
**Community Development, Housing &
Tribal Affairs Committee**

SB 5235

Brief Description: Modifying the requirements for purchase of care for Indian children.

Sponsors: Senators Hargrove and Carrell; by request of Department of Social and Health Services.

Brief Summary of Bill

- Authorizes the Department of Social and Health Services to purchase child welfare care for an Indian child from a federally recognized tribe or tribally licensed child-placing agency.
- Exempts the purchase of care for an Indian child in the custody of a tribe or tribally licensed child-placing agency from performance-based contracting requirements.

Hearing Date: 3/6/13

Staff: Sean Flynn (786-7124).

Background:

Child Welfare Services.

The Department of Social and Health Services (Department) provides welfare services for the protection and care of runaway, dependent, and neglected children. The Department may accept custody of children from parents and from juvenile courts to provide child welfare services. The services provided include the physical care and the routine medical, dental, mental health, and emergency care of the child.

The Department must develop and administer a comprehensive plan for the delivery of child welfare services. The plan includes recruiting an adequate number of foster care and prospective

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adoption homes for placement of children in need of care. The Department must monitor placements to ensure the safety and well-being of children and quality of care provided.

The Department may contract with a supervising agency to provide child welfare services. Tribes have the authority to license agencies located on the reservation to provide care or arrange for the placement of children for foster care and adoption. The Department or supervising agency may place children in tribally licensed facilities.

The Department or supervising agency may purchase care for children, including an Indian child who is in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency, pursuant to parental consent, or a tribal or state court order.

Performance-Based Contracts.

Performance-based contracting is a new methodology being implemented by the Department for child welfare services. The methodology links payment for services to the contractor's performance. The performance measures should relate to the successful engagement by the child or parent in the services provided and improvement in the condition addressed.

Under a newly enacted statutory scheme, beginning December 1, 2013, the Department must enter into performance-based contracts with one or more network administrators for family support and related services. At the same time, the Department must stop renewing its current contracts with child welfare service providers that provide services in the geographic areas covered by a network administrator.

The network administrator contracts directly with service providers within its geographic service area, using performance-based payment methodologies. The Department caseworker maintains the responsibility for identifying and coordinating services needed by the child or family, but must select available service providers from within the network administrator's provider network.

The Department's contracts with network administrators must provide an opportunity for tribal governments to contract for service delivery through network administrators. Network administrators must comply with intergovernmental agreements between the state and tribal governments, and the state and federal Indian Child Welfare Act (ICWA).

Indian Child Welfare Act.

The ICWA, enacted in 1978, is a comprehensive law governing the removal of Indian children from their families and placement of such children in foster care or adoptive homes. In 2011 the state enacted its own ICWA, which is substantially similar to the federal law. Under both the federal and state ICWA, tribes have exclusive jurisdiction over any child custody proceeding involving an Indian child living within the reservation of that tribe. Upon meeting certain conditions, state courts must transfer any proceeding for foster care placement or termination of parental rights of an Indian child not living on the reservation to tribal court.

The state and federal ICWA establish placement priorities for Indian children subject to foster care or adoptive placements. The priority placement preference follows in order of priority: the

child's extended family; a foster home licensed or approved by the child's tribe or by a non-Indian authority; or an institution with a program suitable for an Indian child's needs. The Indian child's tribe may establish a different order of preference for placement. The ICWA authorizes states and tribes to enter into agreements for the care and custody of Indian children.

Summary of Bill:

The Department or supervising agency may purchase child welfare care for an Indian child directly from a federally recognized tribe or tribally licensed child-placing agency. The purchase of care for an Indian child in the custody of a federal recognized tribe or tribally licensed child-placing agency is exempt from performance-based contracting requirements.

Appropriation: None.

Fiscal Note: Available.

Effective Date: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 2 relating to the purchase of care for Indian children, which takes effect December 1, 2013, after section 1 expires.