

# HOUSE BILL REPORT

## SHB 3182

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### As Amended by the Senate

**Title:** An act relating to tribal foster care licensing.

**Brief Description:** Concerning tribal foster care licensing.

**Sponsors:** By House Committee on Children & Family Services (originally sponsored by Representatives Pettigrew and Santos).

#### **Brief History:**

##### **Committee Activity:**

Children & Family Services: 2/1/06 [DPS].

##### **Floor Activity:**

Passed House: 2/9/06, 98-0.

Senate Amended.

Passed Senate: 2/28/06, 48-0.

#### **Brief Summary of Substitute Bill**

- Permits Indian Tribes to enter into agreements with the state to license agencies that are located on or near the reservation or service delivery area to receive and place children in foster care.

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### HOUSE COMMITTEE ON CHILDREN & FAMILY SERVICES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Kagi, Chair; Roberts, Vice Chair; Walsh, Ranking Minority Member; Hinkle, Assistant Ranking Minority Member; Darneille, Dickerson, Dunn, Haler and Pettigrew.

**Staff:** Sonja Hallum (786-7092).

#### **Background:**

In order to place a child into a foster care home, the home must be licensed by the Department of Social and Health Services (DSHS). The DSHS has established standards and requirements that must be met in order for the home to be licensed.

In placing a child into a foster home, the DSHS must comply with state and federal law. The Indian Child Welfare Act (ICWA) is a federal law that applies to custody proceedings in state court involving Indian children. The ICWA requires that there be a preference for placing an Indian child with extended family or, if family is unavailable, a placement approved by the

tribe. Additionally, ICWA states that the licensing of a foster home by an Indian Tribe is deemed to be the equivalent to licensing by the state for federal funding purposes. For the purposes of federal funding, a foster family home may include homes located on or near Indian reservations that are licensed by a tribal licensing or approval authority.

Washington state law recognizes the authority of Indian Tribes to license foster and adoptive homes within the boundaries of a federally recognized Indian reservation and that the state may place children in those facilities if criminal background checks have been done.

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**Summary of Substitute Bill:**

The ability of an Indian Tribe to license foster care homes and place foster children into the homes is expanded. Tribes may enter into agreements with the Department of Social and Health Services (DSHS) to define the terms under which the tribe may license agencies located on or near the federally recognized Indian reservation to receive children for control, care, and maintenance outside their own homes, or to place, receive, arrange the placement of, or assist in the placement of, children for foster care. If an Indian Tribe does not have reservation land, they may license foster care homes within their federally recognized service delivery area.

The agreements must include a definition of what are the geographic boundaries of the Indian Tribe for the purposes of licensing and may include locations on or near the federally recognized Indian reservation.

The definition of agency is amended to state that an agency licensed by an Indian Tribe to provide care for foster children is not considered an agency for the purposes of the statutes relating to licensing and investigation of facilities providing care for foster children.

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**EFFECT OF SENATE AMENDMENT(S):**

Adds an immunity clause protecting the DSHS from civil liability arising from conduct of agencies licensed by a tribe.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** (In support) This legislation began last year as a result of a precedent set by Port Gamble. This bill allows tribes to license homes on or near the reservation, not just on the reservation. Not everyone is able to live on the reservation due to issues such as limited housing. This would allow Tribes to significantly increase the number of Indian homes available for foster children. This bill would help the Department of Social and Health

Services meet the standards set in the Federal Review. Tribes have been providing services near the reservations for years. This is a cost effective measure for the state. There are defined service areas for services. The bill brings the state in line with what the Federal laws already allow. The Chehalis Tribe is not looking to license homes at this time, but would like to reserve the right for the future when they are in a position to do so.

(With concerns) If this is rolled out in stages, there is likely to be little fiscal impact; however, if all the tribes want to enter into agreements with the Department of Social and Health Services, there will be a fiscal impact.

**Testimony Against:** None.

**Persons Testifying:** (In support) Representative Pettigrew, prime sponsor; Ronald Charles, Port Gamble S'Klallum Tribe; and Nancy Dufraine, Chehalis Tribe.

(With concerns) Cheryl Stephani, Department of Social and Health Services.

**Persons Signed In To Testify But Not Testifying:** None.