

**HOUSE STUDY COMMITTEE TO  
PRESERVE THE CULTURE & CUSTOMS OF  
INDIAN CHILDREN**



***REPORT TO THE  
2010 REGULAR SESSION  
OF THE 2009 GENERAL ASSEMBLY  
OF NORTH CAROLINA***

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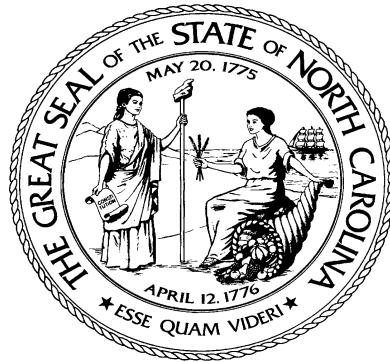
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STATE OF NORTH CAROLINA

HOUSE STUDY COMMITTEE TO  
PRESERVE THE CULTURE AND CUSTOMS OF INDIAN CHILDREN



April 23, 2010

TO THE MEMBERS OF THE 2009 HOUSE OF REPRESENTATIVES:

Attached for your consideration is the report of the House Study Committee to Preserve the Culture and Customs of Indian Children established by the Speaker of the House of Representatives pursuant to G.S. 120-19.6(a1) and Rule 26(a) of the Rules of the House of Representatives of the 2009 General Assembly.

Respectfully submitted,

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Representative Ron Sutton  
Chair

**HOUSE STUDY COMMITTEE TO  
PRESERVE THE CULTURE AND CUSTOMS  
OF INDIAN CHILDREN**

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HOUSE STUDY COMMITTEE TO PRESERVE THE CULTURE AND CUSTOMS  
OF INDIAN CHILDREN

TO THE HONORABLE MEMBERS OF THE  
NORTH CAROLINA HOUSE OF REPRESENTATIVES

**Section 1.** The House Study Committee to Preserve the Culture and Customs of Indian Children (hereinafter "Committee") is established by the Speaker of the House of Representatives pursuant to G.S. 120-19.6(a1) and Rule 26(a) of the Rules of the House of Representatives of the 2009 General Assembly.

**Section 2.** The Committee consists of 13 members appointed by the Speaker of the House of Representatives. The membership of the committee shall include 4 legislators, one of whom shall be a Native American, and 9 public members as specified below. Members serve at the pleasure of the Speaker of the House of Representatives. The Speaker of the House of Representatives may dissolve the Committee at any time. Vacancies are filled by the Speaker of the House of Representatives.

Representative Sutton - Chair
Representative Stevens
Representative E. Warren
Representative Wray
American Indian Mothers - Beverly Collins-Hall
Commission on Indian Affairs - Greg Richardson
DHHS - Charisse Johnson
Tribes rec. - Tammy Jacobs
Tribes rec. - Rhonda Jones
Tribes rec. - Julia Phipps
Tribes rec. - Juanita Wilson
Groups rec. - Kara Jones
Groups rec. - Rick Oxendine

**Section 3.** The Committee may study any issues or matters that would impact the preservation of the customs and culture of Indian children who are not covered under the Indian Child Welfare Act (ICWA) and who are the subject of legal proceedings in State courts, including adoption, custody, and visitation. The Committee may study:

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

**Section 4.** The Committee shall meet upon the call of its Chair. A quorum of the Committee shall be a majority of its members.

**Section 5.** The Committee, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and Article 5A of Chapter 120 of the General Statutes.

**Section 6.** Members of the Committee shall receive per diem, subsistence, and travel allowance as provided in G.S. 120-3.1.

**Section 7.** The expenses of the Committee including per diem, subsistence, travel allowances for Committee members, and contracts for professional or consultant services shall be paid upon the written approval of the Speaker of the House of Representatives pursuant to G.S. 120-32.02(c) and G.S. 120-35 from funds available to the House of Representatives for its operations. Individual expenses of \$5,000 or less, including per diem, travel, and subsistence expenses of members of the Committee, and clerical expenses shall be paid upon the authorization of the Chair of the Committee. Individual expenses in excess of \$5,000 shall be paid upon the written approval of the Speaker of the House of Representatives.

**Section 8.** The Legislative Services Officer shall assign professional and clerical staff to assist the Committee in its work. The Director of Legislative Assistants of the House of Representatives shall assign clerical support staff to the Committee.

**Section 9.** The Committee may meet at various locations around the State in order to promote greater public participation in its deliberations.

**Section 10.** The Committee shall submit a final report to the 2010 Regular Session of the 2009 General Assembly and may submit interim reports as it deems necessary. The Committee shall terminate upon filing its final report or upon the convening of the 2010 Regular Session of the 2009 General Assembly, whichever comes first.

Effective this the 6th day of January, 2010.



