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HOUSE BILL 153

44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2000

INTRODUCED BY

Dara Dana

AN ACT

RELATING TO JUVENILE JUSTICE; PROVIDING MUNICIPAL, MAGISTRATE AND METROPOLITAN COURTS WITH CONCURRENT JURISDICTION OVER MISDEMEANOR AND PETTY MISDEMEANOR OFFENSES AND MUNICIPAL ORDINANCE VIOLATIONS; AMENDING AND ENACTING SECTIONS OF THE DELINQUENCY ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 32A-1-8 NMSA 1978 (being Laws 1993, Chapter 77, Section 17, as amended) is amended to read:

"32A-1-8. JURISDICTION OF THE COURT--TRIBAL COURT JURISDICTION.--

A. The court has exclusive original jurisdiction, except as provided in Sections 32A-2-29 and 32A-2-29.1 NMSA 1978, of all proceedings under the Children's Code in which a person is eighteen years of age or older and was a child at the time the alleged act in question was committed or is a child alleged to be:

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- 1 (1) a delinquent child;
- 2 (2) a child of a family in need of services;
- 3 (3) a neglected child;
- 4 (4) an abused child;
- 5 (5) a child subject to adoption; or
- 6 (6) a child subject to placement for a
- 7 developmental disability or a mental disorder.

8 B. The court has exclusive original jurisdiction
9 to emancipate a minor.

10 C. During abuse or neglect proceedings in which
11 New Mexico is the home state, pursuant to the provisions of
12 the Child Custody Jurisdiction Act, the court shall have
13 jurisdiction over both parents to determine the best interest
14 of the child and to decide all matters incident to the court
15 proceedings.

16 D. Nothing in this section shall be construed to
17 in any way abridge the rights of any Indian tribe to exercise
18 jurisdiction over child custody matters as defined by and in
19 accordance with the federal Indian Child Welfare Act of 1978.

20 E. A tribal court order pertaining to an Indian
21 child in an action under the Children's Code shall be
22 recognized and enforced by the district court for the
23 judicial district in which the tribal court is located. A
24 tribal court order pertaining to an Indian child that
25 accesses state resources shall be recognized and enforced
pursuant to the provisions of intergovernmental agreements
entered into by the Indian child's tribe and the department

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1 or another state agency. An Indian child residing on or off
2 a reservation, as a citizen of this state, shall have the
3 same right to services that are available to other children
4 of the state, pursuant to intergovernmental agreements. The
5 cost of the services provided to an Indian child shall be
6 determined and provided for in the same manner as services
7 are made available to other children of the state, utilizing
8 tribal, state and federal funds and pursuant to
9 intergovernmental agreements. The tribal court, as the court
10 of original jurisdiction, shall retain jurisdiction and
11 authority over the Indian child."

12 Section 2. A new section of the Delinquency Act,
13 Section 32A-2-29.1 NMSA 1978, is enacted to read:

14 "32A-2-29.1. [NEW MATERIAL] MISDEMEANOR AND PETTY
15 MISDEMEANOR OFFENSES--MUNICIPAL ORDINANCE VIOLATIONS.--

16 A. The municipal, magistrate or metropolitan court
17 shall have concurrent jurisdiction over all misdemeanor and
18 petty misdemeanor offenses or municipal ordinance violations
19 when the person alleged to have committed the violation is a
20 child, with the exception of those violations set forth in
21 Paragraphs (2), (4), (5) and (7) of Subsection A of Section
22 32A-2-3 NMSA 1978 and misdemeanor and petty misdemeanor
23 offenses alleged to have been committed by the child arising
24 out of the same occurrence pursuant to Subsection B of this
25 section.

B. If the children's court acquires jurisdiction
over a child pursuant to any of the offenses set forth in

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1 Subsection A of Section 32A-2-3 NMSA 1978, it shall have
2 jurisdiction over all offenses alleged to have been committed
3 by the child arising out of the same occurrence.

4 C. All misdemeanor or petty misdemeanor offenses
5 or municipal ordinance violations that the child is found to
6 have committed by the municipal, magistrate or metropolitan
7 court shall not be subject to the confidentiality provisions
8 of the Delinquency Act.

9 D. A municipal, magistrate or metropolitan court
10 may not incarcerate a child who has been found guilty of a
11 misdemeanor or petty misdemeanor offense or a municipal
12 ordinance violation without first securing the approval of
13 the children's court."

14 Section 3. EFFECTIVE DATE.--The effective date of the
15 provisions of this act is July 1, 2000.