they members of a tribe, and if they think they might be, which tribes?
 - c. Does the child or his or her parents live in Indian country?
 - d. Does the child or any of his or her relatives receive services or benefits from a tribe, and if yes, which tribe?
3. If you are in touch with any of the child's relatives, ask them the same questions.

The court clerk's office will not let you file your petition without this form, so you must fill it out completely and attach it to your petition.

ICWA-030, *Notice of Child Custody Proceeding for Indian Child*

After taking the steps to find out if the child is an Indian child, if you have reason to know that the child is an Indian child, then you (or the court investigator if you are related to the child and you are asking the court to appoint you as the child's guardian) must let the child's tribe or tribes know about the case. If you let the tribe or tribes know, they can investigate and let you and the court know if the child is in fact an Indian child and also the child's tribe can then decide whether to get involved in the case or assume tribal jurisdiction.

Tips on figuring out if you have reason to know the child is an Indian child

1. If the child, an Indian tribe, an Indian organization, an attorney, a public or private agency, or a member of the child's extended family says or provides information to anyone involved in the case that the child is an Indian child;
2. If the child, the child's parents, or an Indian custodian live in a predominately Indian community; or
3. If the child or the child's family has received services or benefits from a tribe or services that are available to Indians from tribes or the federal government, such as the Indian Health Service.

Who do you need to notify?

If you have reason to know that the child is an Indian child, then you must give notice to the following:

1. Child's parents (biological parents, not adoptive parents unless the adoptive parent is an Indian person);
2. Child's Indian custodian (if the child is living with an Indian person who has legal custody of the child under tribal law or custom or under state law, or if the parent asked the Indian custodian to take care of the child);
3. Child's tribe or tribes; and
4. Area Director, Bureau of Indian Affairs, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825 (if the parents, Indian custodian, or tribe cannot be determined or located).

Tip on how to find the address for the child's tribe or tribes:

The Secretary of the Interior updates and publishes in the Federal Register a list of tribe names and addresses. The Bureau of Indian Affairs also keeps a list. The best source is a list maintained by the state Department of Child Services on their Web site at: www.childsworld.ca.gov/Res/pdf/alphatribe.doc

Be sure to complete ICWA-030, *Notice of Child Custody Proceeding for Indian Child*, and file the form with the court.

Copy to the Secretary of the Interior

If you know who and where the parents, Indian custodians, and the child's tribe are, then you must also send a copy of the notice to the Secretary of the Interior at 1849 C Street, N.W., Washington, D.C. 20240.

How do you notify everyone and prove to the court that you have?

If you do not have an attorney and are representing yourself, the court clerk will do this for you.

If you do have an attorney, it is important that your attorney or you follow these steps exactly:

1. Someone over 18—not you or anyone else who signed the petition—needs to go to the post office and send by registered or certified mail, with return receipt requested the following forms:
 - a. Petition;
 - b. ICWA-010(A), *Indian Child Inquiry Attachment*; and
 - c. ICWA-030, *Notice of Child Custody Proceeding for Indian Child*.
2. The person who did step (1) above, must fill out the information requested on page 7 of form, ICWA-030, *Notice of Child Custody Proceeding for Indian Child*.
3. Go to the clerk's office and file with the court your proof that you have given notice to everyone listed above and on page 7 of ICWA-030, *Notice of Child Custody Proceeding for Indian Child*. Your proof must consist of the following:
 - a. Copies of what you sent (the petition, ICWA-010(A), *Indian Child Inquiry Attachment*, and ICWA-030, *Notice of Child Custody Proceeding for Indian Child*);
 - b. All return receipts (these are the green slips the post office gives you); and
 - c. All responses you receive from the child's parents, the child's Indian custodian, the child's tribe or tribes, and the Bureau of Indian Affairs.

CHILD'S NAME: _____	CASE NUMBER:
----------------------------	----------------------

1. Name of child:

Indian child inquiry made or not made and (check all that apply):

- a. The child is a member of or eligible for membership in a tribe.
- b. The child's parents, grandparents, or great-grandparents are or were a member of a tribe.
- c. The residence or domicile of the child, child's parents, or Indian custodian is in a predominantly Indian community.
- d. The child or the child's family has received services or benefits from a tribe or services that are available to Indians from tribes or the federal government, such as the Indian Health Service.

2. Name of child:

Indian child inquiry made or not made and (check all that apply):

- a. The child is a member of or eligible for membership in a tribe.
- b. The child's parents, grandparents, or great-grandparents are or were a member of a tribe.
- c. The residence or domicile of the child, child's parents, or Indian custodian is in a predominantly Indian community.
- d. The child or the child's family has received services or benefits from a tribe or services that are available to Indians from tribes or the federal government, such as the Indian Health Service.

3. Name of child:

Indian child inquiry made or not made and (check all that apply):

- a. The child is a member of or eligible for membership in a tribe.
- b. The child's parents, grandparents, or great-grandparents are or were a member of a tribe.
- c. The residence or domicile of the child, child's parents, or Indian custodian is in a predominantly Indian community.
- d. The child or the child's family has received services or benefits from a tribe or services that are available to Indians from tribes or the federal government, such as the Indian Health Service.

4. Name of child:

Indian child inquiry made or not made and (check all that apply):

- a. The child is a member of or eligible for membership in a tribe.
- b. The child's parents, grandparents, or great-grandparents are or were a member of a tribe.
- c. The residence or domicile of the child, child's parents, or Indian custodian is in a predominantly Indian community.
- d. The child or the child's family has received services or benefits from a tribe or services that are available to Indians from tribes or the federal government, such as the Indian Health Service.

5. Name of child:

Indian child inquiry made or not made and (check all that apply):

- a. The child is a member of or eligible for membership in a tribe.
- b. The child's parents, grandparents, or great-grandparents are or were a member of a tribe.
- c. The residence or domicile of the child, child's parents, or Indian custodian is in a predominantly Indian community.
- d. The child or the child's family has received services or benefits from a tribe or services that are available to Indians from tribes or the federal government, such as the Indian Health Service.

See attached list of additional children.

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, State Bar number, and address</i>): TELEPHONE NO.: _____ FAX NO. (<i>Optional</i>): _____ E-MAIL ADDRESS (<i>Optional</i>): _____ ATTORNEY FOR (<i>Name</i>): _____	<p style="text-align: center;"><i>FOR COURT USE ONLY</i></p> <p style="text-align: center;">DRAFT 3 03/20/07 xyz Not approved by the Judicial Council</p>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
CHILD'S NAME:	
PARENTAL NOTIFICATION OF INDIAN STATUS	

To the parent or guardian of the above named child: you are required to give the information requested below regarding the child's Indian status. If new information becomes available that would change your answers, you must let your attorney and the social worker or probation officer know immediately and an updated form must be filed with the court.

