

### **When are tribes a legal party to the case?**

Tribes are a legal party in any case in which there is “reason to know” that the child is an “Indian child” per the ORICWA definition. If the tribe later determines that the child is not an “Indian child,” or if the tribe withdraws as a party to the proceeding, the tribe may be removed as a party. “Reason to know” is a standard in ICWA/ORICWA. Indications of “reason to know” includes a variety of circumstances including, among others: someone notifies the court that the child is an “Indian child,” the domicile/residence of the child or parent is on a reservation or Alaska native village, the child is or has previously been a ward of tribal court, or either parent or child has an ID indicating tribal membership. If the court finds that there is “reason to know the child is an “Indian child,” Child Welfare must treat the child as if ICWA/ORICWA applies unless and until it is determined on the record that the child is not an “Indian child.”

### **Who is currently making these petition requests on ODHS’ behalf and when would there be situations where ODHS is not a party but have the youth in custody?**

The Oregon Department of Justice (DOJ) files petitions on the Oregon Department of Human Services (ODHS’s) behalf. This is occurring in cases when ODHS files a petition in cases in which ICWA/ORICWA applies, but ODHS has not removed the child from a parent or Indian custodian, ODHS is not a party to the legal case because ODHS does not yet have temporary custody of the child(ren). ODHS does not have temporary custody in these cases until a hearing takes place, after ODHS has completed ORICWA notice requirements, at which Qualified Expert Witness testimony is presented. It could take several weeks or months for that hearing to take place after the petition has been filed. During that period of time, the parents, any Indian custodian(s), and the child(ren) are all parties – but ODHS is not. This circumstance creates multiple logistical issues in case handling, communication, and information sharing, as well as roadblocks to providing services to children for the purposes of timely reunification and reducing time in foster care.

### **Why is there a reference to CCA’s being added to the bill?**

An amendment is requested to remove this given that there are no known circumstances in which a CCA has temporary custody and/or would be a party to a case.