Department of Human Services – Children and Family Services Administration
Child Support Policy Bill
HF 1436 (Rep. Jessica Hanson)
SF 1332 (Sen. John Hoffman)

This legislation contains two provisions, one provision ensures appeals related to child support good cause exemptions occur in a timely manner that does not require parents to choose between safety and receiving assistance needed to support themselves and their children, and the other provision enables district courts to transfer child support cases to tribal courts when certain requirements are met so that tribal families are not burdened with an unnecessarily complicated process when seeking to modify child support.

Child Support Good Cause Appeal Jurisdiction (§§ 1-2)

- ***Background***

  - ✓ Recipients of public assistance must cooperate with child support unless they claim good cause based on a safety concern.
  - ✓ If a county denies their good cause exemption from cooperation and a recipient refuses to cooperate their benefits will be sanctioned.
  - ✓ If a county denies their good cause exemption from cooperation, a recipient can appeal that determination before a human services judge.
  - ✓ Prior to a recent decision by a human services judge decision, a recipient could appeal the denial prior to receiving a sanction notice.
  - ✓ In 2019, a human services judge determined that an appeal could not be brought until after the recipient receives a sanctions notice.
  - ✓ That decision means that a victim of domestic violence must choose between their full public assistance benefits and their safety if their good case is denied by the county. They are only allowed full due process of their claim after the benefits are threatened.

- ***Proposal***

  - ✓ This legislation will allow a public assistance recipient to appeal a denial of a good cause exception to IV-D child support cooperation before receiving a sanctions notice.

- ***Benefit of the proposal***

  - ✓ By giving the state authority to review a good cause denial immediately, the parent with a safety concern is allowed full vetting of their claim before benefits are in jeopardy.

- ***Equity***

  - ✓ Women are by far the most likely to experience domestic violence and good cause claims in the child support system show this trend also.
  - ✓ African American women make more per capita claims for good cause. Most significantly, they represent 40% of good cause denials, though they make only 24% of good cause claims. Therefore, this proposal will likely help African American women who are most likely to experience denial of their claim at the county.

Transfer of Child Support Cases to Tribal Court (§ 3)

- ***Background***

  - ✓ Intended to enable tribal families to receive efficient and culturally relevant child support services
  - ✓ Currently, when tribal IV-D child support programs enforce a child support order from district court, if a party (child support payer, recipient, or IV-D program) seeks a child support modification, the tribal IV-D agency must ask the county in which the order was issued to seek a court modification of the support order.
    - This is an unnecessarily complicated and inefficient process for tribal families and tribal IV-D programs

- ***Proposal***

  - ✓ This legislation requires courts, upon motion by a party, to transfer a child support matter to tribal courts when the following requirements are met:

    - The tribal IV-D agency is responsible for enforcement of a child support order and/or collection of support;
    - The district court and tribal court have concurrent jurisdiction;
    - A party is receiving services from the tribal IV-D child support agency; and
    - No party or tribal IV-D agency files and serves a timely objection to the transfer.

  - ✓ In the event of an objection, the proposal allows for judicial discretion to transfer following a hearing.
  - ✓ Custody and parenting time would be transferred with the child support, but divorces and child protection are not eligible for transfer.
  - ✓ The case can only be transferred if the tribe has concurrent jurisdiction

- ***Benefits of the proposal***

  - ✓ Statutory authority for tribes to take on cases that are already being maintained by their IV-D program supports tribal sovereignty
  - ✓ Allowing the state court to transfer to the tribe, all court and IV-D case activities are consolidated at the tribe rather than divided between county and tribe
  - ✓ Moving court cases to tribal court means that families will only need to interact with one court and one agency about their child support case
  - ✓ Many tribal courts are more flexible with phone appearances, potentially reducing barriers to court access
  - ✓ Tribal members living on or near reservations will be able to take advantage of a hearing closer to them
  - ✓ Tribal courts are better positioned to consider facts related to tribal families and tribal governments are better positioned to create child support guidelines that are best suited to their members

- ***Equity:***

  - ✓ This proposal specifically addresses tribal sovereignty and therefore has a direct impact on tribal members.