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HOUSE BILL 232

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

R. David Pederson

FOR THE COURTS, CORRECTIONS AND CRIMINAL JUSTICE COMMITTEE AND
THE INDIAN AFFAIRS COMMITTEE

AN ACT

RELATING TO CHILDREN; CLARIFYING THAT INDIAN CHILDREN HAVE THE
SAME RIGHT TO SERVICES THAT ARE AVAILABLE TO OTHER CHILDREN IN
THE STATE; AMENDING A SECTION OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 32A-1-8 NMSA 1978 (being Laws 1993,
Chapter 77, Section 17, as amended) is amended to read:

"32A-1-8. JURISDICTION OF THE COURT--TRIBAL COURT
JURISDICTION. --

A. The court has exclusive original jurisdiction
of all proceedings under the Children's Code in which a person
is eighteen years of age or older and was a child at the time
the alleged act in question was committed or is a child
alleged to be:

- (1) a delinquent child;

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- 1 (2) a child of a family in need of services;
- 2 (3) a neglected child;
- 3 (4) an abused child;
- 4 (5) a child subject to adoption; or
- 5 (6) a child subject to placement for a
- 6 developmental disability or a mental disorder.

7 B. The court has exclusive original jurisdiction
8 to emancipate a minor.

9 C. During abuse or neglect proceedings in which
10 New Mexico is the home state, pursuant to the provisions of
11 the Child Custody Jurisdiction Act, the court shall have
12 jurisdiction over both parents to determine the best interest
13 of the child and to decide all matters incident to the court
14 proceedings.

15 D. Nothing in this section shall be construed to
16 in any way abridge the rights of any Indian tribe to exercise
17 jurisdiction over child custody matters as defined by and in
18 accordance with the federal Indian Child Welfare Act of 1978.

19 E. A tribal court order pertaining to an Indian
20 child in an action under the Children's Code shall be
21 recognized and enforced by the district court for the judicial
22 district in which the tribal court is located. A tribal court
23 order pertaining to an Indian child [~~that is not subject to~~
24 ~~the provisions of the Children's Mental Health and~~
25 ~~Developmental Disabilities Act and~~] that accesses state

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1 resources shall be recognized and enforced pursuant to the
2 provisions of intergovernmental agreements entered into by the
3 Indian child's tribe and the department or another state
4 agency. An Indian child residing on or off a reservation, as
5 a citizen of this state, shall have the same right to services
6 that are available to other children of the state. The cost
7 of the services provided to an Indian child shall be
8 determined and provided for in the same manner as services are
9 made available to other children of the state. The tribal
10 court, as the court of original jurisdiction, shall retain
11 jurisdiction and authority over the Indian child. "

12 Section 2. EFFECTIVE DATE. --The effective date of the
13 provisions of this act is July 1, 1999.

1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999
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6 February 3, 1999
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8 Mr. Speaker:
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10 Your JUDICIARY COMMITTEE, to whom has been referred
11

12 HOUSE BILL 232
13

14 has had it under consideration and reports same with
15 recommendation that it DO PASS, amended as follows:
16

17 1. On page 3, line 6, strike the period and insert in
18 lieu thereof ", pursuant to intergovernmental agreements."

19 2. On page 3, line 9, strike the period and insert in
20 lieu thereof ", utilizing tribal, state and federal funds
21 and pursuant to intergovernmental agreements.".,
22

23 and thence referred to the APPROPRIATIONS & FINANCE
24 COMMITTEE.
25

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HJC/HB 232

Page 5

Respectfully submitted,

R. David Pederson, Chairman

Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 10 For 0 Against

Yes: 10

Excused: Luna, Sanchez

Absent: None

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. 124874. 2

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1 FORTY- FOURTH LEGISLATURE
2 FIRST SESSION, 1999

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4 February 20, 1999

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6
7 Mr. Speaker:

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9 Your APPROPRIATIONS AND FINANCE COMMITTEE, to
10 whom has been referred

11 HOUSE BILL 232, as amended

12
13 has had it under consideration and reports same with
14 recommendation that it DO PASS.

15
16 Respectfully submitted,

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20 _____
21 Max Coll, Chairman
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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

Page 7

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 11 For 0 Against

Yes: 11

Excused: Buffett, Parsons, Pearce, Picraux, Townsend, Varela

Absent: None

J: \99BillSWP\H0232

underscored material = new
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