

104TH CONGRESS
2^D SESSION

H. R. 3275

To amend the Indian Child Welfare Act to exempt from coverage of the Act child custody proceedings involving a child whose parents do not maintain significant social, cultural, or political affiliation with the tribe of which the parents are members, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 18, 1996

Ms. PRYCE (for herself and Mr. TIAHRT) introduced the following bill; which was referred to the Committee on Resources

A BILL

To amend the Indian Child Welfare Act to exempt from coverage of the Act child custody proceedings involving a child whose parents do not maintain significant social, cultural, or political affiliation with the tribe of which the parents are members, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. INAPPLICABILITY OF THE INDIAN CHILD WEL-**
2 **FARE ACT OF 1978 TO CHILD CUSTODY PRO-**
3 **CEEDINGS INVOLVING A CHILD WHOSE PAR-**
4 **ENTS DO NOT MAINTAIN AFFILIATION WITH**
5 **THEIR INDIAN TRIBE.**

6 Title I of the Indian Child Welfare Act (25 U.S.C.
7 1911 et seq.) is amended by adding at the end the follow-
8 ing:

9 “SEC. 114. (a) This title does not apply to any child
10 custody proceeding involving a child who does not reside
11 or is not domiciled within a reservation unless—

12 “(1) at least one of the child’s biological par-
13 ents is of Indian descent; and

14 “(2) at least one of the child’s biological par-
15 ents maintains significant social, cultural, or politi-
16 cal affiliation with the Indian tribe of which either
17 parent is a member.

18 “(b) The factual determination as to whether a bio-
19 logical parent maintains significant social, cultural, or po-
20 litical affiliation with the Indian tribe of which either par-
21 ent is a member shall be based on such affiliation as of
22 the time of the child custody proceeding.

23 “(c) The determination that this title does not apply
24 pursuant to subsection (a) is final, and, thereafter, this
25 title shall not be the basis for determining jurisdiction over
26 any child custody proceeding involving the child.”.

1 **SEC. 2. MEMBERSHIP AND CHILD CUSTODY PROCEEDINGS.**

2 Title I of the Indian Child Welfare Act (25 U.S.C.
3 1911 et seq.), as amended by section 1 of this Act, is fur-
4 ther amended by adding at the end the following:

5 “SEC. 115. (a) A person who attains the age of 18
6 years before becoming a member of an Indian tribe may
7 become a member of an Indian tribe only upon the per-
8 son’s written consent.

9 “(b) For the purposes of any child custody proceeding
10 involving an Indian child, membership in an Indian tribe
11 shall be effective from the actual date of admission to
12 membership in the Indian tribe and shall not be given ret-
13 roactive effect.”.

14 **SEC. 3. EFFECTIVE DATE.**

15 The amendments made by this Act shall take effect
16 on the date of the enactment of this Act and shall apply
17 with respect to any child custody proceeding in which a
18 final decree has not been entered as of such date.

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