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Joe Hackney  
Speaker



## **COMMITTEE PROCEEDINGS**

The Full House Study Committee to Preserve the Culture and Customs of Indian Children held 3 meetings. The Subcommittee of the House Study Committee to Preserve the Culture and Customs of Indian Children held 2 meetings.

**February 11, 2010**

### **Foster Care Placements for Indian Children in North Carolina**

- Charisse Johnson, MSW, Child Welfare Services Section Chief,  
North Carolina Department of Social Services (NCDSS),  
Department of Health and Human Services (DHHS)
- Candice Britt, MSW, Child and Family Services Review Coordinator,  
North Carolina Department of Social Services (NCDSS),  
Department of Health and Human Services (DHHS)
- Angenette Stephenson, JD, MSW, Child Welfare Attorney  
North Carolina Department of Justice

**March 16, 2010**

### **Jordan Institute**

- Mellicent O'Brien Blythe, Clinical Instructor  
Jordan Institute for Families  
UNC-CH School of Social Work

### **Commission of Indian Affairs**

- Greg Richardson, Executive Director  
NC Commission of Indian Affairs  
NC Department of Administration

### **Overview of Local Efforts of the Lumbee Tribe**

- Rhonda Jones, CEO  
Red Path Child and Family Agency

**March 26, 2010**

### **Subcommittee Meeting Chaired by Rep. Sarah Stevens**

**April 7, 2010**

### **Subcommittee Meeting Chaired by Rep. Sarah Stevens**

**April 23, 2010**

**Presentation by American Indian Mothers**

- Ms. Beverly Collins Hall, Executive Director  
American Indian Mothers

**Report from the Subcommittee**

- Representative Sarah Stevens, Subcommittee Chair

**Update from the Indian Child Welfare Task Force**

- Ms. Tonia Jacobs, Human Services Senior Practitioner  
Task Force Member

## **SUMMARY OF COMMITTEE PROCEEDINGS**

### **House Study Committee to Preserve the Culture and Customs of Indian Children**

**February 11, 2010 – 10:00 am – Room 1228, Legislative Building**

Chairman Sutton called the meeting to order and explained the charge of the Committee and how the Committee would operate.

Angie Stephenson, child welfare attorney, North Carolina Department of Justice explained the barrier to implementing some of the provisions of the Indian Child Welfare Act, (ICWA) since currently, ICWA does not apply to State tribes.

Candice Britt, Child & Family Services Review Coordinator, North Carolina Division of Social Services/DHHS provided background information on the issue of Indian children placement in foster care and gave an overview on the most recent policies of DHHS.

As of January 2010, there were 9,203 children in foster care. Of those, 118 were identified as American Indian/Alaskan Native. NCDSS does not have a mechanism to identify how many of the 118 children are federally recognized tribe members or state tribe members. There are currently 204 licensed Indian foster parents in the state. They are identified as American Indian/Alaskan Native.

While the ICWA only protects members of federally recognized tribes, children in the State recognized tribes are afforded similar consideration. North Carolina G.S. 143B-139.5A was enacted in 2001 to support collaboration between NCDSS, the NC Directors of Social Services Association and the Commission of Indian Affairs. The practical applications must occur in the County Departments' of Social Services. Ms. Britt also touched on policy, recruitment and retention efforts within the local Departments of Social Services and stated that all child welfare staff will receive mandatory cultural competence training in their first year of employment effective January 2010.

There were questions from committee members and some committee discussion around the various issues and presentations.

### **House Study Committee to Preserve the Culture and Customs of Indian Children**

**March 16, 2010 – 10:00 am – Room 1228, Legislative Building**

Representative Sutton called the meeting to order and welcomed the Committee to its second meeting. Upon motion of the Chairman, the minutes of February 11, 2010 were approved.

Ms. Mellicent O'Brien Blythe, Clinical Instructor with the Jordan Institute for Families, UNC-CH School of Social Work, was recognized to outline the Institute's Community Dialogue Process. This process is bringing together stakeholders in a community to work together to solve common problems. The Institute has done a variety of dialogues

in a number of settings; the dialogues include Families for Kids, student achievement gap in schools, community domestic violence response, and recruitment and retention of foster care families.

Representative Sutton asked what the Institute would have in place when the Lumbee efforts are complete. Ms. Blythe responded the idea of the dialogue is that the performance team remains an institutionalized group of people that continues to meet over time and that one of the recommendations from the stakeholder group is the development of a written memorandum of agreement.

Representative Sutton then asked about an enforcement mechanism. Ms. Blythe responded that enforcement is not a formal or legal process in the community dialogue process. Instead, community engagement and involvement provide some informal enforcement. The spirit of the community dialogue is to have an alternative to the judicial system. Ms. Blythe also added that the community dialogue process does provide a template which DSS can use for training efforts in other counties.

