

House of Human Services Committee
January 23, 2023 @ 10:15 am

RE: House Bill 1536

Relating to the adopting of a state Indian Child Welfare Act and Amend and
Reenact Section 27-20.3-19

Boozhoo, Hihanni Waste', Good morning, Chairman Weisz and Human Services Committee. For the record, I am Representative Jayme Davis, I represent District 9A in Rolette County. I come before you this morning to introduce House Bill 1536 which will adopt a state Indian child welfare act and amend the North Dakota Century Code that currently relates to Indian child welfare.

For my testimony I'm going to start with some background information and then give a quick summary of the bill and its sections and then to round out my testimony I will answer any questions that I am able to.

Background: The Indian Child Welfare Act (aka ICWA) was created in 1978.

Why was ICWA created? The Indian Child Welfare Act was created in response to evidence of a high number of Indian children that were being removed from their families and being placed with non-Indian families. At that time approximately 75-80% of Indian families living on reservations lost at least one child to the foster care system. In response to that overwhelming evidence and destruction of Indian culture Congress passed the Indian child welfare act in 1978.

It was enacted to provide guidance to the States regarding the handling and ways to protect the best interests of the Indian children and to promote the stability and security of Indian tribes and families. The act established the minimum standards for the removal of Indian children and provides guidelines for the placement of Indian children in foster or adoptive homes which reflect the unique values of Indian culture. The act recognizes the authority of both tribal and state courts to make decisions regarding the welfare, care, custody, and control of Indian children.

Ever since its inception North Dakota has been working with the Indian Child Welfare Act however this bill will take back local control and no longer wait for the federal government to make these decisions for our North Dakota families.

With that I will move into a quick summary of each of the section in the bill. There are experts here that can go into more detail should you need further insight.

Section 1: Active Efforts and Procedures – as you can see, in this section we've corrected and added definitions that are in line North Dakota procedural practices.

Section 2: Jurisdiction over custody proceedings – this section provides child-custody proceedings, emergency proceedings, award of custody, and voluntary placement.

Section 3: Court Proceedings – this section involves foster care or non-foster care placement of or termination of parental rights to an Indian child

Section 4: Voluntary proceedings, consent, withdrawal – this section involves the voluntary consent by a parent or Indian custodian to a foster care or non-foster care placement of an Indian child

Section 5: Placement preferences – this section involves the placement of an Indian child for adoption or in delegating powers, as described in a lawful executed power of attorney regarding an Indian child.

Section 6: Adoptee information – this section involves entering a final adoption decree or order in any voluntary or involuntary Indian child adoptive placement

This 14-page bill was created in collaboration with the five federally recognized tribes and their child welfare departments (30+ people), department of health and human services, state court and passed through legislative council a number of times. With all that collaboration over this much language there are a still a few amendments that may be requested by those here to testify in support of the bill. I believe these are simply technical in nature and nothing that would be sweeping.

With that I stand for questions.

Miigwech, Philámayayapi, Thank you