

114TH CONGRESS  
1ST SESSION

# S. 246

---

## AN ACT

To establish the Alyce Spotted Bear and Walter Soboleff Commission on Native Children, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Alyce Spotted Bear  
3 and Walter Soboleff Commission on Native Children Act”.

4 **SEC. 2. FINDINGS.**

5 Congress finds that—

6 (1) the United States has a distinct legal, trea-  
7 ty, and trust obligation to provide for the education,  
8 health care, safety, social welfare, and other needs of  
9 Native children;

10 (2) chronic underfunding of Federal programs  
11 to fulfill the longstanding Federal trust obligation  
12 has resulted in limited access to critical services for  
13 the more than 2,100,000 Native children under the  
14 age of 24 living in the United States;

15 (3) Native children are the most at-risk popu-  
16 lation in the United States, confronting serious dis-  
17 parities in education, health, and safety, with 37  
18 percent living in poverty;

19 (4) 17 percent of Native children have no  
20 health insurance coverage, and child mortality has  
21 increased 15 percent among Native children aged 1  
22 to 14, while the overall rate of child mortality in the  
23 United States decreased by 9 percent;

24 (5) suicide is the second leading cause of death  
25 in Native children aged 15 through 24, a rate that  
26 is 2.5 times the national average, and violence, in-

1       cluding intentional injuries, homicide, and suicide,  
2       account for 75 percent of the deaths of Native chil-  
3       dren aged 12 through 20;

4                 (6) 58 percent of 3- and 4-year-old Native chil-  
5       dren are not attending any form of preschool, 15  
6       percent of Native children are not in school and not  
7       working, and the graduation rate for Native high  
8       school students is 50 percent;

9                 (7) 22.9 percent of Native children aged 12 and  
10      older report alcohol use, 16 percent report substance  
11      dependence or abuse, 35.8 percent report tobacco  
12      use, and 12.5 percent report illicit drug use;

13                 (8) Native children disproportionately enter fos-  
14      ter care at a rate more than 2.1 times the general  
15      population and have the third highest rate of victim-  
16      ization; and

17                 (9) there is no resource that is more vital to the  
18      continued existence and integrity of Native commu-  
19      nities than Native children, and the United States  
20      has a direct interest, as trustee, in protecting Native  
21      children.

22 **SEC. 3. DEFINITIONS.**

23       In this Act:

24                 (1) COMMISSION.—The term “Commission”  
25      means the Alyce Spotted Bear and Walter Soboleff

1       Commission on Native Children established by sec-  
2       tion 4.

3               (2) INDIAN.—The term “Indian” has the mean-  
4       ing given the term in section 4 of the Indian Self-  
5       Determination and Education Assistance Act (25  
6       U.S.C. 450b).

7               (3) INDIAN TRIBE.—The term “Indian tribe”  
8       has the meaning given the term in section 4 of the  
9       Indian Self-Determination and Education Assistance  
10      Act (25 U.S.C. 450b).

11               (4) NATIVE CHILD.—The term “Native child”  
12      means—

13                       (A) an Indian child, as that term is de-  
14       fined in section 4 of the Indian Child Welfare  
15       Act of 1978 (25 U.S.C. 1903);

16                       (B) an Indian who is between the ages of  
17       18 and 24 years old; and

18                       (C) a Native Hawaiian who is not older  
19       than 24 years old.

20               (5) NATIVE HAWAIIAN.—The term “Native Ha-  
21       waiian” has the meaning given the term in section  
22       7207 of the Elementary and Secondary Education  
23       Act of 1965 (20 U.S.C. 7517).

24               (6) SECRETARY.—The term “Secretary” means  
25       the Secretary of the Interior.

## 5 SEC. 4. COMMISSION ON NATIVE CHILDREN.

6       (a) IN GENERAL.—There is established a commission  
7 in the Office of Tribal Justice of the Department of Jus-  
8 tice, to be known as the “Alyce Spotted Bear and Walter  
9 Soboleff Commission on Native Children”.

