

104TH CONGRESS  
2D SESSION

# H. R. 3156

To amend the Indian Child Welfare Act of 1978 to exempt voluntary child custody proceedings from coverage under that Act, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 22, 1996

Mr. TIAHRT introduced the following bill; which was referred to the Committee on Resources

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## A BILL

To amend the Indian Child Welfare Act of 1978 to exempt voluntary child custody proceedings from coverage under that Act, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Voluntary Adoption  
5 Protection Act”.

6 **SEC. 2. FINDINGS AND POLICY.**

7 (a) FINDINGS.—Section 2 of the Indian Child Wel-  
8 fare Act of 1978 (25 U.S.C. 1901) is amended—

9 (1) in paragraph (3), by inserting before the  
10 semicolon at the end the following: “and who would

1 be subject to involuntary removal from the Indian  
2 community”;

3 (2) in paragraph (4)—

4 (A) by inserting “involuntary” before “re-  
5 moval”; and

6 (B) by striking “nontribal public and pri-  
7 vate” and inserting in lieu thereof “public”;  
8 and

9 (3) in paragraph (5), by inserting before the pe-  
10 riod at the end the following: “in the course of invol-  
11 untary termination of parental rights”.

12 (b) **POLICY.**—Section 3 of the Indian Child Welfare  
13 Act of 1978 (25 U.S.C. 1902) is amended by inserting  
14 “involuntary” before “removal”.

15 **SEC. 3. DEFINITIONS.**

16 Section 3 of the Indian Child Welfare Act of 1978  
17 (25 U.S.C. 1903) is amended by adding at the end the  
18 following:

19 “(13) ‘involuntary’, with respect to a child cus-  
20 tody proceeding, means the absence of a written con-  
21 sent by a parent or legal guardian (other than a  
22 tribal court) of the Indian child.”.

23 **SEC. 4. CHILD CUSTODY PROCEEDINGS.**

24 (a) **JURISDICTION.**—Section 101 of the Indian Child  
25 Welfare Act of 1978 (25 U.S.C. 1911) is amended—

1 (1) in subsection (a), by inserting “involuntary”  
2 before “child custody proceeding”;

3 (2) in subsection (b)—

4 (A) by inserting “involuntary” before “fos-  
5 ter care placement”; and

6 (B) by inserting “involuntary” before “ter-  
7 mination of parental rights”; and

8 (3) in subsection (c)—

9 (A) by inserting “involuntary” before “fos-  
10 ter care placement”; and

11 (B) by inserting “involuntary” before “ter-  
12 mination of parental rights”.

13 (b) COURT PROCEEDINGS.—Section 102 of the In-  
14 dian Child Welfare Act of 1978 (25 U.S.C. 1912) is  
15 amended—

16 (1) in subsection (a)—

17 (A) by inserting “involuntary” before “fos-  
18 ter care placement” each place it appears; and

19 (B) by inserting “involuntary” before “ter-  
20 mination of parental rights” each place it ap-  
21 pears;

22 (2) in subsection (b)—

23 (A) by inserting “involuntary” before “re-  
24 moval”;

1 (B) by inserting “involuntary” before  
2 “placement”; and

3 (C) by inserting “involuntary” before “ter-  
4 mination of parental rights”;

5 (3) in subsection (c)—

6 (A) by striking “a foster care placement”  
7 and inserting in lieu thereof “an involuntary  
8 foster care placement”; and

9 (B) by inserting “involuntary” before “ter-  
10 mination of parental rights”;

11 (4) in subsection (d)—

12 (A) by striking “a foster care placement”  
13 and inserting in lieu thereof “an involuntary  
14 foster care placement”; and

15 (B) by inserting “involuntary” before “ter-  
16 mination of parental rights”;

17 (5) in subsection (e), by inserting “involuntary”  
18 before “foster care placement”; and

19 (6) in subsection (f), by inserting “involuntary”  
20 before “termination of parental rights”.

21 (c) VOLUNTARY TERMINATION OF PARENTAL  
22 RIGHTS.—Section 103 of the Indian Child Welfare Act of  
23 1978 (25 U.S.C. 1913) is amended to read as follows:

24 “SEC. 103. (a) Upon written consent by a parent or  
25 legal guardian (other than a tribal court) of an Indian

1 child to a voluntary child custody proceeding, this title  
2 shall thereafter not apply to any child custody proceeding  
3 involving the Indian child, and this Act shall thereafter  
4 not be the basis for determining jurisdiction over any child  
5 custody proceeding involving the Indian child.

6 “(b) For the purposes of subsection (a), written con-  
7 sent is irrevocable.”.

8 (d) PETITION TO INVALIDATE ACTION.—Section 104  
9 of the Indian Child Welfare Act of 1978 (25 U.S.C. 1914)  
10 is amended—

11 (1) by inserting “involuntary” before “foster  
12 care placement”;

13 (2) by inserting “involuntary” before “termi-  
14 nation of parental rights”; and

15 (3) by striking “101, 102, and 103” and insert-  
16 ing in lieu thereof “101 and 102”.

17 (e) ADOPTIVE PLACEMENT.—Section 105 of the In-  
18 dian Child Welfare Act of 1978 (25 U.S.C. 1915) is  
19 amended—

20 (1) in subsection (a), by inserting “involuntary”  
21 before “adoptive placement”;

22 (2) in subsection (b)—

23 (A) by inserting “involuntary” before “fos-  
24 ter care” each place it appears; and

1 (B) by inserting “involuntary” before  
2 “preadoptive placement” each place it appears;  
3 and

4 (3) in subsection (c)—

5 (A) by striking “a placement” and insert-  
6 ing “an involuntary placement”; and

7 (B) by striking “the placement” and in-  
8 serting “the involuntary placement” each place  
9 it appears.

10 (f) PETITION FOR RETURN OF CUSTODY.—Section  
11 106 of the Indian Child Welfare Act of 1978 (25 U.S.C.  
12 1916) is amended—

13 (1) in subsection (a)—

14 (A) by inserting “involuntary” before  
15 “adoption”; and

16 (B) by striking “foster care, preadoptive,  
17 or adoptive placement” and inserting in lieu  
18 thereof “involuntary foster care, involuntary  
19 preadoptive, or involuntary adoptive place-  
20 ment”; and

21 (2) in subsection (b) by striking “further”.

22 (g) INFORMATION TO ADOPTED CHILD.—Section  
23 107 of the Indian Child Welfare Act of 1978 (25 U.S.C.  
24 1917) is amended by inserting “involuntary” before  
25 “adoptive”.

1 (h) IMPROPER REMOVAL OF CHILD.—Section 110 of  
2 the Indian Child Welfare Act of 1978 (25 U.S.C. 1920)  
3 is amended—

4 (1) by striking “an Indian child custody pro-  
5 ceeding” and inserting “an involuntary Indian child  
6 custody proceeding” in lieu thereof; and

7 (2) by striking “removed the child” and insert-  
8 ing in lieu thereof “removed an Indian child”.

9 (i) PROTECTION OF PARENTAL RIGHTS.—Section  
10 111 of the Indian Child Welfare Act of 1978 (25 U.S.C.  
11 1921) is amended by inserting “involuntary” before “child  
12 custody proceeding”.

13 **SEC. 5. EFFECTIVE DATE.**

14 The amendments made by this Act shall take effect  
15 as of January 1, 1992. Such amendments shall not apply  
16 with respect to any permanent placement of an Indian  
17 child for adoption occurring before the date of the enact-  
18 ment of this Act.

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