

ENGROSSED HOUSE
BILL NO. 2164

By: Roach of the House

and

Henry of the Senate

(children - amending 10 O.S., Sections 40.2 and 40.6 -
Indian Child Welfare Act - 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.

Passed the House of Representatives the 25th day of February, 1997.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1997.

President

of the Senate