Next, Mr. Greg Richardson, Executive Director North Carolina Commission of Indian Affairs was recognized. Mr. Richardson gave an overview of the North Carolina Commission of Indian Affairs, its role and purpose, as well as the status of the tribes in North Carolina

Ms. Tammi Jacobs, staff member of the North Carolina Commission of Indian Affairs was recognized and gave a presentation on ICWA and the protections it provides for American Indian children and their families. Ms. Jacobs talked briefly about jurisdiction as it pertains to Indian children and the collaboration efforts to address the ICWA issues in NC for the NC state tribes. In 2009, the American Indian Center at UNC-CH along with North Carolina Commission of Indian Affairs formed a partnership to create the North Carolina Indian Child Welfare Task Force which is also meeting in the spring of 2010.

Next, Ms. Rhonda Jones, CEO of Red Path Child and Family Agency, was recognized and gave a presentation and overview of the Red Path Child and Family Agency and statistical data regarding the population of American Indian children in foster care. She stated that North Carolina has 118 American Indian children in foster care; 57 of them are in Robeson County. There are 12 American Indian foster care homes in Robeson County and 1 in Hoke County.

Representative Stevens was recognized and asked Ms. Jones if her agency would find it preferable to take the 57 children in Robeson County foster care where there are only 12 Indian foster homes to another county with an Indian foster home? Ms. Jones stated that would be her preference. Representative Stevens then asked Ms. Britt, Child & Family Services Review Coordinator, North Carolina Division of Social Services/DHHS, who was in attendance, if this was contrary to North Carolina's current policy of reunification of the family. Ms. Britt replied this would contradict North Carolina's current policy.

Chairman Sutton then appointed a subcommittee to further research and discuss the issues and then report its findings back to the full Committee at the April meeting. Representative Sutton appointed Representative Stevens to Chair the subcommittee; membership on the committee would consist of Beverly Collins-Hall, Charisse Johnson, Tammi Jacobs, Kara Jones and Rhonda Jones.

**House Study Committee to Preserve the Culture and Customs of Indian Children**

**Subcommittee Meeting**

**March 26, 2010 – 11:00 am – Room 421, Legislative Office Building**

The Chair of the Subcommittee, Rep. Sarah Stevens, called the meeting to order and stated the issues that members perceive to be problems that exist in the area of Indian child welfare and how the Subcommittee could reach solutions to the problems. There was much discussion by the Subcommittee members about the various issues.

Ms. Beverly Collins-Hall asked about the federal review of the Division of Social Services (DSS) at the Department of Health and Human Services and the mandate that resulted from the review and how it applies to the Committee. Ms. Charisse Johnson of DSS replied that the Child and Family Services Review from the federal government resulted in an improvement plan for DSS regarding Indian children but that the plan only applied to the Cherokee Tribe since it is the only federally recognized tribe in the State.

Ms. Candice Britt of DSS stated that there have been issues with county DSS offices not doing a good job of identifying children of Indian heritage. They are working on training local DSS works and emphasizing the need to get tribal members involved.

Ms. Collins-Hall stated that she wanted the federal agency to come and speak about the application of the federal Indian Child Welfare Act (ICWA) to all State tribes.

There was discussion by the Subcommittee members concerning confidentiality issues and that while DSS should notify tribes, parental permission is also required. A standard release form to waive confidentiality may be a solution. Mellicent O'Brien Blythe of the Jordan Institute for Families noted that early tribal involvement before removal would be very helpful.

Rep. Stevens stated that any changes to placement procedure for children belonging to State tribes must be in compliance with the requirements of the federal Multi-Ethnic Placement Act.

The statutory requirement under G.S. 143B-139.5A for collaboration between the Commission on Indian Affairs and DSS was emphasized. The Commission also has a Task Force that is looking at child welfare issues. Rep. Stevens asked the members of the Subcommittee to think about what other language is needed in G.S. 143B-139.5A to improve collaboration and Indian child welfare.

**House Study Committee to Preserve the Culture and Customs of Indian Children**

**Subcommittee Meeting**

**April 7, 2010 – 11:00 am – Room 415, Legislative Building**

The Chair of the Subcommittee, Rep. Sarah Stevens, called the meeting to order and reviewed discussion at the prior Subcommittee meeting.

Ms. Candice Britt of the Division of Social Services (DSS) at the Department of Health and Human Services stated that the Indian Child Welfare Task Force was working on

improving collaboration among the various parties involved in Indian child welfare. The Task Force was discussing tribal notification forms, memoranda of understanding, and training at the tribal and local DSS levels.

