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## FACT SHEET

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# Senate Bill 406 (Evans) Tribal Court Civil Judgment Act

SB 406 (Evans), sponsored by the Judicial Council of California, will create the Trial Court Civil Judgment Act, which will simplify and clarify the process by which tribal court civil judgments are recognized and enforced in California.

### Issue

California is home to more people of Indian ancestry than any other state in the nation. At this time, there are approximately 110 federally recognized tribes in California, second only to the number of tribes in the state of Alaska. Each tribe is sovereign, with powers of internal self-government, including the authority to develop and operate a court system. Currently, approximately 22 tribal courts are operating in California, and several other courts are under development.

Because tribes are sovereign, their status is in some ways similar to that of a foreign country. As such, judgments of tribal courts are afforded the same treatment as judgments of foreign nations under the principles of comity. This means, state courts generally respect the decisions of tribal courts and will enforce them upon request, so long as the tribal court issuing the decision had fair procedures.

However, because many tribes are located within California (and others outside California but within the United States), there is much more overlap between the populations served by state and tribal courts than by state courts and foreign tribunals. Consequently, greater coordination and cooperation between state and tribal courts is essential.

Currently in California, a party seeking enforcement of a civil tribal court judgment in a state superior court must do so under the Uniform Foreign-Country Money Judgments Recognition Act, a time consuming and expensive procedure, in which parties sometimes must unnecessarily re-litigate what has already been decided by the tribal court, costing both the parties and the state courts time and expense. Procedures under that Act may also be inadequate because the Act only applies to money judgments, making it challenging for parties trying to enforce other types of civil judgments that are issued by tribal courts, such as evictions. Streamlining and simplifying these

procedures will make it easier and less costly for parties and state courts to enforce those tribal court judgments that are already enforceable under current law.

**Proposal**

SB 406 establishes a framework for seeking enforcement of tribal court civil judgments under procedures that are similar to the simpler procedures applicable to judgments from the courts of other states, while still applying the principles of comity that the law currently requires for judgments from sovereign nations. This new legal framework, the Tribal Court Civil Judgment Act, would not change the legal standards state courts apply in recognizing and enforcing specified civil tribal court judgments, but only clarifies the procedures for doing so and consolidates them into a single streamlined statutory scheme.

The Tribal Court Civil Judgment Act applies only to civil judgments and orders by tribal courts for the following: money judgments, including money judgments in proceedings to enforce civil regulatory laws; orders for possession of real or personal property; orders for sale of real or personal property; and civil injunctive relief orders. The Tribal Court Civil Judgment Act does not apply to judgments in actions that already have specific recognition under federal law.<sup>1</sup> The Tribal Court Civil Judgment Act also exempts judgments for taxes, fines, and proceedings that would be subject to the Probate Code.

A party seeking enforcement of a tribal court judgment in a state superior court under the Tribal Court Civil Judgment Act must file an application that includes all the information about the case required in an application for recognition of a sister state judgment, plus a copy of the tribal court rules of procedure and a declaration that the case was tried in compliance with those rules. The party seeking enforcement must give notice to the party against whom the tribal court judgment was entered, and that party has an opportunity to oppose enforcement. If there is no opposition within 30 days, a superior court judgment based on the tribal court judgment is entered automatically. If there is opposition, the superior court holds a hearing on the issue within 45 days. The establishment of this process and timeline for considering these applications will make enforcement of existing rights more efficient and economical for both litigants and the courts without altering any party's substantive rights under current law. Thus, SB 406 will ensure appropriate recognition of tribal court judgments in state courts in a manner that will benefit both court systems.

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<sup>1</sup> The Indian Child Welfare Act, the Violence Against Women Act, the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act, the Child Support Enforcement Act, the Uniform Child Custody Jurisdiction and Enforcement Act, and the Uniform Interstate Family Support Act.

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