

HB 3182 -1, -2, -4 STAFF MEASURE SUMMARY

House Committee On Judiciary

Prepared By: Amie Fender-Sosa, Counsel

Meeting Dates: 3/30, 4/8

WHAT THE MEASURE DOES:

Directs the Department of Human Services to study and make recommendations on provisions of state law related to the adoption of Indian children and to report its findings to the appropriate interim committee of the Legislative Assembly no later than January 1, 2023.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 Codifies the federal Indian Child Welfare Act into Oregon Law regarding adoptions. Clarifies language, reference and instruction around "reason to know a child is an Indian child." Requires the court to make a finding regarding whether there is reason to know and directs the court to take certain steps based on that finding. Incorporates into adoption cases, when there is a non-consenting parent, the involuntary termination of parental rights requirements that apply. Requires the agency that receives a child for voluntary relinquishment or surrender to complete certain steps when there is reason to know the child is an Indian child. Establishes processes for when an adoption is vacated. Sets requirements for return of an Indian child due to improper removal or retention. Creates a procedure for establishing parentage of an Indian child. Clarifies at a shelter hearing at disposition the active efforts requirements finding. Make technical corrections to chapter 14, Oregon Laws 2020 (first special session) (ORICWA). Takes effect on the 91st day after sine die.

-2 Requires the juvenile court to afford full faith and credit to a tribe's customary adoption once the order has been accepted by the juvenile court. Provides that a tribal customary adoption does not require consent of the Indian child or the child's parents. Directs the Department of Human Services (DHS) to adopt rules regarding the confidentiality of tribal adoption records and to report to the interim committees of the Legislative Assembly related to the Judiciary. Delays operational date for certain sections to January 1, 2022. Takes effect on the 91st day after sine die.

-4 Makes technical corrections. Modifies Citizen Review Board (CRB) finding responsibilities with regard to Indian children, as to decisions already made by the court. Clarifies procedures in adoptions of Indian children. Clarifies elements required to be in a judgment when a court enters a judgment of adoption regarding an Indian child. Increases time period for Department of Human Services to file a compliance report with the court from 30 to 90 days of services of the petition.

BACKGROUND:

The Indian Child Welfare Act (ICWA) is a federal law created "to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families by the establishment of minimum Federal standards for the removal of Indian children from their families and the placement of such children in foster or adoptive homes which will reflect the unique values of Indian culture" (25 U.S.C. § 1902, 1978). In Oregon in 2018, American Indian and Alaska Native (AI/AN) children were over-represented in the Oregon foster care system. Although AI/AN children makeup 1.6 percent of the child population, they are 4.8 percent of the children in foster care in Oregon.