Ms. Tammi Jacobs of the Commission on Indian Affairs stated that there was work being done on disseminating information throughout the State and getting buy-in from the various tribes. Ms. Kara Jones stated the need to work through the federal government to raise funds. She also stated that the memoranda of understanding needed to detail the rights and responsibilities of the tribes and information on the legal ability to intervene in child welfare cases. She stated that notification to tribes is most important so they can become involved. Rep. Stevens noted that DSS is working on a new intake form to help identify Indian children as well as a release form that would allow DSS to give tribes more information if the parents sign such a release.

The Chair of the House Study Committee to Preserve the Culture and Customs of Indian Children, Representative Ron Sutton, stated that there needs to be some recourse with specific procedures if a memorandum of understanding is not enforced. Ms. Kara Jones stated that the Commission on Indian Affairs' Task Force is working on a draft memorandum of understanding that contains enforcement language and procedures to follow if the parties do not adhere to the agreement.

### **House Study Committee to Preserve the Culture and Customs of Indian Children**

**April 23, 2010 – 10:00 am – Room 1228, Legislative Building**

Representative Sutton called the meeting to order and welcomed the Committee to its third full meeting. Upon motion of the Chairman, the minutes of March 16, 2010 were approved.

Presenter Ms. Beverly Collins-Hall, Executive Director of American Indian Mothers, was recognized and gave some background on the organization and explained the organization looked at a variety of issues impacting Indian children, one of which was Indian child welfare. Ms. Collins-Hall referenced House Bill 945 and presented a Memorandum of Response from the Honorable Benjamin Zvenia, Federal Judge and Legal Advisor for American Indian Mothers Incorporated. Ms. Collins-Hall stated she would like to see House Bill 945 passed.

Next, Ms. Kara Jones was recognized and referenced Title 25 of the federal code, which defined the term "Indian" for several purposes, including certain federal grants and funds.

Representative Sutton also provided clarification on the status of House Bill 945. He explained that this particular bill no longer exists, and that the bill cannot come back to the floor and be heard again because it was heard and converted to this study committee. If legislation is proposed from this study committee, then a new bill will be created giving it a new number.

Next, Representative Stevens, Subcommittee Chair, gave an interim report of the Subcommittee's activities. The Subcommittee began its work with a review of the federal mandates. Of primary concern was whether County DSS offices were doing a good job

identifying Indian children. They discussed the Indian Child Welfare Act (ICWA) and its implications, the Multi-Ethnic Placement Act (MEPA), and confidentiality issues. The Subcommittee then looked at the existing statute, G.S. 143B-139.5A, which requires collaboration between the Division of Social Services and the Commission of Indian Affairs. The Subcommittee learned that an Indian Child Welfare Task Force had been created and was meeting this spring. The Subcommittee wanted to see what recommendations the Task Force might have before any formal recommendations could be made by the Subcommittee.

Lastly, presenter Tonia Jacobs, Human Services Senior Practitioner with Wake County and member of the Indian Child Welfare Task Force, gave the mission statement of the Task Force and an overview of the result of Senate Bill 715 enacted in 2001 and the formation of the Task Force formed in 2009.

Several committee members requested more clarification of the federal laws, particularly MEPA and ICWA and how these laws apply to state-recognized tribes here in North Carolina. Committee members expressed the need for more time to study the issues before the Committee. Representative Sutton informed the Committee that a request had been made to and granted by the Speaker for an extension to continue the Committee beyond the short session. Thus, the Committee would continue to meet after the short session adjourned this summer.

## **COMMITTEE FINDINGS AND RECOMMENDATIONS**

The House Study Committee to Preserve the Culture and Customs of Indian Children makes the following findings and recommendations to the 2010 Session of the 2009 General Assembly:

### **Findings:**

1. The Committee finds that it is of utmost importance that culture and heritage of Indian children be preserved and protected if they enter child welfare system in the State. Currently, the North Carolina Department of Social Services does not have strong mechanisms in place to help identify the tribal backgrounds of Indian children that come into the child welfare system, however, it is working on improving its intake process and increasing training to help social workers be more culturally sensitive to the needs of Indian children and their families and tribes.
2. The Committee finds that ongoing dialogue between the various stakeholders such as the North Carolina Commission on Indian Affairs, the North Carolina Indian Child Welfare Task Force, the North Carolina Department of Social Services, State tribal leaders, and State tribal advocates is an important step in advancing the needs of Indian children. The Committee finds that it is important for all of the stakeholders to continue to meet and agree to processes for dissemination of information, tribal notification, handling grievances and other such issues in a timely manner.

### **Recommendations:**

1. The Committee recommends that the North Carolina Indian Child Welfare Task Force continue its work to forge increased collaboration between the various stakeholders to provide for better outcomes for Indian children in the child welfare system that helps preserve their heritage and customs.
2. The Committee recommends that it be reauthorized after the 2010 Session of the 2009 General Assembly to continue its work.