1. Name:
2. Relationship to child:
3. a. I am or may be a member of, or eligible for membership in, a federally recognized Indian tribe.
 Name of tribe (*name each*): _____.
- b. I may have Indian ancestry.
- c. The child is or may be a member of, or eligible for membership in, a federally recognized Indian tribe.
 Name of tribe (*name each*): _____.
- d. I have no Indian ancestry as far as I know.
4. A previous form ICWA-020 has has not been filed with the court.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

(TYPE OR PRINT NAME)
(SIGNATURE)

Note: This form is not intended to constitute a complete inquiry into Indian heritage. Further inquiry may be required by the Indian Child Welfare Act.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <hr/> TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY DRAFT 9 03/20/07 mc Not Approved by the Judicial Council		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: TELEPHONE NO.:			
CASE NAME:			
NOTICE OF CHILD CUSTODY PROCEEDING FOR INDIAN CHILD (check all that apply): <input type="checkbox"/> JUVENILE <input type="checkbox"/> Dependency <input type="checkbox"/> Delinquency <input type="checkbox"/> ADOPTION <input type="checkbox"/> CONSERVATORSHIP* <input type="checkbox"/> CUSTODY (Fam. Code, § 3041) <input type="checkbox"/> DECLARATION OF FREEDOM FROM CONTROL OF PARENT <input type="checkbox"/> GUARDIANSHIP <input type="checkbox"/> TERMINATION OF PARENTAL RIGHTS <input type="checkbox"/> VOLUNTARY RELINQUISHMENT OF CHILD BY PARENT	CASE NUMBER: <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:70%; padding: 2px;">HEARING DATE:</td> <td style="width:30%; padding: 2px;">DEPT.:</td> </tr> </table>	HEARING DATE:	DEPT.:
HEARING DATE:	DEPT.:		

NOTICE TO (check all that apply):

- Parents or Legal Guardians Tribes Indian Custodians Pacific Area Director, BIA
 Secretary of the Interior

1. NOTICE is given that based on the petition for (specify):

a copy of which is attached to this notice, a child custody proceeding under the Indian Child Welfare Act (25 U.S.C. § 1901 et seq.) for the following child:

<u>Name</u>	<u>Date of Birth</u>	<u>Place of Birth</u>
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2. Is set for hearing as follows:

a. Date:	Time:	<input type="checkbox"/> Dept.:	<input type="checkbox"/> Room:	<input type="checkbox"/> Type of hearing:
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b. Address of court same as noted above is (specify):

3. The child is or may be eligible for membership in the following Indian tribes (list each):

*Use this form in a conservatorship only if the proposed conservatee is a formerly married minor.

CASE NAME:	CASE NUMBER:
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4. Under the Indian Child Welfare Act (ICWA) and California law:

- a. The child's parents, Indian custodian, and the child's tribe have the right to be present at all hearings.
- b. The child's parents, Indian custodians, and the child's tribe have the right to intervene in the proceedings when ICWA applies.
- c. The child's parent, Indian custodians, or tribe may petition the court to transfer the case to the tribal court of the Indian child's tribe. The child's parent or tribe also have the right to refuse to have the case transferred to the tribal court.
- d. If the child's parent, Indian custodians, or tribe requests it, the court will permit the hearing to be held up to 20 days after the receipt of this notice.
- e. The proceedings could lead to the removal of the child from the custody of the parent or Indian custodian and possible adoption of the child.
- f. If the child's parents or Indian custodians have a right to be represented by a lawyer and if they cannot afford to hire one, a lawyer will be appointed for them.
- g. The information contained in this notice and all attachments is confidential. Any person or entity receiving this information must maintain the confidentiality of this information and not reveal it to anyone who does not need the information in order to exercise the tribe's rights under the Indian Child Welfare Act (25 U.S.C. § 1901 et seq.)
- h. An Indian custodian is any person who has legal custody of the child under tribal law or custom or state law, or to whom temporary physical custody, care, and control of the child has been transferred by a parent.

5. INFORMATION ON THE CHILD NAMED IN 1

- a. The child's birth certificate is attached unavailable
- b. Biological relative information is listed below. *(Indicate if any of the information requested below is unknown or does not apply. Do not use the abbreviation "N/A".) (Required by Fam. Code, § 180; Prob. Code, § 1460.2; and Welf. & Inst. Code, § 224.2.)*

Biological Mother	Biological Father
Name <i>(include maiden, married, and former names or aliases)</i> :	Name <i>(include former names or aliases)</i> :
Current and former address:	Current and former address:
Birth date and place:	Birth date and place:
Tribe, band, and location:	Tribe, band, and location:
Enrollment number or BIA/tribal agency, if known:	Enrollment number or BIA/tribal agency, if known:
If deceased, date and place of death:	If deceased, date and place of death:
Additional information:	Additional information:

CASE NAME:	CASE NUMBER:
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5. b. **INFORMATION ON THE CHILD NAMED IN 1**

(Indicate if any of the information requested below is unknown or does not apply; do not use the abbreviation "N/A".)

Mother's Mother (Child's Maternal Grandmother)	Father's Mother (Child's Paternal Grandmother)
Name <i>(include maiden, married, and former names or aliases):</i>	Name <i>(include maiden, married, and former names or aliases):</i>
Current and former address:	Current and former address:
Birth date and place:	Birth date and place:
Tribe, band, and location:	Tribe, band, and location:
Enrollment number or BIA/tribal agency, if known:	Enrollment number or BIA/tribal agency, if known:
If deceased, date and place of death:	If deceased, date and place of death:

Mother's Father (Child's Maternal Grandfather)	Father's Father (Child's Paternal Grandfather)
Name <i>(include former names or aliases):</i>	Name <i>(include former names or aliases):</i>
Current and former address:	Current and former address:
Birth date and place:	Birth date and place:
Tribe, band, and location:	Tribe, band, and location:
Enrollment number or BIA/tribal agency, if known:	Enrollment number or BIA/tribal agency, if known:
If deceased, date and place of death:	If deceased, date and place of death:

CASE NAME:	CASE NUMBER:
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5. c. INFORMATION ON THE CHILD NAMED IN 1

(Indicate if any of the information requested below is unknown or does not apply; do not use the abbreviation "N/A".)

Mother's Grandmother (Child's Maternal Great-grandmother)	Father's Grandmother (Child's Paternal Great-grandmother)
Name <i>(include maiden, married, and former names or aliases):</i>	Name <i>(include maiden, married, and former names or aliases):</i>
Current and former address:	Current and former address:
Birth date and place:	Birth date and place:
Tribe, band, and location:	Tribe, band, and location:
Enrollment number or BIA/tribal agency, if known:	Enrollment number or BIA/tribal agency, if known:
If deceased, date and place of death:	If deceased, date and place of death:

Mother's Grandfather (Child's Maternal Great-grandfather)	Father's Grandfather (Child's Paternal Great-grandfather)
Name <i>(include former names or aliases):</i>	Name <i>(include former names or aliases):</i>
Current and former address:	Current and former address:
Birth date and place:	Birth date and place:
Tribe, band, and location:	Tribe, band, and location:
Enrollment number or BIA/tribal agency, if known:	Enrollment number or BIA/tribal agency, if known:
If deceased, date and place of death:	If deceased, date and place of death:

CASE NAME:	CASE NUMBER:
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5. d. INFORMATION ON THE CHILD NAMED IN 1

(Indicate if any of the information requested below is unknown or does not apply; do not use the abbreviation "N/A".)

Indian Custodian Information	Indian Custodian Information
Name <i>(include maiden, married, and former names or aliases):</i>	Name <i>(include maiden, married, and former names or aliases):</i>
Current and former address:	Current and former address:
Birth date and place:	Birth date and place:
Tribe, band, and location:	Tribe, band, and location:
Enrollment number or BIA/tribal agency, if known:	Enrollment number or BIA/tribal agency, if known:

6. ADDITIONAL INFORMATION ON CHILD NAMED IN 1

(Indicate if any of the information requested below is unknown.)

- a. Biological birth father is named on birth certificate. Unknown
- b. Biological birth father has acknowledged parentage. Unknown
- c. There has been a judicial declaration of parentage. Unknown
- d. Other alleged father *(name each):*

Unknown

The following optional questions may be helpful in tracing the ancestry of the child in 1.

