

## Senate Bill 815 – Issue Timeline

### *1978 – ICWA Enactment*

The **Indian Child Welfare Act (ICWA)** was passed in 1978, distinguishing between two types of cases:

- **Emergency Proceedings (EPs):** These were meant to be rare and only used when an Indian child needed immediate protection from imminent physical harm. EPs were intended to be short-term, ending when:
  - The emergency was resolved,
  - The case was transferred to tribal court, or
  - A **Child Custody Proceeding (CCP)** was initiated in state court after proper notice.
- **Child Custody Proceedings (CCPs):** A CCP could be filed when a safety concern was identified, either at the time of an EP or independently if removal wasn't necessary. Unlike EPs, all ICWA protections applied to CCPs, but no hearings could occur until proper notice was given.

**What Happened in Oregon:** Despite these distinctions, Oregon's juvenile code did not differentiate between EPs and CCPs. As a result, all ICWA cases in Oregon started as EPs.

### *2016 – ICWA Regulations*

New federal ICWA regulations clarified that most states, including Oregon, were **misinterpreting** ICWA's requirements. In Oregon, all cases were still beginning as EPs without following the proper legal distinctions.

### *2020 – ORICWA Implementation*

Oregon passed the **Oregon Indian Child Welfare Act (ORICWA)** to align with federal ICWA and strengthen protections for Indian children, families, and tribes. Due to the fast-paced legislative process, some necessary legal adjustments were not addressed at the time.

### *2023 – Party Status Issue Identified*

A critical **oversight** was discovered in ORICWA:

- The law did not update **party status** rules when differentiating EPs from CCPs.
- As a result, **ODHS (Oregon Department of Human Services) is no longer automatically a party** when filing a CCP petition.
- **ODHS cannot participate in a CCP until notice is completed and a hearing is scheduled**, which can take **weeks or months**.

## Why This Is a Problem:

- During this waiting period, the court **cannot** order ODHS to take action, including providing evidence or services.
- ODHS **cannot** attend court hearings or fully communicate case details to tribes and families.
- This delays case planning and increases the risk of **unnecessary child removals**.

**Next Steps:** In November 2023, representatives from **Oregon's Nine Tribes, ODHS, and the Department of Justice (DOJ)** discussed the issue in an ICWA Advisory meeting. While ODHS has continued to act as a party in these cases, it **cannot legally do so moving forward** without a legislative fix.

## *2025 – Senate Bill 815 (SB 815)*

SB 815 **restores ODHS as a party** in all juvenile dependency cases when ODHS is the petitioner. This ensures:

- ODHS can **fully participate in hearings** and court decisions.
- Tribes and families have **access to information** and **clearer communication** with ODHS.
- Better **service planning** and a **reduced risk of unnecessary child removals**.

SB 815 corrects the unintended consequences of ORICWA and strengthens Oregon's compliance with ICWA.