

- SUBJECT:** Requiring inquiry into Native American heritage during custody hearings
- COMMITTEE:** Juvenile Justice and Family Issues — favorable, without amendment
- VOTE:** 6 ayes — Dutton, Riddle, Hughes, Peña, Rose, J. White
- 0 nays
- 1 absent — Sanford
- WITNESSES:** For — Jo Ann Battise, Arnold Battise, and Nita Battise, Alabama-Coushatta Tribe of Texas; (*Registered, but did not testify*: Nicole Kidd, Natalie Munlin, Erskine Mcdaniel, and Letitia Plummer, Intended Parents' Rights; Katherine Barillas, One Voice Texas; Connie Gray and Daryn Watson, Texas Adoptee Rights; Steve Bresnen, Texas Family Law Foundation; Jennifer Emerson, Ysleta del Sur Pueblo (Tigua Indians) of El Paso; and nine individuals)
- Against — None
- On — Tina Amberboy, Texas Children's Commission; (*Registered, but did not testify*: Elizabeth "Liz" Kromrei, Child Protective Services)
- BACKGROUND:** The federal Indian Child Welfare Act (ICWA) provides standards of proof to remove a child from a parent or to terminate the parental rights of a parent if the child is a member of a Native American tribe, is eligible for membership in tribe, or is the biological child of a member of a tribe. ICWA also provides placement preferences to keep children who are members of Native American tribes connected to their tribes if they are removed from their parents.
- The standards of proof in ICWA are higher than those in parent-child relationship cases for children who are not members of Native American tribes.
- DIGEST:** HB 825 would require courts to conduct inquiries of any parties involved

in a hearing to identify whether a child or a child's family had a Native American heritage and to identify any Native American tribes with which the child may be associated during:

- full adversary hearings when a governmental entity takes possession of a child;
- status hearings after a child has been placed under the care of the Department of Family and Protective Services; and
- permanency hearings to determine placement of a child.

The bill would prevail over any conflicting act of the 84th Legislature relating to non-substantive additions to and corrections in enacted codes.

This bill would take effect September 1, 2015, and would apply only to hearings held on or after that date.

**SUPPORTERS
SAY:**

HB 825 would help courts across the state comply with the federal Indian Child Welfare Act (ICWA). Failure to comply with ICWA can have unfortunate consequences in child custody proceedings. Children can be removed from the homes where they were placed, court orders can be undone, and adoptions can be voided.

Many judges and lawyers who practice family law are not familiar with ICWA. This bill would require courts to conduct an inquiry into a child's background early and often throughout the custody proceedings. That way, if a child did have ties to a Native American tribe, a court could be sure to apply the requirements of ICWA.

HB 825 would further the goals of ICWA and ensure that children were protected. It also would preserve tribal culture by allowing tribes to maintain ties with children who were removed from the custody of their parents. This would ensure that these children do not grow up to be disconnected from their roots.

**OPPONENTS
SAY:**

No apparent opposition.