

THIRD READING

Bill No: AB 1824
Author: Ramos (D)
Amended: 3/12/26 in Assembly
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-0, 6/16/26
AYES: Umberg, Allen, Caballero, Durazo, Laird, Reyes, Stern, Wahab, Wiener
NO VOTE RECORDED: Niello, Ashby, Valladares, Weber Pierson

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 68-0, 4/16/26 (Consent) - See last page for vote

SUBJECT: Indian children: guardianship or conservatorship proceedings

SOURCE: California Indian Legal Services
California Tribal Families Coalition
Habematolel Pomo of Upper Lake
Morongo Band of Mission Indians

DIGEST: This bill incorporates within the Probate Code the requirements of the Indian Child Welfare Act (25 U.S.C. §§ 1901, et seq.) (ICWA) for matters in which an Indian child, as defined, may be appointed a guardian or ward by the court.

ANALYSIS:

Existing federal law:

- 1) Provides that Indian tribes are domestic independent nations that exercise inherent sovereign authority which can be modified only through Congressional action. (*E.g., Michigan v. Bay Mills Indian Community* (2014) 572 U.S. 782, 788-789.)

- 2) Establishes ICWA, which requires states to establish specific adoption preferences for a child who is a member of a federally recognized Indian tribe, or who is eligible to be a member and is the child of a member of a federally recognized Indian tribe, and to make specified efforts to notify the child's tribe when an Indian child is placed in foster care. (25 U.S.C. §§ 1901 et seq.)

Existing state law:

- 1) Establishes Cal-ICWA, which is comprised of provisions of the Family Code, Health and Safety Code, Probate Code, and Welfare and Institutions Code that apply to an Indian child. (See AB 81 (Ramos, Chapter (Chp.) 656, Statutes of (Stat.) 2024).)
- 2) Establishes the Probate Code, which sets forth the requirements and procedures for the establishment of guardianships and conservatorships, the obligations of guardians and conservators, and the rights of wards and conservatees. (Probate (Prob.) Code, div. 4, §§ 1400 et seq. (Division 4).)
- 3) Provides that, as used in Division 4, unless context otherwise requires, the terms "Indian," "Indian child," "Indian child's tribe," "Indian custodian," "Indian tribe," "reservation," and "tribal court" have the same definitions as in ICWA. (Prob. Code, § 1449(a).)
- 4) Provides that, when used in connection with an Indian child custody proceeding, the terms "extended family member" and "parent" shall have the same definitions as in ICWA, and "Indian child custody proceeding" means a "child custody proceeding" as defined in ICWA, including a voluntary or involuntary proceeding that may result in the Indian child's temporary or long-term foster care or guardianship placement if the parent or Indian custodian cannot have the child returned upon demand, termination of parental rights, or adoptive placement. (Prob. Code, § 1449(b), (c).)
- 5) Requires a court, when an Indian child is a member of more than one tribe or is eligible for membership in more than one tribe, to make a determination, in writing together with the reasons for it, as to which tribe is the Indian child's tribe for purposes of the Indian child custody proceeding, as specified. (Prob. Code, § 1449(d).)
- 6) Requires a court, when determining the tribe with which an Indian child has more significant contacts under 5)(b), to consider, among other things, the specified factors. (Prob. Code, § 1449(d)(2).)

- 7) Makes legislative findings and declarations relating to the importance of encouraging and protecting an Indian child's connection with their tribe and tribal community in Indian child custody proceedings and requiring courts to comply with ICWA whenever the court must place an Indian child in a foster care placement, guardianship, or adoptive placement. (Prob. Code, § 1459.)
- 8) Provides that ICWA applies to the following guardianship or conservatorship proceedings under Division 4 when the proposed ward or conservatee is a child:
 - a) In any case in which the petition is a petition for guardianship of the person and the proposed guardian is not a natural parent or Indian custodian of the proposed ward, unless the proposed guardian has been nominated by the natural parents, as specified, and the parents retain the right to have custody of the child returned to them upon demand.
 - b) A proceeding to have an Indian child declared free from the custody and control of one or both parents brought in a guardianship proceeding.
 - c) In any case in which the petition is a petition for conservatorship of the person of a minor whose marriage has been dissolved, the proposed conservator is seeking physical custody of the minor, the proposed conservator is not the natural parent or Indian custodian of the proposed conservatee, and the natural parent or Indian custodian does not retain the right to have custody of the child returned to them upon demand. (Prob. Code, § 1459.5(a).)
- 9) Provides that, when a court or the petitioner knows or has reason to know that the proposed ward or conservatee may be an Indian child, any notice sent to the minor's parent or legal guardian, Indian custodian, if any, and the Indian child's tribe in a proceeding in which ICWA applies shall comply with specified requirements to provide notice to the child's tribe or possible tribe. (Prob. Code, § 1460.2(a), (b).)
- 10) Requires the notice in 9) to be sent whenever it is known or there is reason to know that an Indian child is involved, and for every hearing thereafter, including, but not limited to, the hearing at which a final adoption order is to be granted; after a tribe acknowledges that the child is a member or eligible for membership in the tribe, or after the Indian child's tribe intervenes in a proceeding, the notice need not include specified information required under 9). (Prob. Code, § 1460.2(c).)

