SENATE BILL REPORT
SSB 6470

As Amended by House, March 3, 2010

Title: An act relating to the burdens of proof required in dependency matters affecting Indian children.

Brief Description: Addressing the burdens of proof required in dependency matters affecting Indian children.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Kauffman, Hargrove, Prentice, Gordon, Regala, Keiser, McAuliffe, Stevens and Kline).

Brief History:
Committee Activity: Human Services & Corrections: 1/29/10, 2/02/10 [DPS].
Passed Senate: 2/16/10, 47-0.
Passed House: 3/03/10, 98-0.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 6470 be substituted therefor, and the substitute bill do pass.
    Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell, Kauffman and McAuliffe.

Staff: Jennifer Strus (786-7316)

Background: The federal Indian Child Welfare Act (ICWA), passed in 1978, applies to custody proceedings in state court involving Indian children. As applied in dependency proceedings, it requires courts and the Department of Social and Health Services to follow additional or different procedures when working with Indian children. For example, before a court can order a child placed in foster care, it must first find, by clear and convincing evidence, including testimony from qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. Likewise, before a court can order the termination of parental rights in a case involving an Indian child, the court must find that termination is supported by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Substitute Bill: The ICWA language regarding burden of proof requirements for placing an Indian child in foster care (clear and convincing evidence) or terminating parental rights to that child (beyond a reasonable doubt) are stated specifically in the dependency statute.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony As Heard in Committee: PRO: The concept in the bill is a good one and would like to continue to perfect the bill.

CON: This bill should include additional language required by ICWA, including the requirement of the state to provide active efforts to reunify the child with his or her parent as well as including language that ensures that the expert witnesses used are qualified to be such. In some cases state workers have been used as the expert witness for Indian children and that's not what ICWA requires. Wisconsin recently passed a state Indian child welfare act and the language related to expert witnesses in that statute should be included in this bill.

OTHER: There are a number of people that have been working on a state ICWA bill for a few years. That bill was not introduced this session because it is a short session and a bad budget year. There are certain areas that that bill addresses - active efforts and qualified expert witnesses, that should be included in this bill.

Persons Testifying: PRO: Mike Moran, Samish and Hoh Tribes.

CON: Liz Mueller, Jamestown S'Klallam Tribe.

OTHER: Miguel Perez-Gibson, Colville Tribes.

House Amendment(s): A technical amendment is made to ensure that federal ICWA language is included in the termination of parental rights section of the bill.