

ONE HUNDRED FOURTH LEGISLATURE - FIRST SESSION - 2015
COMMITTEE STATEMENT
LB566

Hearing Date: Thursday February 26, 2015
Committee On: Judiciary
Introducer: Coash
One Liner: Change provisions of the Indian Child Welfare Act

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye: 8 Senators Chambers, Coash, Ebke, Krist, Morfeld, Pansing Brooks, Seiler, Williams

Nay:

Absent:

Present Not Voting:

Verbal Testimony:

Proponents:

SEN. COLBY COASH
JILL HOLT
KIM HAWEKOTTE
DARLA LAPOINTE
AMY MILLER
ANGI HELLER
GWEN VARGAS PORTER
ROGER TRUDELL
ALICIA HARRIS
ROBERT MCEWEN

Representing:

INTRODUCER
NEBRASKA IOWA COALITION
FOSTER CARE REVIEW OFFICE
WINNEBAGO TRIBE OF NE
ACLU NEBRASKA
NEBRASKA FAMILIES COLLABORATIVE
OMAHA TRIBE OF NE
SANTEE SIOUX NATION
NCIA
NEBRASKA APPLESEED

Opponents:

SUSAN SAPP

Representing:

CLINE WILLIAMS LAW FIRM

Neutral:

Representing:

Summary of purpose and/or changes:

LB566 would provide for additional procedures in cases involving Indian children.

Section 1 requires a juvenile court to make an inquiry in abuse and neglect cases and termination of parental rights cases as to whether any party believes an Indian child is involved in the proceedings.

Sections 2 and 3 explicitly recognizes paternity determinations under Indian tribal law.

Section 5 expands on existing state policy regarding compliance with the federal Indian Child Welfare Act (ICWA) to include references to the state's interest in protecting tribal relations and tribal interests in Indian children.

Section 6 adds definitions of the terms "active efforts", "best interests of the Indian child" and "qualified expert witness"

under the Nebraska Indian Child Welfare Act (NICWA) and clarifies and updates a number of other definitions.

Section 7 permits a tribe to intervene in a court proceeding with being represented by counsel. This section also provides a method for identifying a child's "primary tribe" when the child is eligible for membership in multiple tribes.

Section 8 would provide that written evidence of active efforts be admissible in court proceedings and for the court to make certain findings regarding active efforts.

Section 9 would expand the notice and information related that the court is required to provide to Indian parents, custodians and tribes regarding an involuntary proceeding. This section would also require the notice to be filed within three days of issuance.

Section 10 would create additional procedural requirements in the event of voluntary consent to foster care placement, relinquishment, termination or termination of parental rights. This section would require notice to the parent, custodian and tribes of an Indian child of any services and would also provide the tribe a right to participate in the provision of certain services. This section would also require that the services be designed to prevent the breakup of an Indian family until this effort has proven unsuccessful.

Section 12 provides for priorities for adoptive or foster care placement of Indian children and requires good cause to deviate from the enumerated placement preferences. This section also describes sufficient good cause and places the burden of proof on the party requesting the deviation.

Section 14 would require any statewide child abuse and neglect hotline representative to inquire during each intake as to whether one of the parties may be an Indian child or Indian person. The representative would be required to document the information and inform a supervisor.

Section 15 would require the Department of Health and Human Services to adopt and promulgate rules and regulations to establish standards and procedures for the review of cases subject to NICWA or the federal ICWA.

Explanation of amendments:

AM1021 would remove one section from the proposed definition of active efforts that would have required frequent family time in the Indian child's home and the homes of the Indian child's extended family members.

The amendment would also expand the definition of a qualified expert witness to include a member of another tribe who is recognized by the Indian child's tribe as a qualified expert witness and a professional person with substantial education and experience with demonstrated knowledge of social and cultural standards and practices within the Indian child's tribe.

Les Seiler, Chairperson