## Summary of Ruling

On September 3, 2020, the Washington State Supreme Court issued an opinion in *In re Dependency of Z.J.G. and M.E.J.G.* holding that a court has a “reason to know” that a child is or may be an Indian Child when a participant in the proceeding indicates that the child has tribal heritage. A link to the opinion is here <http://www.courts.wa.gov/opinions/pdf/980039.pdf>. This change in when a court has a “reason to know” a child is Indian will require DCYF to make changes to its practice and policy.

The Court’s opinion expands the “reason to know” standard that triggers the Indian Child Welfare Act (ICWA) and Washington Indian Child Welfare Act’s (WICWA) application. The Acts requires that courts ask each participant in a child custody proceeding whether there is “reason to know” the child is or may be an Indian child. **The Supreme Court’s decision clarifies that if there is any indication from any participant that a child has Indian heritage** — for example, testimony from a social worker, parent or intervening tribe — the Acts’ protections must be applied.

## Legislative Requests

In response to a recent court decision, DCYF has a placeholder decision package (DP) for meeting enhanced requirements around Indian Child Welfare. Some of the budget needs for the agency include:

* An automated electronic system that tracks a clear process for handling Indian Child Welfare cases from start to finish.
* Centralized unit to standardize the process across the state.
* Develop or arrange for the development of a Qualified Expert Witness (QEW) training to increase the availability of QEWs
* Establish a QEW liaison/QEW Coordinator position.

## Internal Decision Points

DCYF must determine what changes are necessary to our practice and are considering the following:

* Tribal heritage statement.
* Policy review and development for QEW policies and procedures.
* Streamline process for obtaining tribal responses regarding if the child is an Indian child (prior to legal notice being sent).
* Determine the legal relationship between NAIR inquiry response and reason to know standards.
* Expand the number of qualified Indian Expert Witnesses i.e. can social workers serve as qualified Indian Expert witness, when a tribal representative is not available for certain cases, unknown tribe, no response from tribe(s).

## Next Steps

DCYF will begin making policy revisions through the ICW Subcommittee in early January.

* DCYF will work to develop process maps of the current Qualified Expert Witness and legal notice systems to address needed changes.
* DCYF is submitting a decision package to address the needed increase in services and programs.
* DCYF has not made any policy changes at this time but we look forward to partnering with the tribes in the future to develop and implement policy and practice change.

## Questions

DCYF facilitates ongoing discussions with tribal partners. Through ongoing communication with the tribes DCYF will continue to seek input and implement changes to align with the Court’s opinion. This opinion is a big win for tribal children, tribal sovereignty and our continued state/ tribal partnerships.

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