

# SENATE BILL REPORT

## SHB 3182

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As Reported By Senate Committee On:  
Human Services & Corrections, February 23, 2006

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

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

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

**Brief History:** Passed House: 2/09/06, 98-0.

**Committee Activity:** Human Services & Corrections: 2/16/06, 2/23/06 [DPA, w/oRec].

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Majority Report:** Do pass as amended.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Brandland, Carrell, McAuliffe and Thibaudeau.

**Minority Report:** That it be referred without recommendation.

Signed by Senator Stevens, Ranking Minority Member.

**Staff:** Shani Bauer (786-7468)

**Background:** Generally, 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 children of Native American descent. 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, the 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.

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

Washington State has 29 federally recognized tribes, one of which currently performs its own licensing functions.

**Summary of Amended Bill:** The ability of an Indian tribe to license foster care homes and place foster children into the homes is expanded to include the ability to license and place children in homes on or near the federally recognized Indian reservation. If an Indian tribe does not have reservation land, the tribe may license foster care homes on or near its federally recognized service delivery area.

Tribes wishing to expand their authority must enter into agreements with the DSHS to define the terms under which the tribe may license agencies on or near Indian reservations, including a definition of the geographic boundaries of the tribe.

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.

The department and its employees are immune from civil liability for acts committed by tribally licensed foster care homes.

**Amended Bill Compared to Original Bill:** A provision addressing immunity from liability for tribally licensed foster care homes is added.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** As a result of the Port Gamble tribe entering into a foster care licensing agreement with DSHS, other tribes have expressed interest in conducting their own licensing functions. Tribes are sometimes challenged in that many Indian homes that may be licensed are not within the boundaries of the reservation. Federal law allows a tribe to license homes on or near the reservation. This bill is simply bringing state law into line with federal law.

This bill will assist the state in meeting its obligations under ICWA. Families of Indian descent who may be interested in being foster parents are sometimes hesitant to work with the state and are more likely to work with tribal licensing representatives. Since Port Gamble began licensing foster homes, the number of homes licensed on the reservation has increased from three to twelve. This bill would allow ten more homes to be licensed. Tribes can provide culturally relevant services and will save the state money by providing its own oversight.

**Testimony Against:** None.

**Who Testified:** PRO: Representative Pettigrew, prime sponsor; Gina Beckwirth and Jolene Sullivan, Port Gamble Sklallam Tribe.