

SUMMARY

AB 81, seeks to safeguard existing state statutes protecting Indian children, families and the rights of tribes in child welfare cases.

BACKGROUND

The Indian Child Welfare Act (ICWA) was enacted in 1978 to “protect the best interests of Indian children and to promote the stability and security of Indian tribes and families”.¹ ICWA is considered by many to be one of the most important pieces of tribal civil rights legislation of this century. ICWA provides substantive rights to Indian children, families and tribes, when tribal families are involved in state child welfare and foster care systems. The federal ICWA is so important and so effective at rolling back past practices of Indian family separation, that California passed similar legislation over a decade ago. Now, there are over 50 provisions of California state law that apply to proceedings involving Indian children.

PROBLEM

Since their passage, ICWA, and its California counterpart, have provided important rights and protections to Indian children, families and tribes. As attacks on ICWA continue throughout the Nation, California’s codification of its provisions may also be threatened.

SOLUTION

In answer to these threats, ICWA and its California counterparts must be strengthened. AB 81 seeks to reinforce California’s commitment to Indian children, families and tribes by acknowledging that federally recognized tribes are sovereign nations with inherent rights to self-governance, including the right to regulate domestic relations involving their citizens. Tribes have been protecting and caring for their children from time immemorial and tribes’ rights to remain involved in state proceedings involving their children’s welfare must be protected.

Indian children continue to be disproportionately represented in California’s child welfare system and new research shows that tribes being involved in dependency cases as early as possible can

reduce a child’s time in state care, so this proposed legislation is urgently needed to reinforce the State’s commitment to protecting essential tribal relations by recognizing a tribe’s right to protect the health, safety, and welfare of its citizens.

AB 81 will also safeguard existing state statutes protecting Indian children, families and the rights of tribes in child welfare cases by naming the provisions of California state law that apply to proceedings involving Indian children as the “California Indian Child Welfare Act.” These important provisions have colloquially been referred to as “Cal-ICWA” since as early as 2006 and this bill would codify the California Legislature’s intent to name the provisions, thereby improving legal practice by providing a clean citation for practitioners.

SUPPORT

Morongo Band of Mission Indians (Co-Sponsor)
California Tribal Families Coalition (Co-Sponsor)
Alliance for Children’s Rights
The Children’s Partnership

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¹ 25 U.S.C 1902