7. Has the child in 1 or any members of his or her family ever *(if "yes," provide the information requested below):*

- a. Attended an Indian school? Yes No Unknown

Name/relationship to child	Type of school	Dates attended	Name and location of school

CASE NAME:	CASE NUMBER:
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b. Received medical treatment at an Indian health clinic or U.S. Public Health Service hospital?

Yes No Unknown

Name/relationship to child	Type of treatment	Dates of treatment	Location where treatment given

c. Lived on federal trust land, a reservation or rancheria, or an allotment? Yes No Unknown

Name/relationship to child	Name/description of property and address	Dates of residence

d. Other relative information (i.e., uncle or siblings)

Name/relationship to child	Current and former address	Birth date and place	Tribe, band, and location

8. Tribal affiliation and location of child in 1 (check all that apply):

- a. 1906 Final Roll Name of relative listed on roll:
Relationship to child in 1:

- b. Roll of 1924 Name of relative listed on roll:
Relationship to child in 1:

- c. California Judgment Roll. Roll number, if known:

CASE NAME:	CASE NUMBER:
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9. Additional party information (list the name, location, and telephone number of all parties notified) :

<u>Name</u>	<u>Location</u>	<u>Telephone Number</u>
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DECLARATION

(To be completed, dated, and signed in all cases by each petitioner named in attached petition.)

I am the petitioner or we are all of the petitioners in this proceeding. In response to items 5–9 of this form, I/we have given all information I/we have about the relatives and, if applicable, the Indian custodian, of the child named in item 1 of this form.

I/We declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.

Date: _____

(TYPE OR PRINT NAME)

▶

(SIGNATURE)

Date: _____

(TYPE OR PRINT NAME)

▶

(SIGNATURE)

Date: _____

(TYPE OR PRINT NAME)

▶

(SIGNATURE)

CASE NAME:	CASE NUMBER:
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CERTIFICATE OF MAILING—JUVENILE COURT PROCEEDINGS
(To be completed by social worker, probation officer, or clerk of juvenile court.)

I certify that a copy of the *Notice of Child Custody Proceeding for Indian Child*, with a copy of the petition identified on page 1 of this form, was mailed as follows. Each copy was enclosed in an envelope with postage for registered or certified mail, return receipt requested, fully prepaid. The envelopes were addressed to each person, tribe, or agency as indicated below. (Except that the telephone numbers shown below were not placed on the envelopes. They are shown below because they must be disclosed in the *Notice* under Family Code section 180, Probate Code section 1460.2, and Welfare and Institutions Code section 224.2.) Each envelope was sealed and deposited with the United States Postal Service at *(place)*:
on *(date)*:


Date: _____ Title: _____ Department: _____

_____  _____
(TYPE OR PRINT NAME) (SIGNATURE)

DECLARATION OF MAILING—ADOPTION, FAMILY LAW, AND PROBATE PROCEEDINGS
(To be completed by the attorney for Petitioner if Petitioner is represented.)

I am an attorney at law, admitted to practice in the courts of the State of California, and attorney for Petitioner in this matter. I declare that a copy of the *Notice of Child Custody Proceeding for Indian Child*, with a copy of the petition identified on page 1 of this form, was mailed as follows. Each copy was enclosed in an envelope with postage for registered or certified mail, return receipt requested, fully prepaid. The envelopes were addressed to each person, tribe, or agency as indicated below. (Except that the telephone numbers shown below were not placed on the envelopes. They are shown below because they must be disclosed in the *Notice* under Family Code section 180, Probate Code section 1460.2, and Welfare and Institutions Code section 224.2.) Each envelope was sealed and deposited with the United States Postal Service at *(place)*:
on *(date)*:


I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.
Date: _____

_____  _____
(TYPE OR PRINT NAME) (SIGNATURE OF ATTORNEY)

CERTIFICATE OF MAILING—ADOPTION, FAMILY LAW, AND PROBATE PROCEEDINGS
(To be completed by the clerk of the court if Petitioner is unrepresented.)

I certify that a copy of the *Notice of Child Custody Proceeding for Indian Child*, with a copy of the petition, was mailed as follows. Each copy was enclosed in an envelope with postage for registered or certified mail, return receipt requested, fully prepaid. The envelopes were addressed to each person, tribe, or agency as indicated below. (Except that the telephone numbers shown below were not placed on the envelopes. They are shown below because they must be disclosed in the *Notice* under Family Code section 180, Probate Code section 1460.2, and Welfare and Institutions Code section 224.2.) Each envelope was sealed and deposited with the United States Postal Service at *(place)*:
on *(date)*:

Date: _____ Title: _____ Department: _____

_____  _____
(TYPE OR PRINT NAME) (SIGNATURE)

This form and all return receipts must be filed with the court.

CASE NAME:	CASE NUMBER:
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**NAMES, ADDRESSES, AND TELEPHONE NUMBERS OF ALL PERSONS,
TRIBES, OR AGENCIES TO WHOM NOTICE WAS MAILED**

<p>1. <input type="checkbox"/> Parent (<i>Name</i>): </p> <p style="margin-left: 20px;">Street address: Mailing address: City and zip code: Telephone number:</p>	<p>2. <input type="checkbox"/> Parent (<i>Name</i>): </p> <p style="margin-left: 20px;">Street address: Mailing address: City and zip code: Telephone number:</p>
<p>3. <input type="checkbox"/> Guardian (<i>Name</i>): </p> <p style="margin-left: 20px;">Street address: Mailing address: City and zip code: Telephone number:</p>	<p>4. <input type="checkbox"/> Guardian (<i>Name</i>): </p> <p style="margin-left: 20px;">Street address: Mailing address: City and zip code: Telephone number:</p>
<p>5. <input type="checkbox"/> Indian Custodian (<i>Name</i>): </p> <p style="margin-left: 20px;">Street address: Mailing address: City and zip code: Telephone number:</p>	<p>6. <input type="checkbox"/> Indian Custodian (<i>Name</i>): </p> <p style="margin-left: 20px;">Street address: Mailing address: City and zip code: Telephone number:</p>
<p>7. <input type="checkbox"/> Pacific Area Director Bureau of Indian Affairs</p> <p style="margin-left: 20px;">Street address: 2800 Cottage Way City and zip code: Sacramento, CA 95825 Telephone number:</p>	<p>8. <input type="checkbox"/> Secretary of the Interior U.S. Department of the Interior</p> <p style="margin-left: 20px;">Street address: 1849 C Street, N.W. City and zip code: Washington D.C. 20240 Telephone number:</p>
<p>9. <input type="checkbox"/> Tribe (<i>Name</i>): </p> <p style="margin-left: 20px;">Addressee (<i>Name</i>): Title: Street address: Mailing address: City and zip code: Telephone number:</p>	<p>10. <input type="checkbox"/> Tribe (<i>Name</i>): </p> <p style="margin-left: 20px;">Addressee (<i>Name</i>): Title: Street address: Mailing address: City and zip code: Telephone number:</p>
<p>11. <input type="checkbox"/> Tribe (<i>Name</i>): </p> <p style="margin-left: 20px;">Addressee (<i>Name</i>): Title: Street address: Mailing address: City and zip code: Telephone number:</p>	<p>12. <input type="checkbox"/> Tribe (<i>Name</i>): </p> <p style="margin-left: 20px;">Addressee (<i>Name</i>): Title: Street address: Mailing address: City and zip code: Telephone number:</p>

