



# House of Representatives

General Assembly

**File No. 384**

February Session, 2022

House Bill No. 5336

*House of Representatives, April 11, 2022*

The Committee on Human Services reported through REP. ABERCROMBIE of the 83rd Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

***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.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) (a) As used in this section, (1)  
2 "Indian child" has the same meaning as provided in 25 USC 1903, as  
3 amended from time to time, and (2) "Indian Child Welfare Act", 25 USC  
4 1901 et seq., as amended from time to time, means the federal law setting  
5 minimum standards for the removal of Indian children from their  
6 families and the placement of such children in foster or adoptive homes.

7 (b) In any action or proceeding under chapter 319 or 319a of the  
8 general statutes involving an Indian child's custody, placement in a  
9 foster or adoptive home or termination of the parental rights of the  
10 parents of such child, the Commissioner of Children and Families shall  
11 ensure that such action or proceeding is conducted in accordance with  
12 the Indian Child Welfare Act.

13       Sec. 2. (NEW) (*Effective from passage*) (a) As used in this section, (1)  
 14 "Indian child" has the same meaning as provided in 25 USC 1903, as  
 15 amended from time to time, and (2) "Indian Child Welfare Act", 25 USC  
 16 1901 et seq., as amended from time to time, means the federal law setting  
 17 minimum standards for the removal of Indian children from their  
 18 families and the placement of such children in foster or adoptive homes.

19       (b) In any action or proceeding under chapter 803 of the general  
 20 statutes involving an Indian child's custody, placement in an adoptive  
 21 home or termination of the parental rights of the parents of such child,  
 22 the Probate Court, or the Superior Court in cases transferred pursuant  
 23 to section 45a-715 of the general statutes, shall ensure that such action  
 24 or proceeding is conducted in accordance with the Indian Child Welfare  
 25 Act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section

**HS**       *Joint Favorable*

*The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.*

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**OFA Fiscal Note****State Impact:** None**Municipal Impact:** None**Explanation**

Any procedural changes under the bill are not anticipated to have a fiscal impact.

**The Out Years****State Impact:** None**Municipal Impact:** None

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**OLR Bill Analysis****HB 5336*****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 bill requires the commissioner of children and families to ensure that any action or proceeding under the child welfare laws involving an Indian child's custody or placement in a foster or adoptive home, or the termination of the child's parents' parental rights, is conducted in accordance with the federal Indian Child Welfare Act (ICWA, see BACKGROUND).

The bill similarly requires the probate court, or the Superior Court in contested cases, to ensure that any action or proceeding under the probate laws involving an Indian child's custody or placement in a foster or adoptive home, or termination of the child's parents' parental rights, is conducted in accordance with ICWA.

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

EFFECTIVE DATE: Upon passage

**BACKGROUND*****Indian Child Welfare Act (ICWA)***

ICWA is a federal law that governs and establishes standards for the removal and out-of-home placement of American Indian children as well as the termination of parental rights to protect the best interests of Native American children and keep them connected to their families

and tribes. Among other things, it 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 in other cases.

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.

**COMMITTEE ACTION**

Human Services Committee

Joint Favorable

Yea 20    Nay 0    (03/24/2022)