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HOUSE BILL 2629

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State of Washington                      61st Legislature                      2010 Regular Session

By Representatives Kelley, Seaquist, Green, Kenney, and Morrell

Prefiled 01/08/10. Read first time 01/11/10. Referred to Committee on Early Learning & Children's Services.

1            AN ACT Relating to making corrections to update the law regarding  
2 adoption petitions; and amending RCW 26.33.040.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            **Sec. 1.** RCW 26.33.040 and 2004 c 64 s 2 are each amended to read  
5 as follows:

6            (1)(a) Every petition filed in proceedings under this chapter shall  
7 contain a statement alleging whether the child is or may be an Indian  
8 child as defined in 25 U.S.C. Sec. 1903. If the child is an Indian  
9 child as defined under the Indian child welfare act, the provisions of  
10 the act shall apply.

11            (b) Every order or decree entered in any proceeding under this  
12 chapter shall contain a finding that the Indian child welfare act does  
13 or does not apply. Where there is a finding that the Indian child  
14 welfare act does apply, the decree or order must also contain a finding  
15 that all notice requirements and evidentiary requirements under the  
16 Indian child welfare act have been satisfied.

17            (c) In proceedings under this chapter, the adoption facilitator  
18 shall file a sworn statement documenting efforts to determine whether

1 an Indian child as defined under the Indian child welfare act, 25  
2 U.S.C. Sec. 1903, is involved.

3 (d) Whenever the court or the petitioning party knows or has reason  
4 to know that an Indian child is involved in any termination,  
5 relinquishment, or placement proceeding under this chapter, the  
6 petitioning party shall promptly provide notice to the child's parent  
7 or Indian custodian and to the agent designated by the child's Indian  
8 tribe to receive such notices. Notice shall be by certified mail with  
9 return receipt requested. If the identity or location of the parent or  
10 Indian custodian and the tribe cannot be determined, notice shall be  
11 given to the secretary of the interior in the manner described in 25  
12 C.F.R. 23.11. If the child may be a member of more than one tribe, the  
13 petitioning party shall send notice to all tribes the petitioner has  
14 reason to know may be affiliated with the child.

15 (e) The notice shall: (i) Contain a statement notifying the parent  
16 or custodian and the tribe of the pending proceeding; and (ii) notify  
17 the tribe of the tribe's right to intervene and/or request that the  
18 case be transferred to tribal court.

19 (f) No termination, relinquishment, or placement proceeding shall  
20 be held until at least ten days after receipt of notice by the tribe.  
21 If the tribe requests, the court shall grant the tribe up to twenty  
22 additional days to prepare for such proceeding.

23 (2) Every petition filed in proceedings under this chapter shall  
24 contain a statement alleging whether the ~~((Soldiers and Sailors))~~  
25 servicemembers civil relief act of ~~((1940))~~ 2003, 50 U.S.C. Sec. 501 et  
26 seq. applies to the proceeding. Every order or decree entered in any  
27 proceeding under this chapter shall contain a finding that the  
28 ~~((Soldiers and Sailors))~~ servicemembers civil relief act of ~~((1940))~~  
29 2003 does or does not apply.

30 (3) Every petition filed in proceedings under this chapter must  
31 contain a statement alleging whether the Washington service members'  
32 civil relief act, chapter 38.42 RCW, applies to the proceeding. Every  
33 order or decree entered in any proceedings under this chapter must  
34 contain a finding that the Washington service members' civil relief  
35 act, chapter 38.42 RCW, does or does not apply.

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