



## JUDICIAL COUNCIL OF CALIFORNIA

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TANI G. CANTIL-SAKAUYE  
*Chief Justice of California*  
*Chair of the Judicial Council*

MARTIN HOSHINO  
*Administrative Director*

CORY T. JASPERSON  
*Director, Governmental Affairs*

September 7, 2018

Hon. Edmund G. Brown, Jr.  
Governor of California  
State Capitol, First Floor  
Sacramento, California 95814

Subject: Assembly Bill 3176 (Waldron) – Request for Signature

Dear Governor Brown:

The Judicial Council respectfully requests your signature on Assembly Bill 3176, which requires California to conform its laws to the federal Indian Child Welfare Act (ICWA). Among other things, the bill requires a party seeking placement of an Indian child to send notice, as defined, of specified hearings to each tribe in which the child is or may be a member. The bill clarifies the role of the state court in helping to determine which tribe the child has the most significant contact with.

Until 2006, California's implementation of ICWA into state law had been piecemeal, and, as a result, parties had to look not just to state statutes, but also to court rules, federal statutes and regulations, and BIA-issued guidelines, in addition to case law, to determine how to comply with the terms of ICWA. SB 678 (Ducheny), Stats. 2006, ch. 838, revised portions of state code addressing Indian child custody proceedings by codifying into state law various provisions of ICWA, the Bureau of Indian Affairs Guidelines for State Courts, and state Rules of Court.

This bill codifies recent changes required by the new Bureau of Indian Affairs regulations into the Welfare & Institutions Code. This codification will make it easier for courts, attorneys, and

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September 7, 2018  
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social workers to understand and comply with the federal law. For the most part, the bill follows the federal standard. However, as permitted by law, where California has a higher standard, that standard prevails. (25 U.S.C. Section 1921.) It is worth noting that, pursuant to the conforming elements in this bill, California has a higher standard for determining if a child *may be* an Indian child and requires that further inquiry must be undertaken for those children. (Section 224.3.) Once a child is identified as an Indian child, however, the same federal and state requirements dictate the process.

For these reasons, the Judicial Council requests your signature on AB 3176.

Should you have any questions or require additional information, please contact Andi Liebenbaum at 916-323-3121.

Sincerely,

*Mailed on September 7, 2018*

Cory T. Jaspersen  
Director, Governmental Affairs

CTJ/AL/yc-s

cc: Hon. Marie Waldron, Member of the Assembly  
Dr. Joaquin Arambula, Member of the Assembly, Coauthor  
Hon. Tom E. Daly, Member of the Assembly, Coauthor  
Hon. Brian Maienschein, Member of the Assembly, Coauthor  
Hon. Devon J. Mathis, Member of the Assembly, Coauthor  
Hon. Eloise Gomez Reyes, Member of the Assembly, Coauthor  
Hon. Blanca E. Rubio, Member of the Assembly, Coauthor  
Ms. Delia Sharpe, Executive Director, California Tribal Families Coalition  
Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor  
Mr. Martin Hoshino, Administrative Director, Judicial Council of California



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### GOVERNMENTAL AFFAIRS

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*Director, Governmental Affairs*

May 7, 2018

Hon. Marie Waldron  
Member of the Assembly  
State Capitol, Room 4130  
Sacramento, California 95814

Subject: Assembly Bill 3176 (Waldron), as amended April 11, 2018 – Support

Dear Assembly Member Waldron:

The Judicial Council supports AB 3176, which requires California to conform its laws to the federal Indian Child Welfare Act (ICWA). Among other things, the bill requires that a party seeking placement of an Indian child to send notice, as defined, of specified hearings to each tribe in which the child is or may be a member. The bill also requires the Family Court to send all information regarding the proceeding to the tribal court if either the child's residence or domicile is on a reservation of which the tribe exercises exclusive jurisdiction over Indian child custody proceedings, or if a child is a ward of the tribal court.

