

HOUSE BILL REPORT

HB 2045

As Reported by House Committee On:
Community Development, Housing & Tribal Affairs

Title: An act relating to transfer of jurisdiction from a tribe in dependency cases involving Indian children.

Brief Description: Concerning transfer of jurisdiction from a tribe in dependency cases involving Indian children.

Sponsors: Representatives Sawyer, Ryu, Robinson, Stokesbary and Ormsby.

Brief History:

Committee Activity:

Community Development, Housing & Tribal Affairs: 2/15/17, 2/16/17 [DPS].

Brief Summary of Substitute Bill

- Provides a procedure for state courts to take jurisdiction over an Indian child when a tribal court has transferred jurisdiction.

HOUSE COMMITTEE ON COMMUNITY DEVELOPMENT, HOUSING & TRIBAL AFFAIRS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Ryu, Chair; Macri, Vice Chair; McCabe, Ranking Minority Member; Barkis, Assistant Ranking Minority Member; Jenkin, Reeves and Sawyer.

Staff: Sean Flynn (786-7124).

Background:

The federal Indian Child Welfare Act (ICWA) of 1978 governs the removal of Indian children from their families and the placement of such children in foster care or adoptive homes. In 2011 the state incorporated many of the ICWA provisions into state law. Both the federal and state ICWA recognize exclusive tribal jurisdiction over child custody proceedings involving an Indian child living within tribal territory.

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.

In a state court proceeding involving an Indian child living off-reservation, a party may request the transfer of jurisdiction to the tribal court. The request may be made by the child's parent or custodian, the child's tribe, or by the child if he or she is at least 12 years old. The court must transfer jurisdiction to the tribe upon request, unless either of the parent's object, the tribe declines jurisdiction, or the court finds there is good cause not to transfer. State courts gives full faith and credit to the decisions and judgments of a tribal court in an Indian child custody proceeding.

Summary of Substitute Bill:

If a tribal court orders the transfer of jurisdiction of a child welfare case to state court, the tribal court will transfer the court file and the state court must hold a hearing to determine whether to accept jurisdiction, consistent with full faith and credit. If the state court accepts jurisdiction, it must determine whether the child will be treated as dependent.

Substitute Bill Compared to Original Bill:

The procedure allowing the state court to determine whether to accept jurisdiction replaces the mandatory transfer to state court.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

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

Staff Summary of Public Testimony:

(In support) There are occasions when a tribal court has asserted jurisdiction in a child dependency case but later determines that the case should be transferred to state court. There is currently no mechanism in the ICWA that governs the transfer of jurisdiction from tribal court to state court.

(Opposed) None.

(Other) The state court should be able to decide whether or not to accept jurisdiction of a case transferred from tribal court.

Persons Testifying: (In support) Representative Sawyer, prime sponsor; and AJ Dotzauer, Tulalip Tribes.

(Other) Jennifer Strus, Department of Social and Health Services.

Persons Signed In To Testify But Not Testifying: None.