- 11) Requires, when an Indian custodian or biological parent of an Indian child lacks the financial ability to retain counsel and requests the appointment of counsel in a proceeding under 8), the court to apply ICWA and appoint counsel. (Prob. Code, § 1474.)
- 12) Establishes requirements for the nomination and appointment of a guardian for an Indian child. (Prob. Code, §§ 1500.1, 1510, 1511, 1516.5.)

This bill:

- 1) Incorporates ICWA's requirements relating to a case that may involve the custody or care of an Indian child into the Probate Code's guardianship and conservatorship statutes.
- 2) Provides guidance for courts when a guardianship or conservatorship proceeding involves a child who does not meet the definition of an "Indian child" under ICWA because their tribe is not federally recognized.

Comments

For over a hundred years spanning the nineteenth and twentieth centuries, U.S. policy condoned and encouraged state governments and private citizens to forcibly remove Indian children from their homes, their parents, and their tribes, with the explicit goal of cutting them off from their families and heritage. The U.S. government did not change course until 1978, when Congress enacted ICWA to establish minimum standards for proceedings involving the custody and placement of Indian children, as defined, with the overall goal of preserving the ties between an Indian child and their tribe whenever feasible.

Although ICWA is almost 50 years old, the author and sponsors report that California's courts still inconsistently apply ICWA's requirements. Some of this confusion appears to stem from the fact that ICWA's requirements are not clearly set forth in the relevant California Codes. Two years ago, the Legislature enacted AB 81 (Ramos, Ch. 656, Stats. 2024), which named the provisions in the Family, Health and Safety, Probate, and Welfare and Institutions Codes which address the custody and placement of an Indian Child as the "California Indian Child Welfare Act" (Cal-ICWA) and incorporated ICWA's requirements into custody and placement proceedings in the Welfare and Institutions Code.

This bill follows up on AB 81 by incorporating ICWA's requirements into guardianship and conservatorship proceedings under the Probate Code involving an Indian child. Placing these requirements directly in state law will make probate courts' obligations in matters involving an Indian child unambiguous, thereby

reducing errors and ensuring that Indian children, their families, and their tribes are given the full protections due to them under state and federal law. The bill also provides guidance for courts when a guardianship or conservatorship proceeding involves a child who does not meet the definition of an “Indian child” under ICWA because their tribe is not federally recognized.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

SUPPORT: (Verified 6/30/26)

California Indian Legal Services (co-source)
California Tribal Families Coalition (co-source)
Habematolel Pomo of Upper Lake (co-source)
Morongo Band of Mission Indians (co-source)
Agua Caliente Band of Cahuilla Indians
Hoopa Valley Tribe
Karuk Tribe
Mesa Grande Band of Mission Indians
Pechanga Band of Indians
Rincon Band of Luiseño Indians
Santa Ynez Band of Chumash Indians
Sherwood Valley Band of Pomo Indians
Soboba Band of Luiseño Indians
Yurok Tribe

OPPOSITION: (Verified 6/30/26)

None received

ARGUMENTS IN SUPPORT: According to the California Tribal Families Coalition:

Despite the Legislature’s intent that ICWA protections apply broadly, the absence of clear Probate Code provisions has resulted in inconsistent application and in some cases, the failure to provide crucial procedural and substantive ICWA protections for tribal children and families in probate proceedings. In practice, probate judges, attorneys, and petitioners primarily rely on the Probate Code as the governing authority for probate proceedings. Because ICWA requirements applicable to child-custody proceedings, including these probate proceedings, are dispersed across multiple statutory codes and court rules, their application in probate matters often depends on practitioners having specialized knowledge of where those provisions exist.

Many probate professionals and often unrepresented family member Petitioners, lack the ICWA-specific training or experience, resulting in probate proceedings without proper inquiry, notice to Tribes, or application of ICWA standards and protections, contrary to existing law. Placing explicit ICWA and Cal-ICWA requirements directly within the Probate Code reflects how probate proceedings function in real-world practice and promotes consistent application of the law. As an organization that represents Tribes in probate proceedings involving Indian children, we see every day the lack of understanding by courtroom practitioners of how ICWA must be applied. This lack of implementation of federal law in these proceedings results in both parents and Tribes often having no knowledge of the placement of their children until permanent guardianship orders have been made. The lack of due process for Tribes and parents under the ICWA in these proceedings we believe can be corrected by clearly including its provisions directly in the Probate Code...

This bill does not impose new or additional requirements, rather, it clarifies existing obligations and ensures they are applied consistently in probate, guardianship and conservatorship proceedings involving Indian children. In addition to not expanding ICWA beyond existing state and federal law, it supports courts and practitioners with clear guidance to practice according to what the law already requires, which leads to reduced costs related to non-compliance.

ASSEMBLY FLOOR: 68-0, 4/16/26

AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Ávila Farías, Bains, Bauer-Kahan, Bennett, Boerner, Bryan, Calderon, Caloza, Carrillo, Castillo, Chen, Connolly, Davies, DeMaio, Elhawary, Ellis, Fong, Gabriel, Gallagher, Garcia, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Jackson, Johnson, Kalra, Krell, Lackey, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Tangipa, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas

NO VOTE RECORDED: Arambula, Berman, Bonta, Dixon, Flora, Harabedian, Hart, Hoover, Irwin, Papan, Celeste Rodriguez, Schiavo

Prepared by: Allison Whitt Meredith / JUD. / (916) 651-4113
7/1/26 16:55:01

**** END ****