Until 2006, California's implementation of ICWA into state law had been piecemeal, and, as a result, parties had to look not just to state statutes, but also to court rules, federal statutes and regulations, and BIA-issued guidelines, in addition to case law, to determine how to comply with the terms of ICWA. SB 678 (Ducheny), Stats. 2006, ch. 838, revised portions of state code addressing Indian child custody proceedings by codifying into state law various provisions of ICWA, the Bureau of Indian Affairs Guidelines for State Courts, and state Rules of Court.

Hon. Marie Waldron

May 7, 2018

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This bill codifies recent changes required by the new Bureau of Indian Affairs regulations into the Welfare & Institutions Code. This codification will make it easier for courts, attorneys, and social workers to understand and comply with the federal law. For the most part, the bill follows the federal standard. However, as permitted by law, where California has a higher standard, that standard prevails. (25 U.S.C. Section 1921.) It is worth noting that, pursuant to the conforming elements in this bill, California has a higher standard for determining if a child *may be* an Indian child and requires that further inquiry must be undertaken for those children. (Section 224.3.) Once a child is identified as an Indian child, however, the identical federal and state requirements dictate the process.

For these reasons, the Judicial Council supports AB 3176.

Sincerely,

*Mailed on May 8, 2018*

Andi Liebenbaum

Attorney

AL/yc-s

cc: Ms. Delia Sharpe, Executive Director, California Tribal Families Coalition  
Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor  
Mr. Martin Hoshino, Administrative Director, Judicial Council of California



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June 15, 2018

Hon. Hannah-Beth Jackson, Chair  
Senate Judiciary Committee  
State Capitol, Room 2032  
Sacramento, California 95814

Subject: Assembly Bill 3176 (Waldron), as amended May 25, 2018 – Support  
Hearing: Senate Judiciary Committee – June 26, 2018

Dear Senator Jackson:

The Judicial Council supports AB 3176, which requires California to conform its laws to the federal Indian Child Welfare Act (ICWA). Among other things, the bill requires a party seeking placement of an Indian child to send notice, as defined, of specified hearings to each tribe in which the child is or may be a member. The bill clarifies the role of the state court in helping to determine which tribe the child has the most significant contact with.

Until 2006, California's implementation of ICWA into state law had been piecemeal, and, as a result, parties had to look not just to state statutes, but also to court rules, federal statutes and regulations, and BIA-issued guidelines, in addition to case law, to determine how to comply with the terms of ICWA. SB 678 (Ducheny), Stats. 2006, ch. 838, revised portions of state code addressing Indian child custody proceedings by codifying into state law various provisions of ICWA, the Bureau of Indian Affairs Guidelines for State Courts, and state Rules of Court.

This bill codifies recent changes required by the new Bureau of Indian Affairs regulations into the Welfare & Institutions Code. This codification will make it easier for courts, attorneys, and social workers to understand and comply with the federal law. For the most part, the bill follows

Hon. Hannah-Beth Jackson

June 15, 2018

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For these reasons, the Judicial Council supports AB 3176.

Should you have any questions or require additional information, please contact Andi Liebenbaum at 916-323-3121.

Sincerely,

*Mailed on June 15, 2018*

Cory T. Jaspersen  
Director, Governmental Affairs

CTJ/AL/yc-s

cc: Members, Senate Judiciary Committee  
Hon. Marie Waldron, Member of the Assembly  
Dr. Joaquin Arambula, Member of the Assembly, Coauthor  
Hon. Tom E. Daly, Member of the Assembly, Coauthor  
Hon. Brian Maienschein, Member of the Assembly, Coauthor  
Hon. Devon J. Mathis, Member of the Assembly, Coauthor  
Hon. Eloise Gomez Reyes, Member of the Assembly, Coauthor  
Hon. Blanca E. Rubio, Member of the Assembly, Coauthor  
Ms. Delia Sharpe, Executive Director, California Tribal Families Coalition  
Ms. Margie Estrada Caniglia, Chief Counsel, Senate Judiciary Committee  
Mr. Mike Petersen, Consultant, Senate Republican Office of Policy  
Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor  
Mr. Martin Hoshino, Administrative Director, Judicial Council of California