Additional tribes served listed on attached form ICWA-030(A)

CASE NAME:	CASE NUMBER:
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ATTACHMENT TO NOTICE OF CHILD CUSTODY PROCEEDING FOR INDIAN CHILD

(This attachment may be used with form ICWA-030 to show additional tribes or bands served with the Notice)

**NAMES, ADDRESSES, AND TELEPHONE NUMBERS OF ALL PERSONS, TRIBES,
OR AGENCIES TO WHOM NOTICE WAS MAILED (Continued)**

<input type="checkbox"/> Tribe (Name): Addressee (Name): Title: Street address: Mailing address: City and zip code: Telephone number:		<input type="checkbox"/> Tribe (Name): Addressee (Name): Title: Street address: Mailing address: City and zip code: Telephone number:	
<input type="checkbox"/> Tribe (Name): Addressee (Name): Title: Street address: Mailing address: City and zip code: Telephone number:		<input type="checkbox"/> Tribe (Name): Addressee (Name): Title: Street address: Mailing address: City and zip code: Telephone number:	
<input type="checkbox"/> Tribe (Name): Addressee (Name): Title: Street address: Mailing address: City and zip code: Telephone number:		<input type="checkbox"/> Tribe (Name): Addressee (Name): Title: Street address: Mailing address: City and zip code: Telephone number:	
<input type="checkbox"/> Tribe (Name): Addressee (Name): Title: Street address: Mailing address: City and zip code: Telephone number:		<input type="checkbox"/> Tribe (Name): Addressee (Name): Title: Street address: Mailing address: City and zip code: Telephone number:	

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, State Bar number, and address</i>): TELEPHONE NO.: _____ FAX NO. (<i>Optional</i>): _____ E-MAIL ADDRESS (<i>Optional</i>): _____ ATTORNEY FOR (<i>Name</i>): _____	FOR COURT USE ONLY DRAFT 6 03/20/07 mc Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	
NOTICE OF DESIGNATION OF TRIBAL REPRESENTATIVE AND NOTICE OF INTERVENTION IN A COURT PROCEEDING INVOLVING AN INDIAN CHILD	CASE NUMBER:
	RELATED CASES (<i>if any</i>):

TO ALL PARTIES:

1. I represent the (*name of tribe*): _____, which is a federally recognized Indian tribe listed in the Federal Register.
2. The above named child or children are:
 - Members of this tribe
 - Eligible for membership in this tribe and their Mother Father is a member of this tribe.
3. Under the Indian Child Welfare Act, the tribe designates (*specify name and title*): _____ as the tribe's representative and authorizes that person under the attached tribal resolution other official tribal document for the following purposes:
 - a. to receive notice of hearings;
 - b. to be present at hearings;
 - c. to address the court;
 - d. to examine all court documents relating to the case;
 - e. to submit written reports and recommendations to the court;
 - f. to request transfer of the foster care case to the tribe's jurisdiction; and
 - g. to intervene at any point in a proceeding when it is determined the act applies.
4. The tribe is formally intervening as a party and is entitled to be treated in the same manner as counsel.
5. The tribe does not formally intervene at this time but requests that notice of all proceedings continue to be sent to the tribe.
6. The tribe requests that notice of all proceedings be sent to the above named tribal representative at the contact information below:

Name: _____
 Title: _____
 Address: _____
 City, state, zip code: _____
 Telephone: _____ Fax: _____
7. The tribe requests does not request an additional notice be sent to the tribal council at the contact information below:

Name: _____
 Title: _____
 Address: _____
 City, state, zip code: _____
 Telephone: _____ Fax: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.

Date:

_____ (TYPE OR PRINT NAME) ▶ _____ (SIGNATURE)

CHILD'S NAME: _____	CASE NUMBER: _____
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PROOF OF SERVICE

ICWA-040, the *Notice of Designation of Tribal Representative and Notice of Intervention in a Court Proceeding Involving an Indian Child* must be served on the other parties or attorneys for the parties. Anyone at least 18 years of age EXCEPT A PARTY in this action may personally serve or mail the notice. The person who serves the notice must fill out and sign this proof of service. ICWA-040, the *Notice of Designation of Tribal Representative and Notice of Intervention in a Court Proceeding Involving an Indian Child* cannot be filed with the court until all the parties or attorneys are served.

1. At the time of service I was at least 18 years of age and not a party to the legal action.
2. I served a copy of form ICWA-040 and all attachments as follows (*check either a or b below for each person served*):
 - a. **Personal service.** I personally delivered a copy of form ICWA-040 and all attachments as follows:

<input type="checkbox"/> (1) Name of child's attorney (<i>if applicable</i>) served: (a) Address: (b) Date of deposit: (c) Place of deposit:	<input type="checkbox"/> (2) Name of <input type="checkbox"/> parent (<i>if self-represented</i>) or <input type="checkbox"/> parent's attorney (<i>if applicable</i>) served: (a) Address: (b) Date of deposit: (c) Place of deposit:
<input type="checkbox"/> (3) Name of CASA (<i>if applicable</i>) served: (a) Address: (b) Date of deposit: (c) Place of deposit:	<input type="checkbox"/> (4) Name of <input type="checkbox"/> social worker (<i>dependency only</i>) or <input type="checkbox"/> probation officer (<i>delinquency only</i>) served: (a) Address: (b) Date of deposit: (c) Place of deposit:
<input type="checkbox"/> (5) Name of <input type="checkbox"/> child's caregiver or <input type="checkbox"/> Indian custodian served: (a) Address: (b) Date of deposit: (c) Place of deposit:	<input type="checkbox"/> (6) Attorney for child welfare services agency (<i>dependency only</i>) served: (a) Address: (b) Date of deposit: (c) Time of deposit:
<input type="checkbox"/> (7) Name of <input type="checkbox"/> parent (<i>if self-represented</i>) or <input type="checkbox"/> parent's attorney (<i>if applicable</i>) served: (a) Address: (b) Date of deposit: (c) Place of deposit:	<input type="checkbox"/> (8) Attorney for probation department (<i>delinquency only</i>) served: (a) Address: (b) Date of deposit: (c) Time of deposit:

CHILD'S NAME: 	CASE NUMBER:
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b. **Mail.** I deposited a copy of form ICWA-040 and all attachments in the United States mail, in a sealed envelope with postage fully prepaid, addressed as follows:

(1) Name of child's attorney (if applicable) served:

(2) Name of parent (if self-represented) or parent's attorney (if applicable) served:

(a) Address:

(a) Address:

(b) Date of deposit:

(b) Date of deposit:

(c) Place of deposit:

(c) Place of deposit:

(3) Name of CASA (if applicable) served:

(4) Name of social worker (dependency only) or probation officer (delinquency only) served:

(a) Address:

(a) Address:

(b) Date of deposit:

(b) Date of deposit:

(c) Place of deposit:

(c) Place of deposit:

(5) Name of child's caregiver or Indian custodian served:

(6) Attorney for child welfare services agency (dependency only) served:

(a) Address:

(a) Address:

(b) Date of deposit:

(b) Date of deposit:

(c) Place of deposit:

(c) Time of deposit:

(7) Name of parent (if self-represented) or parent's attorney (if applicable) served:

(8) Attorney for probation department (delinquency only) served:

(a) Address:

(a) Address:

(b) Date of deposit:

(b) Date of deposit:

(c) Place of deposit:

(c) Time of deposit:

c. **Attachment.** If there are additional persons to serve, attach a separate piece of paper to form ICWA-040, write the child's name and case number on the top, and list additional persons' names, addresses, dates of delivery or deposit, times of delivery or deposit, and whether service was made personally or by mail.

