

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 945
Committee Substitute Favorable 4/15/09
Committee Substitute #2 Favorable 5/5/09

Short Title: Study/Preserve Culture/Indian Children.

(Public)

Sponsors:

Referred to:

April 1, 2009

A BILL TO BE ENTITLED

1 AN ACT TO STUDY HOW THE TRADITIONAL NATIVE AMERICAN CULTURE,
2 CUSTOMS, AND TRADITIONS OF STATE INDIAN TRIBE CHILDREN CAN BE
3 PROTECTED WHEN THE CHILDREN ARE INVOLVED IN CUSTODY, ADOPTION,
4 AND OTHER PROCEEDINGS IN STATE COURTS.
5

6 Whereas, over the years, a number of federal policies impacting Native Americans
7 have had a devastating effect on the preservation of the Indian family; and

8 Whereas, these policies caused reservation communities to be broken apart and
9 forced Native American families away from the reservations into urban areas, isolating them
10 from their community and extended families, who often served as a source of support; and

11 Whereas, based on nationwide studies conducted between 1969 and 1974, 25% to
12 35% of Indian children were removed from their homes and placed in non-Indian foster and
13 adoptive homes by state courts and welfare agencies; and

14 Whereas, in 1978, the United States Congress heeded the call of the great Lakota
15 leader, Sitting Bull, by passing the Indian Child Welfare Act, commonly known as ICWA; and

16 Whereas, ICWA is viewed as a requisite to eliminating the practice of state entities
17 that tended to remove an inordinately large number of Native American children from their
18 homes without full appreciation of traditional Native American culture, customs, and
19 child-rearing practices; and

20 Whereas, North Carolina has many State-recognized Indian tribes whose child
21 members are not protected by the provisions of the ICWA solely because the tribes have not
22 received federal recognition; Now, therefore,

23 The General Assembly of North Carolina enacts:

24 **SECTION 1.** There is created the House Select Committee on the Preservation of
25 Culture and Customs of Indian Children. The Committee shall consist of nine members
26 appointed as follows:

- 27 (1) Six members from the House of Representatives, one of which shall be a
28 Native American, to be appointed by the Speaker of the House of
29 Representatives.
30 (2) One member from the State Commission on Indian Affairs, to be appointed
31 by the Executive Director of the Commission.
32 (3) One member from the Child Welfare Division, Department of Health and
33 Human Services, to be appointed by the Secretary of the Department.
34 (4) One member to be selected by the American Indian Mothers, Inc.

35 The Speaker of the House of Representatives shall designate one representative as
36 Chair. Vacancies of the Committee shall be filled by the same appointing authority that made



1 the initial appointment. The Committee shall meet on the call of the Chair. A quorum of the
2 Committee shall be a majority of its members.

3 **SECTION 2.** The Committee shall examine any issues or matters which would
4 impact on the preservation of the customs and culture of Indian children who are not covered
5 under the ICWA, and who are the subject of legal proceedings in State courts, including, but
6 not limited, to adoption, custody, and visitation. The House Select Committee may study:

- 7 (1) Current State laws applicable to family-related legal proceedings and their
8 impact on retention of the cultural heritage of child members of Indian
9 tribes.
- 10 (2) Guidelines for local departments of social service agencies that would
11 implement the same or similar policies and practices that are applicable to
12 Indian children under federal law.
- 13 (3) The creation of a State council or commission, to include members of Indian
14 tribes, State and local social services agencies, the judiciary, and other
15 appropriate officials to recommend policies and procedures to the General
16 Assembly.
- 17 (4) Any other matter that is relevant to promoting the preservation of the
18 customs and culture of Indian children who are the subject of legal
19 proceedings in State courts.

20 **SECTION 3.** While in the discharge of its official duties, the Committee may
21 exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4.
22 Members of the Committee shall receive per diem, subsistence, and travel allowance as
23 provided in G.S. 120-3.1, 138-5, or 138-6, as appropriate. With the prior approval of the
24 Legislative Services Commission, the Legislative Services Officer shall assign professional and
25 clerical staff to assist the Committee in its work. The House of Representatives shall assign
26 clerical staff to the Committee. The Committee may contract for professional, clerical, or
27 consultant services as provided by G.S. 120-32.02. The Committee may meet in the
28 Legislative Building or Legislative Office Building and may meet at various locations around
29 the State in order to promote greater public participation in its deliberations.

30 **SECTION 4.** The Committee shall submit a final report to the 2010 Regular
31 Session of the 2009 General Assembly and may submit interim reports as it deems necessary.
32 The Committee shall terminate upon filing its final report or upon the convening of the 2010
33 Regular Session of the 2009 General Assembly, whichever comes first.

34 **SECTION 5.** This act is effective when it becomes law.