

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 22-60—HB 5336

Human Services Committee

Judiciary Committee

AN ACT APPLYING THE PROVISIONS OF THE INDIAN CHILD WELFARE ACT TO CHILD CUSTODY, PLACEMENT, ADOPTION AND TERMINATION OF PARENTAL RIGHTS PROCEEDINGS INVOLVING AN INDIAN CHILD

SUMMARY: This act requires the children and families commissioner to make sure that any action or proceeding under the child welfare laws involving an American Indian child’s custody or placement in a foster or adoptive home, or the termination of the child’s parents’ parental rights, is according to the federal Indian Child Welfare Act (ICWA) (see BACKGROUND).

The act similarly requires the probate court, or the Superior Court in contested cases, to make sure that any action or proceeding under the probate laws for these same matters is also done according to ICWA.

Under the act and ICWA, an “Indian child” is an unmarried person under age 18 and either (1) a member or citizen of an Indian tribe or (2) eligible for membership or citizenship in an Indian tribe and the biological child of an Indian tribe member or citizen.

EFFECTIVE DATE: Upon passage

BACKGROUND

ICWA

ICWA is a federal law that governs and sets standards for the removal and out-of-home placement of American Indian children as well as the termination of their parents’ parental rights to protect the best interests of Native American children and keep them connected to their families and tribes. Among other things, ICWA clarifies that tribes have sovereignty and exclusive jurisdiction over their members who reside on tribal land and establishes a process for transferring cases to tribal court.

Under ICWA, an “Indian tribe” is any Indian tribe, band, nation, or other organized group or community of Indians federally recognized as eligible for the services provided to Indians by the federal secretary of the interior because of their status as Indians, including any Alaska Native (25 U.S.C. § 1901 et seq.).