I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF PERSON WHO SERVED NOTICE)

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i> TELEPHONE NO.: _____ FAX NO. <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____ ATTORNEY FOR <i>(Name):</i> _____	FOR COURT USE ONLY DRAFT 6 03/20/07 xyz Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	
NOTICE OF PETITION AND PETITION TO TRANSFER CASE INVOLVING AN INDIAN CHILD TO TRIBAL JURISDICTION	CASE NUMBER: RELATED CASES <i>(if any):</i>

TO ALL PARTIES:

1. A hearing on this petition will be held as follows:

a. Date:	Time:	Dept.:	Room:
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b. Address of court: same as noted above other *(specify):*

2. Child's name: _____ Date of birth: _____

3. On behalf of the parent Indian custodian child's tribe, I ask the court to transfer jurisdiction over the above named child's case to the jurisdiction of the tribe listed below:

Name of federally recognized tribe:

Name of tribal court:

Street address:

Mailing address of court:

City, state, and zip code:

Telephone:

Fax:

Attention:

I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.

Date:

 (TYPE OR PRINT NAME)

▶

 (SIGNATURE OF DECLARANT)

CHILD'S NAME: 	CASE NUMBER:
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PROOF OF SERVICE

ICWA-050, the *Notice of Petition and Petition to Transfer Case Involving an Indian Child to Tribal Jurisdiction* must be served on all other parties or attorneys for the parties. After getting a hearing date from the court clerk and completing the form, anyone at least 18 years of age EXCEPT A PARTY in this action may personally serve or mail the request. The person who serves the notice must fill out and sign the proof of service. This form cannot be filed with the court until all the parties or their attorneys are served. A request to transfer cannot be heard for juvenile dependency cases until after the JV-100 or JV-110, *Juvenile Dependency Petition* has been filed, for juvenile delinquency cases not until after the jurisdiction hearing, and for probate cases not until after jurisdiction hearing.

1. At the time of service I was at least 18 years of age and not a party to the legal action.
2. I served a copy of form ICWA-050 and all attachments as follows (*check either a or b below for each person served*):
 - a. **Personal service.** I personally delivered a copy of form ICWA-050 and all attachments as follows:

<input type="checkbox"/> (1) Name of child's attorney (<i>if applicable</i>) served: (a) Address: (b) Date of deposit: (c) Place of deposit: <input type="checkbox"/> (3) Name of CASA (<i>if applicable</i>) served: (a) Address: (b) Date of deposit: (c) Place of deposit:	<input type="checkbox"/> (2) Name of <input type="checkbox"/> parent (<i>if self-represented</i>) or <input type="checkbox"/> parent's attorney (<i>if applicable</i>) served: (a) Address: (b) Date of deposit: (c) Place of deposit: <input type="checkbox"/> (4) Name of <input type="checkbox"/> social worker (<i>dependency only</i>) or <input type="checkbox"/> probation officer (<i>delinquency only</i>) served: (a) Address: (b) Date of deposit: (c) Place of deposit:
<input type="checkbox"/> (5) Name of <input type="checkbox"/> child's caregiver or <input type="checkbox"/> Indian custodian served: (a) Address: (b) Date of deposit: (c) Place of deposit:	<input type="checkbox"/> (6) Attorney for child welfare services agency (<i>dependency only</i>) served: (a) Address: (b) Date of deposit: (c) Time of deposit:
<input type="checkbox"/> (7) Name of <input type="checkbox"/> parent (<i>if self-represented</i>) or <input type="checkbox"/> parent's attorney (<i>if applicable</i>) served: (a) Address: (b) Date of deposit: (c) Place of deposit:	<input type="checkbox"/> (8) Attorney for probation department (<i>delinquency only</i>) served: (a) Address: (b) Date of deposit: (c) Time of deposit:

CHILD'S NAME: _____	CASE NUMBER: _____
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b. **Mail.** I deposited a copy of form ICWA-050 and all attachments in the United States mail, in a sealed envelope with postage fully prepaid, addressed as follows:

(1) Name of child's attorney (*if applicable*) served: (2) Name of parent (*if self-represented*) or parent's attorney (*if applicable*) served:

(a) Address: (a) Address:

(b) Date of deposit: (b) Date of deposit:

(c) Place of deposit: (c) Place of deposit:

(3) Name of CASA (*if applicable*) served: (4) Name of social worker (*dependency only*) or probation officer (*delinquency only*) served:

(a) Address: (a) Address:

(b) Date of deposit: (b) Date of deposit:
(c) Place of deposit: (c) Place of deposit:

(5) Name of child's caregiver or Indian custodian served: (6) Attorney for child welfare services agency (*dependency only*) served:

(a) Address: (a) Address:
(b) Date of deposit: (b) Date of deposit:
(c) Place of deposit: (c) Time of deposit:

(7) Name of parent (*if self-represented*) or parent's attorney (*if applicable*) served: (8) Attorney for probation department (*delinquency only*) served:

(a) Address: (a) Address:
(b) Date of deposit: (b) Date of deposit:
(c) Place of deposit: (c) Time of deposit:

c. **Attachment.** If there are additional persons to serve, attach a separate piece of paper to form ICWA-050, write the child's name and case number on the top, and list additional persons' names, addresses, dates of delivery or deposit, times of delivery or deposit, and whether service was made personally or by mail.

I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.

Date:

(TYPE OR PRINT NAME)

▶

(SIGNATURE OF PERSON WHO SERVED NOTICE)

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, State Bar number, and address</i>): TELEPHONE NO.: _____ FAX NO. (<i>Optional</i>): _____ E-MAIL ADDRESS (<i>Optional</i>): _____ ATTORNEY FOR (<i>Name</i>): _____	FOR COURT USE ONLY DRAFT 7 03/20/07 xyz Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	
ORDER ON PETITION TO TRANSFER CASE INVOLVING AN INDIAN CHILD TO TRIBAL JURISDICTION	CASE NUMBER: RELATED CASES (<i>if any</i>):

1. Child's name: _____ Date of birth: _____
2. a. Date of hearing: _____ Time: _____ Dept.: _____ Room: _____
- b. Persons present:
- | | | |
|--|---|--|
| <input type="checkbox"/> Child | <input type="checkbox"/> Parent (<i>name</i>): | <input type="checkbox"/> Parent's attorney |
| <input type="checkbox"/> Child's attorney | <input type="checkbox"/> Parent (<i>name</i>): | <input type="checkbox"/> Parent's attorney |
| <input type="checkbox"/> Probation officer/social worker | <input type="checkbox"/> Guardian | <input type="checkbox"/> CASA |
| <input type="checkbox"/> Deputy county counsel | <input type="checkbox"/> Deputy district attorney | <input type="checkbox"/> Other: |
3. The court has read and considered the
- ICWA-050, *Notice of Petition and Petition to Transfer Case Involving an Indian Child to Tribal Jurisdiction*
- Other relevant evidence (*specify*): _____
4. **THE COURT FINDS AND ORDERS** under 25 U.S.C. § 1911; Welfare and Institutions Code, § 305.5, Family Code, § 177(a), Probation Code, § 459.5(b)
- a. The child's case is ordered transferred to the jurisdiction of the tribe listed below:
 Name of tribe: _____
 Address: _____
- (1) Proof that the tribal court accepts transfer of jurisdiction is attached.
- (2) Physical custody of the child is transferred to a designated representative of the tribal court listed below:
 Name: _____
 Title: _____
 Address: _____
 Telephone number: _____
- b. The petition to transfer is denied because one of the following circumstances exist:
- (1) One or both of the child's parents opposes the transfer.
 Name of opposing parent: _____
- (2) The child's tribe does not have a tribal court as defined in 25 U.S.C. § 1903.
- (3) The tribal court of the child's tribe declines the transfer.

