

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)  
CONFERENCE COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
HOUSE BILL NO. 2164 By: Roach

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to children; amending 10 O.S. 1991, Sections 40.2 and 40.6, as amended by Section 4, Chapter 30, O.S.L. 1994 (10 O.S. Supp. 1996, Section 40.6), which relates to the Indian Child Welfare Act; adding definition; clarifying language; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 10 O.S. 1991, Section 40.2, is amended to read as follows:

Section 40.2 For the purposes of the Oklahoma Indian Child Welfare Act:

1. "Indian" means a person who is a member of an Indian tribe;
2. "Indian child" means any unmarried or unemancipated person who is under the age of eighteen (18) and is either:
  - a. a member of an Indian tribe, or
  - b. is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe;
3. "Indian custodian" means any Indian person who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody and control has been transferred by the parent of such child; ~~and~~
4. "Indian tribe" means any Indian tribe, band, nation or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians; and
5. "Department" means the Department of Human Services.

SECTION 2. AMENDATORY 10 O.S. 1991, Section 40.6, as amended by Section 4, Chapter 30, O.S.L. 1994 (10 O.S. Supp. 1996, Section 40.6), is amended to read as follows:

Section 40.6 A. The placement preferences specified in 25 U.S.C. Section 1915, shall apply to all preadjudicatory placements, ~~as well as~~ preadoptive, adoptive and foster care placements.

B. In all placements of an Indian child by the Oklahoma Department of Human Services ~~(DHS)~~, or by any person or other placement agency, ~~DHS~~ the Department, the person or placement agency shall utilize to the maximum extent possible the services of the Indian tribe of the child in securing placement consistent with the provisions of the Oklahoma Indian Child Welfare Act. This requirement shall include cases where a consenting parent evidences a desire for anonymity in the consent document executed pursuant to Section 60.5 of this title. If a request for anonymity is included in a parental consent document, the court shall give weight to such desire in applying the preferences only after notice is given to the child's tribe and the tribe is afforded twenty (20) days to intervene and request a hearing on available tribal placement resources which may protect parental confidentiality, provided that notice of such hearing shall be given to the consenting parent.

SECTION 3. This act shall become effective November 1, 1997.

46-1-7598 KSM