

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



December 19, 2000

ALL-COUNTY INFORMATION NOTICE NO. I-122

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY PROBATION OFFICERS**REASON FOR THIS TRANSMITTAL**

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by One or More Counties
- Initiated by CDSS

SUBJECT: INDIAN CHILD WELFARE ACT AND "EXISTING FAMILY DOCTRINE"

The purpose of this information notice is to remind counties that social workers and probation officers are to apply the Indian Child Welfare Act (ICWA) in child custody cases involving Indian children and **not** to apply what is known as the "Existing Family Doctrine." (The Existing Family Doctrine requires that an Indian child's parents have maintained sufficient social, cultural, and/or political contact with their tribe to qualify as an Indian family, even if the parents are tribal members.)

Assembly Bill (AB) 65, Chapter 275, Statutes of 1999, added Section 7810 to the Family Code as well as Section 360.6 to the Welfare and Institutions Code. These statutes declare that the Legislature's intent that ICWA is to be applied in Indian child custody cases as defined in the federal law and that a determination by an Indian tribe that a child is either a member of, or eligible for membership in, an Indian tribe shall constitute a significant political affiliation with the tribe and shall require the application of ICWA. The Existing Family Doctrine is no longer to be applied in Indian child custody proceedings and therefore cannot be the basis for a recommendation to the court regarding placement by a county social worker or probation officer.

The Department will be working with the Judicial Council of California to ensure the language for Court Rules is consistent with the law, and in enlisting the aid of juvenile court judges to ensure ICWA is applied appropriately in all cases.

If you have any questions regarding ICWA and the elimination of Existing Family Doctrine criteria, you may contact Anne Smith, of the Foster Care Policy Bureau, at (916) 322-0725.

Sincerely,

SYLVIA PIZZINI
Deputy Director
Children and Family Services Division