CHILD'S NAME: _____	CASE NUMBER: _____
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- c. The petition to transfer is denied because good cause exists not to transfer the case.
- (1) Name of opposing party: _____ has submitted in writing to the court and all parties
 - (2) Petitioner has had the opportunity to provide information or evidence in rebuttal of the belief or assertion.
 - (3) The party opposing the transfer has established that good cause not to transfer the proceeding exists as follows:
 - (a) The evidence necessary to decide the case cannot be presented in the tribal court without undue hardship to the parties or the witnesses, and the tribal court is unable to mitigate the hardship by making arrangements to receive and consider the evidence or testimony by use of remote communication, by hearing the evidence or testimony at a location convenient to the parties or witnesses, or by use of other means permitted in the tribal court's rules of evidence or discovery.
 - (b) The proceeding was at an advanced stage when the petition to transfer was received and the petitioner did not file the petition within a reasonable time after receiving notice of the proceeding, provided the notice complied with Welfare and Institution Code, § 224.2.
 - (c) The Indian child is over 12 years of age and objects to the transfer.
 - (d) The parents of the child over five years of age are not available and the child has had little or no contact with the child's tribe or members of the child's tribe.
 - (e) Other

Date: _____

JUDICIAL OFFICER

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY TO BE REVOKED 01/01/08 mc
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
NOTICE OF <input type="checkbox"/> AGENCY <input type="checkbox"/> INDEPENDENT ADOPTION PROCEEDINGS FOR A POSSIBLE INDIAN CHILD	CASE NUMBER:

The recipient of this notice is requested to provide confirmation of the child's Indian status to the social worker or service provider listed in item 5 on this page.

NOTICE is mailed to the following (check all that apply):

Parent Tribe Indian custodian

1. a. Child's name:
 b. Date of birth:
 c. Place of birth (city, state, and, if applicable, reservation):
2. Child may be eligible for membership in the following tribe or band (name each):
3. Please provide confirmation of child's membership or eligibility for membership to the following:
 - a. Name:
 - b. Organization:
 - c. Street address:
 - d. City, state, zip code:

Adoption agency Adoption service provider Attorney for (specify):

4. a. Indian custodian (name each):
 b. Tribe (name each):
5. Social worker or service provider who has witnessed relinquishment or consent:

a. Name:	d. Telephone number:
b. Address:	e. E-mail address:
c. City, state, zip code:	

6. NOTICE OF HEARING

a. Date:	Dept.:	Time:	Type of hearing:
b. Location: <input type="checkbox"/> the above court address <input type="checkbox"/> another address (specify):			

CASE NAME: _____	CASE NUMBER: _____
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7. Under the Indian Child Welfare Act and California law:

- a. The biological or adoptive parents, any Indian custodian, and the child's tribe have the right to be present at all hearings.
- b. The biological or adoptive parents, any Indian custodian, and the child's tribe have the right to intervene in the proceedings.
- c. If the parents or custodians have a right to be represented by a lawyer and if they cannot afford to hire one, a lawyer will be appointed for them.
- d. The date, time, and place of the hearing are shown on the first page of this form.
- e. If all other notices required by law have been given to an Indian tribe, that Indian tribe is encouraged to notify the Department of Social Services and the licensed adoption agency or adoption service provider, no later than five calendar days before the date of the final adoption hearing, whether it intends to intervene in the proceeding, either on its own behalf or on behalf of a tribal member who is a relative of the child.

INFORMATION ON CHILD WHO IS THE SUBJECT OF A VOLUNTARY ADOPTION PROCEEDING

Indicate if any of the information in items 8–18 is unknown or nonapplicable. Attach any information that may be of assistance in determining the child's Indian status, including names and addresses of extended family members who may have Indian heritage.

8. a. <input type="checkbox"/> Mother <input type="checkbox"/> Father	b. <input type="checkbox"/> Mother <input type="checkbox"/> Father
Name (include maiden name, married names, and former names or aliases):	Name (include maiden name, married names, and former names or aliases):
Current or last address known:	Current or last address known:
Date and place of birth:	Date and place of birth:
Tribe, band, and location:	Tribe, band, and location:
If available, enrollment number or BIA/tribal agency:	If available, enrollment number or BIA/tribal agency:
If deceased, date and place of death:	If deceased, date and place of death:
Additional information:	Additional information:

CASE NAME: _____	CASE NUMBER: _____
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9. a. <input type="checkbox"/> Maternal <input type="checkbox"/> Paternal <input type="checkbox"/> grandmother <input type="checkbox"/> grandfather	b. <input type="checkbox"/> Maternal <input type="checkbox"/> Paternal <input type="checkbox"/> grandmother <input type="checkbox"/> grandfather
--	---

Name (include maiden name, married names, and former names or aliases):	Name (include maiden name, married names, and former names or aliases):
---	---

Current or last address known:	Current or last address known:
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Date and place of birth:	Date and place of birth:
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Tribe, band, and location:	Tribe, band, and location:
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If available, enrollment number or BIA/tribal agency:	If available, enrollment number or BIA/tribal agency:
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If deceased, date and place of death:	If deceased, date and place of death:
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Additional information:	Additional information:
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c. <input type="checkbox"/> Maternal <input type="checkbox"/> Paternal <input type="checkbox"/> grandmother <input type="checkbox"/> grandfather	d. <input type="checkbox"/> Maternal <input type="checkbox"/> Paternal <input type="checkbox"/> grandmother <input type="checkbox"/> grandfather
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Name (include maiden name, married names, and former names or aliases):	Name (include maiden name, married names, and former names or aliases):
---	---

Current or last address known:	Current or last address known:
--------------------------------	--------------------------------

Date and place of birth:	Date and place of birth:
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Tribe, band, and location:	Tribe, band, and location:
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If available, enrollment number or BIA/tribal agency:	If available, enrollment number or BIA/tribal agency:
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If deceased, date and place of death:	If deceased, date and place of death:
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Additional information:	Additional information:
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REVOKE

CASE NAME: _____	CASE NUMBER: _____
10. a. <input type="checkbox"/> Maternal <input type="checkbox"/> Paternal <input type="checkbox"/> grandmother <input type="checkbox"/> grandfather	b. <input type="checkbox"/> Maternal <input type="checkbox"/> Paternal <input type="checkbox"/> grandmother <input type="checkbox"/> grandfather
Name (include maiden name, married names, and former names or aliases):	Name (include maiden name, married names, and former names or aliases):
Current or last address known:	Current or last address known:
Date and place of birth:	Date and place of birth:
Tribe, band, and location:	Tribe, band, and location:
If available, enrollment number or BIA/tribal agency:	If available, enrollment number or BIA/tribal agency:
If deceased, date and place of death:	If deceased, date and place of death:
Additional information:	Additional information:
c. <input type="checkbox"/> Maternal <input type="checkbox"/> Paternal <input type="checkbox"/> grandmother <input type="checkbox"/> grandfather	d. <input type="checkbox"/> Maternal <input type="checkbox"/> Paternal <input type="checkbox"/> grandmother <input type="checkbox"/> grandfather
Name (include maiden name, married names, and former names or aliases):	Name (include maiden name, married names, and former names or aliases):
Current or last address known:	Current or last address known:
Date and place of birth:	Date and place of birth:
Tribe, band, and location:	Tribe, band, and location:
If available, enrollment number or BIA/tribal agency:	If available, enrollment number or BIA/tribal agency:
If deceased, date and place of death:	If deceased, date and place of death:
Additional information:	Additional information:

REVOKE

CASE NAME:	CASE NUMBER:
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- 11. Birth father is named on birth certificate. Unknown
- 12. Birth father has acknowledged paternity. Unknown
- 13. There has been a judicial declaration of parentage. Unknown
- 14. Other alleged parent (name each):

The following optional questions may be helpful in tracing the ancestry of any person alleging Indian descent.

