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SENATE BILL 429

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Leonard Tsosie

FOR THE COURTS, CORRECTIONS AND CRIMINAL JUSTICE COMMITTEE AND
THE INDIAN AFFAIRS COMMITTEE

AN ACT

RELATING TO CHILDREN; CLARIFYING THAT INDIAN CHILDREN HAVE THE
SAME RIGHT TO SERVICES THAT ARE AVAILABLE TO OTHER CHILDREN IN
THE STATE; AMENDING A SECTION OF THE NMSA 1978.

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
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:

- (1) a delinquent child;

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

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

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

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

19 E. A tribal court order pertaining to an Indian
20 child in an action under the Children's Code shall be
21 recognized and enforced by the district court for the judicial
22 district in which the tribal court is located. A tribal court
23 order pertaining to an Indian child [~~that is not subject to~~
24 ~~the provisions of the Children's Mental Health and~~
25 ~~Developmental Disabilities Act and~~] that accesses state

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

12 Section 2. EFFECTIVE DATE. --The effective date of the
13 provisions of this act is July 1, 1999.

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

3
4
5 February 11, 1999

6
7 Mr. President:

8
9 Your INDIAN & CULTURAL AFFAIRS COMMITTEE, to whom
10 has been referred
11

12
13 SENATE BILL 429

14
15 has had it under consideration and reports same with
16 recommendation that it DO PASS, and thence referred to the
17 JUDICIARY COMMITTEE.

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19 Respectfully submitted,
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Adopted _____ Not

Adopted _____

(Chi ef Clerk)

(Chi ef Clerk)

Date _____

The roll call vote was 3 For 1 Against

Yes: 3

No: Davis

Excused: McSorley, Vernon, Wilson

Absent: None

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FORTY- FOURTH LEGISLATURE

FIRST SESSION, 1999

SB 429/a

February 24, 1999

Mr. President:

Your JUDICIARY COMMITTEE, to whom has been referred

SENATE BILL 429

has had it under consideration and reports same with
recommendation that it DO PASS, amended as follows:

1. On page 3, line 6, strike the period and insert in lieu
thereof ", pursuant to intergovernmental agreements."

2. On page 3, line 9, strike the period and insert in lieu
thereof ", utilizing tribal, state and federal funds and
pursuant to intergovernmental agreements."

Respectfully submitted,

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FORTY- FOURTH LEGI SLATURE
FIRST SESSI ON, 1999

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Michael S. Sanchez, Chair man

Adopted _____ Not

Adopted _____

(Chi ef Clerk)

(Chi ef Clerk)

Date _____

The roll call vote was 3 For 2 Against

Yes: 3

No: Davis, Payne

Excused: Aragon, McSorley, Tsosie

Absent: None

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**FORTY- FOURTH LEGISLATURE
FIRST SESSION**

SF1/SB 374, aa

Page 9

**FORTY- FOURTH LEGISLATURE
FIRST SESSION, 1999**

March 9, 1999

SENATE FLOOR AMENDMENT number _____ to SENATE BILL 429, as amended,

AMENDMENT sponsored by SENATOR DAVIS

1. On page 3, line 9, strike "The tribal".
2. On page 3, strike all of lines 10 and 11.

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**FORTY-FOURTH LEGISLATURE
FIRST SESSION**

SF1/SB 374, aa

Page 10

Senator William F. Davis

Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

S0429SF1

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1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999
3
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6 March 8, 1999
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8 Mr. Speaker:
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10 Your JUDICIARY COMMITTEE, to whom has been referred
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12 SENATE BILL 429, as amended
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14 has had it under consideration and reports same with
15 recommendation that it DO PASS.

16 Respectfully submitted,
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21 R. David Pederson, Chairman
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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HJC/SB 429

Page 12

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 10 For 0 Against

Yes: 10

Excused: Luna, Sanchez

Absent: None

J:\99Bill\SWP\S0429

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