

News Release

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United States Supreme Court upholds the Indian Child Welfare Act – A victory for Tribal Children and Families

(Salem) – Today is a historic win for Indian Country as the United States Supreme Court ruled to keep the Indian Child Welfare Act (ICWA) fully intact.

By a 7-to-2 vote, the court upheld the law's preferences for Tribes when Indian children are adopted, ruling that the law does not discriminate on the basis of race and does not impose a federal mandate on traditionally state-regulated areas of power, citing over a century of precedent that classifies Native Americans as a political, not racial, group.

Oregon has its own ICWA law, known as the Oregon Indian Child Welfare Act (ORICWA). This law helps position the Oregon Department of Human Services (ODHS) to better serve Tribal families and children, and the Supreme Court ruling validates the sovereignty of all Tribes. ORICWA is an extremely important supplement to federal ICWA.

Statement from ODHS Director Fariborz Pakseresht (he/him):

“The Indian Child Welfare Act is integral in the work of our agency as we strive to uphold Tribal children’s identity and cultural heritage. We are so pleased with today’s ruling, and we are committed to continue to enhance protections for all Tribal children and support the Nine Tribes of Oregon.”

Statement from Kristi Petite (she/her), Confederated Tribes of Grand Ronde and Co-Chair of the ODHS Indian Child Welfare Act Advisory Council:

“This ruling is a huge sigh of relief for Tribes and Tribal families throughout Indian Country. As we’ve worked tirelessly to protect Tribal children and keep them connected to their identity, culture, and families, this decision will allow us to continue to advocate and promote healing for our families. Our ongoing relationship with ODHS will continue as we work together with the goal of lowering the disproportionate rates that Tribal children experience in the child welfare system. It is also a reminder of the importance to continue to assure that our work reflects the intent and requirements of the Indian Child Welfare Act. Today is a great day to honor Tribes, Tribal Sovereignty, and the continued protection of Tribal families.”

Statement from Adam Becenti (he/him), Navajo/Diné, ODHS Office of Tribal Affairs director:

“This decision is cause for celebration for Tribes and Tribal communities throughout the country. The federal Indian Child Welfare Act keeps Tribal families intact, preserves Tribal culture and upholds Tribal sovereignty. Oregon is one of a handful of states who have demonstrated an unwavering commitment to these principles by codifying these protections into state law.

I couldn’t be happier for Tribal children and families and all of the ODHS staff whose frontline work upholds the Indian Child Welfare Act. The decision to uphold all provisions of the Indian Child Welfare Act will have lasting impact for decades for Tribes. This win allows our agency to continue to implement our state’s Oregon Indian Child Welfare Act as well as continue to support the government-to-government relationship with the Tribes.”

Statement from Aprille Flint-Gerner (she/her), ODHS interim Child Welfare Division director:

“The federal Indian Child Welfare Act and the Oregon Indian Child Welfare Act are critical laws that protect Tribal children, families and communities. I am grateful to see that the U.S. Supreme Court has upheld the constitutionality of the federal Indian Child Welfare Act.

We honor the sovereignty and self-determination of Tribal nations and are committed to government-to-government collaboration when working with Tribal nations to support the needs of Tribal children and their families

In Oregon our Child Welfare Division Vision for Transformation commits us to dismantling the structures, underlying mindsets, and biases that have contributed to and continue to contribute to the oppression of and disparate outcomes for Tribal children and families.”

About the Oregon Department of Human Services

The mission of ODHS is to help Oregonians in their own communities achieve wellbeing and independence through opportunities that protect, empower, respect choice and preserve dignity.

The Office of Tribal Affairs within the ODHS Director’s Office is a team committed to all Oregon Tribal communities thriving mentally, physically, spiritually, and emotionally. Tribal Affairs works with all five ODHS programs to create and provide Tribally appropriate programming, services, policies and support. Through Tribal consultation with nine federally recognized Tribes of Oregon, ODHS ensures programming, services, and policies meet the needs of Oregon Tribal communities.

The Child Welfare Division is transforming itself to best support the individual needs of families and to best serve Oregon’s children and young people. Read the Child

Welfare Division Vision for Transformation and the Child Welfare Division Vision for Transformation Update to learn more.

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