15. Have you or any members of your family ever attended an Indian school? Yes No Unknown

Name and relationship to child	Type of school	Dates attended	Location of school

16. Have you or any members of your family ever received medical treatment at an Indian health clinic or U.S. Public Health Service hospital? Yes No Unknown

Name and relationship to child	Type of treatment	Date treatment received	Location of treatment

17. Have you or any members of your family ever lived on federal trust land, a reservation or rancheria, or an allotment? Yes No Unknown

Name and relationship to child	Name and address	Dates living at this address

18. Tribal affiliation and location (check any that apply):

a. 1906 Final Roll Name of relative: _____

The 1906 Final Roll was prepared by the Dawes Commission. Individuals who allege to be of Chickasaw, Creek, Cherokee, Choctaw, or Seminole ancestry from Oklahoma must provide the name of a relative who is listed on the Final Roll of 1906.

b. Roll of 1924 Name of relative: _____

The Roll of 1924 relates to the Eastern Band of Cherokees, who were from states other than Oklahoma (such as North Carolina, Georgia, Mississippi, or another southeastern state). Individuals who allege to be of Eastern Cherokee descent must provide the name of a relative listed on the Roll of 1924.

c. California Judgment Roll Roll number, if available: _____

REVOKE

CASE NAME: _____	CASE NUMBER: _____
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CERTIFICATE OF MAILING

(To be completed by social worker, probation officer, or clerk of juvenile court)

I certify that a copy of the *Notice of Agency or Independent Adoption Proceedings for a Possible Indian Child*, with a copy of the adoption petition, was mailed as follows. Each copy was enclosed in an envelope with postage for registered or certified mail, return receipt requested, fully prepaid. The envelopes were addressed to each person, tribe, and bureau indicated below. Each envelope was sealed and deposited with the United States Postal Service at (*place*): _____ on (*date*): _____

Date: _____

Department: _____

(TYPE OR PRINT NAME)

Title: _____

(SIGNATURE)

This form and any return receipts must be filed with the court.

List all persons, tribes, and agencies that were provided notice, with their full mailing addresses (*attach extra sheets if necessary*):

REVOKE

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY REVOKED January 1, 2008
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
PARENTAL NOTIFICATION OF INDIAN STATUS (Juvenile Court)	CASE NUMBER:

To the parent or guardian of the above-named child: you are required to provide the information requested below regarding the child's Indian status. In the event that new information becomes available that would change your response, you must inform your attorney and the social worker or probation officer immediately and an updated form must be filed with the court.

1. Name: _____
 2. Relationship to child: _____
 3. a. I am or may be a member of, or eligible for membership in, a federally recognized Indian tribe.
 Name of tribe (name each): _____
 - b. I may have Indian ancestry.
 - c. The child is or may be a member of, or eligible for membership in, a federally recognized Indian tribe.
 Name of tribe (name each): _____
 - d. I have no Indian ancestry as far as I know.
4. A previous form JV-130 has has not been filed with the court.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

 (TYPE OR PRINT NAME) ▶ _____
 (Signature)

Note: This form is not intended to constitute a complete inquiry into Indian heritage. Further inquiry may be required by the Indian Child Welfare Act.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY <p style="text-align: center; font-size: 24pt; font-weight: bold;">REVOKED January 1, 2008</p>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
CASE NAME: _____	
NOTICE OF INVOLUNTARY CHILD CUSTODY PROCEEDINGS FOR AN INDIAN CHILD (Juvenile Court)	CASE NUMBER: _____

NOTICE TO (check all that apply):

- Parent
 Tribe
 Indian Custodian
 Bureau of Indian Affairs (BIA)

1. a. Child's name: _____
- b. Date of birth: _____
- c. Place of birth (city, state, and, if applicable, reservation): _____
2. Child is reported to be eligible for membership in the following tribe or band (name each): _____

Based on a petition filed (date): _____, the child has been temporarily placed in the custody of the county welfare department, probation department, or Indian custodian named below:

3. County welfare department (address): _____

4. Probation department (address): _____

5. Indian custodian (name each): _____
 Tribe (name each): _____

6. Name of social worker or probation officer: _____ Telephone number: _____
 E-mail address: _____

HEARING INFORMATION

7. Date of next hearing:	Dept:	Time:	Type of hearing:
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- Located at above address
 Other: _____

REVOKE

CASE NAME: 	CASE NUMBER:
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8. UNDER THE INDIAN CHILD WELFARE ACT AND CALIFORNIA LAW:

- a. The biological or adoptive parents, any Indian custodian, and the child's tribe have the right to be present at all hearings.
- b. The biological or adoptive parents, any Indian custodian, and the child's tribe have the right to intervene in the proceedings.
- c. If the parents or custodians have a right to be represented by a lawyer and if they cannot afford to hire one, a lawyer will be appointed for them.
- d. If the child's tribe, any parent, or any Indian custodian requests it, the court will permit the hearing to be held up to 20 days after receipt of this notice.
- e. The date, time, and place of the hearing are on the first page of this form.
- f. If the tribe has a tribal court, the tribe, any parent, or any Indian custodian of the child may request a transfer of the case to the child's tribal court. They also have the right to refuse to have the case transferred to the tribal court.
- g. The proceedings could lead to the removal of the child from the custody of the parent or Indian custodian and possible adoption of the child.
- h. Juvenile court proceedings are confidential. Information concerning the juvenile court proceedings should be kept confidential.

9. a. INFORMATION ON CHILD WHO IS THE SUBJECT OF AN INVOLUNTARY CUSTODY PROCEEDING
(Indicate if any of the information requested below is unknown or inapplicable.)

Attach any information that might be of assistance in determining the child's Indian status, including names and addresses of extended family members who may have Indian heritage.

<input type="checkbox"/> Mother <input type="checkbox"/> Father	<input type="checkbox"/> Mother <input type="checkbox"/> Father
Name <i>(include maiden, married, and former or aliases)</i> :	Name <i>(include maiden, married, and former or aliases)</i> :
Current and former addresses:	Current and former addresses:
Birthdate and place:	Birthdate and place:
Tribe, band, and location:	Tribe, band, and location:
If available, provide enrollment number or BIA/tribal agency:	If available, provide enrollment number or BIA/tribal agency:
If deceased, date and place of death:	If deceased, date and place of death:
Additional information:	Additional information:

REVOKE

CASE NAME: 	CASE NUMBER:
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9. b. INFORMATION ON CHILD WHO IS THE SUBJECT OF AN INVOLUNTARY CHILD CUSTODY PROCEEDING
(Indicate if any of the information requested below is unknown or nonapplicable.)

<input type="checkbox"/> Maternal <input type="checkbox"/> Grandmother	<input type="checkbox"/> Paternal <input type="checkbox"/> Grandfather	<input type="checkbox"/> Maternal <input type="checkbox"/> Grandmother	<input type="checkbox"/> Paternal <input type="checkbox"/> Grandfather
Name <i>(include maiden, married, and former or aliases)</i> :		Name <i>(include maiden, married, and former or aliases)</i> :	
Current and former addresses:		Current and former addresses:	
Birthdate and place:		Birthdate and place:	
Tribe, band, and location:		Tribe, band, and location:	
If available, provide enrollment number or BIA/tribal agency:		If available, provide enrollment number or BIA/tribal agency:	
If deceased, date and place of death:		If deceased, date and place of death:	
Additional information:		Additional information:	
<input type="checkbox"/> Maternal <input type="checkbox"/> Grandmother	<input type="checkbox"/> Paternal <input type="checkbox"/> Grandfather	<input type="checkbox"/> Maternal <input type="checkbox"/> Grandmother	<input type="checkbox"/> Paternal <input type="checkbox"/> Grandfather
Name <i>(include maiden, married, and former or aliases)</i> :		Name <i>(include maiden, married, and former or aliases)</i> :	
Current and former addresses:		Current and former addresses:	
Birthdate and place:		Birthdate and place:	
Tribe, band, and location:		Tribe, band, and location:	
If available, provide enrollment number or BIA/tribal agency:		If available, provide enrollment number or BIA/tribal agency:	
If deceased, date and place of death:		If deceased, date and place of death:	
Additional information:		Additional information:	

REVOKE

CASE NAME: 	CASE NUMBER:
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9. c. INFORMATION ON CHILD WHO IS THE SUBJECT OF AN INVOLUNTARY CHILD CUSTODY PROCEEDING
(Indicate if any of the information requested below is unknown or nonapplicable.)

<input type="checkbox"/> Maternal <input type="checkbox"/> Great-grandmother	<input type="checkbox"/> Paternal <input type="checkbox"/> Great-grandfather	<input type="checkbox"/> Maternal <input type="checkbox"/> Great-grandmother	<input type="checkbox"/> Paternal <input type="checkbox"/> Great-grandfather
Name (include maiden, married, and former or aliases):		Name (include maiden, married, and former or aliases):	
Current and former addresses:		Current and former addresses:	
Birthdate and place:		Birthdate and place:	
Tribe, band, and location:		Tribe, band, and location:	
If available, provide enrollment number or BIA/tribal agency:		If available, provide enrollment number or BIA/tribal agency:	
If deceased, date and place of death:		If deceased, date and place of death:	
Additional information:		Additional information:	
<input type="checkbox"/> Maternal <input type="checkbox"/> Great-grandmother	<input type="checkbox"/> Paternal <input type="checkbox"/> Great-grandfather	<input type="checkbox"/> Maternal <input type="checkbox"/> Great-grandmother	<input type="checkbox"/> Paternal <input type="checkbox"/> Great-grandfather
Name (include maiden, married, and former or aliases):		Name (include maiden, married, and former or aliases):	
Current and former addresses:		Current and former addresses:	
Birthdate and place:		Birthdate and place:	
Tribe, band, and location:		Tribe, band, and location:	
If available, provide enrollment number or BIA/tribal agency:		If available, provide enrollment number or BIA/tribal agency:	
If deceased, date and place of death:		If deceased, date and place of death:	
Additional information:		Additional information:	

REVOKE

CASE NAME: 	CASE NUMBER:
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INFORMATION ON CHILD WHO IS THE SUBJECT OF AN INVOLUNTARY CUSTODY PROCEEDING
(Indicate if any of the information requested below is unknown or nonapplicable.)

10. Birth father is named on birth certificate. Unknown
11. Birth father has acknowledged paternity. Unknown
12. There has been a judicial declaration of paternity. Unknown
13. Other alleged father (*name each*):

The following optional questions may be helpful in tracing the ancestry of any person alleging Indian descent.

14. Have you or any of members of your family ever:
- a. Attended an Indian school? Yes No Unknown

Name/relationship	Type of school	Dates attended	Location of school

- b. Received medical treatment at an Indian health clinic or U.S. Public Health Service hospital?
 Yes No Unknown

Name/relationship	Type of treatment	Dates treatment received	Location where treatment received

- c. Lived on federal trust land, a reservation or rancheria, or an allotment? Yes No Unknown

Name/relationship	Name and address	Dates

15. Tribal affiliation and location (*check any that apply*).

- a. 1906 Final Roll Name of relative: _____

The 1906 Final Roll was prepared by the Dawes Commission. Individuals who allege to be of Chickasaw, Creek, Cherokee, Choctaw, or Seminole ancestry from Oklahoma must provide the name of a relative who is listed on this final roll.

- b. Roll of 1924 Name of relative: _____

The Roll of 1924 relates to the Eastern Band of Cherokees who were from states other than Oklahoma (such as North Carolina, Georgia, Mississippi, or another southeastern state). Individuals who allege to be of Eastern Cherokee descent must provide the name of a relative listed on the Roll of 1924.

- c. California Judgment Roll Roll number, if available: _____

CASE NAME: 	CASE NUMBER:
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CERTIFICATE OF MAILING

(To be completed by social worker, probation officer, or clerk of juvenile court)

I certify that a copy of the *Notice of Involuntary Child Custody Proceedings for an Indian Child*, with a copy of the petition, was mailed as follows. Each copy was enclosed in an envelope with postage for registered or certified mail, return receipt requested, fully prepaid. The envelopes were addressed to each person, tribe, or bureau as indicated below. Each envelope was sealed and deposited with the United States Postal Service at *(place)*: on *(date)*:

Date:
Department:

Title:

(TYPE OR PRINT NAME)

(SIGNATURE)

This form and any return receipts must be filed with the court.

List all persons, tribes, or agencies provided notice with the full mailing address *(attach extra sheets if necessary)*:

REVOKE

Item SPR07-33 Response Form

Title: Family, Juvenile, and Probate Law: Enactment of the Federal Indian Child Welfare Act as California Law in the Family, Probate, and Welfare and Institutions Codes (adopt Cal. Rules of Court, rules 5.480–5.487 and 7.1015; repeal rule 5.664; revise forms GC-210(CA), JV-100, JV-101, JV-110, JV 600; adopt forms ICWA-005-INFO, ICWA-010(A), ICWA-020, ICWA-030, ICWA-030(A), ICWA-040, ICWA-050, and ICWA-060; and revoke forms ADOPT-226, JV-130, and JV-135).

- Agree** with proposed changes
- Agree** with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: _____

Name: _____ Title: _____

Organization: _____

- Commenting on behalf of an organization**

Address: _____

City, State, Zip: _____

Please **write** or **fax** or **respond using the Internet** to:

**Address: Ms. Camilla Kieliger,
Judicial Council, 455 Golden Gate Avenue,
San Francisco, CA 94102**

Fax: (415) 865-7664 Attention: Camilla Kieliger

Internet: www.courtinfo.ca.gov/invitationstocomment

DEADLINE FOR COMMENT: 5:00 p.m., Wednesday, June 20, 2007

Your comments may be written on this *Response Form* or directly on the proposal or as a letter. If you are not commenting directly on this sheet please remember to attach it to your comments for identification purposes.

*Circulation for comment does not imply endorsement by the Judicial Council,
the Rules and Projects Committee, or the Policy Coordination and Liaison Committee.
All comments will become part of the public record of the council's action.*