10 (b) MEMBERSHIP.—

11                   (1) IN GENERAL.—The Commission shall be  
12 composed of 11 members, of whom—

15 (i) the Attorney General;

16 (ii) the Secretary;

17 (iii) the Secretary of Education; and

(iv) the Secretary of Health and Human Services;

(B) 3 shall be appointed by the Majority Leader of the Senate, in consultation with the Chairperson of the Committee on Indian Affairs of the Senate;

(C) 1 shall be appointed by the Minority Leader of the Senate, in consultation with the

1 Vice Chairperson of the Committee on Indian  
2 Affairs of the Senate;

13 (2) REQUIREMENTS FOR ELIGIBILITY.—

18 (i) Indian affairs; and

19 (ii) matters to be studied by the Com-  
20 mission, including—

(I) health care issues facing Native children, including mental health, physical health, and nutrition;

24 (II) Indian education, including  
25 experience with Bureau of Indian

1 Education schools and public schools,  
2 tribally operated schools, tribal col-  
3 leges or universities, early childhood  
4 education programs, and the develop-  
5 ment of extracurricular programs;

6 (III) juvenile justice programs re-  
7 lating to prevention and reducing in-  
8 carceration and rates of recidivism;  
9 and

(IV) social service programs that are used by Native children and designed to address basic needs, such as food, shelter, and safety, including child protective services, group homes, and shelters.

## 16 (B) EXPERTS.—

19 (I) meet the requirements of sub-  
20 paragraph (A); and

(ii) RESEARCH.—1 member of the  
Commission shall—

(II) have extensive experience in statistics or social science research.

### 7 (3) TERMS.—

(B) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

### 14 (c) OPERATION.—

15                             (1) CHAIRPERSON.—Not later than 15 days  
16                             after the date on which all members of the Commis-  
17                             sion have been appointed, the Commission shall se-  
18                             lect 1 member to serve as Chairperson of the Com-  
19                             mission.

20 (2) MEETINGS.—

(A) IN GENERAL.—The Commission shall meet at the call of the Chairperson.

1           than 30 days after the date described in para-  
2           graph (1).

3           (3) QUORUM.—A majority of the members of  
4           the Commission shall constitute a quorum, but a  
5           lesser number of members may hold hearings.

6           (4) RULES.—The Commission may establish, by  
7           majority vote, any rules for the conduct of Commis-  
8           sion business, in accordance with this Act and other  
9           applicable law.

10          (d) NATIVE ADVISORY COMMITTEE.—

11           (1) ESTABLISHMENT.—The Commission shall  
12           establish a committee, to be known as the “Native  
13           Advisory Committee”.

14           (2) MEMBERSHIP.—

15           (A) COMPOSITION.—The Native Advisory  
16           Committee shall consist of—

17               (i) 1 representative of Indian tribes  
18               from each region of the Bureau of Indian  
19               Affairs who is 25 years of age or older;  
20               and

21               (ii) 1 Native Hawaiian who is 25  
22               years of age or older.

23           (B) QUALIFICATIONS.—Each member of  
24           the Native Advisory Committee shall have expe-

1           rience relating to matters to be studied by the  
2           Commission.

3           (3) DUTIES.—The Native Advisory Committee  
4       shall—

5               (A) serve as an advisory body to the Com-  
6           mission; and

7               (B) provide to the Commission advice and  
8           recommendations, submit materials, documents,  
9           testimony, and such other information as the  
10          Commission determines to be necessary to carry  
11          out the duties of the Commission under this  
12          section.

13           (4) NATIVE CHILDREN SUBCOMMITTEE.—The  
14          Native Advisory Committee shall establish a sub-  
15          committee that shall consist of at least 1 member  
16          from each region of the Bureau of Indian Affairs  
17          and 1 Native Hawaiian, each of whom shall be a  
18          Native child, and have experience serving on the  
19          council of a tribal, regional, or national youth orga-  
20          nization.

21           (e) COMPREHENSIVE STUDY OF NATIVE CHILDREN  
22          ISSUES.—

23               (1) IN GENERAL.—The Commission shall con-  
24          duct a comprehensive study of Federal, State, local,

1 and tribal programs that serve Native children, in-  
2 cluding an evaluation of—

3 (A) the impact of concurrent jurisdiction  
4 on child welfare systems;

5 (B) the barriers Indian tribes and Native  
6 Hawaiians face in applying, reporting on, and  
7 using existing public and private grant re-  
8 sources, including identification of any Federal  
9 cost-sharing requirements;

10 (C) the obstacles to nongovernmental fi-  
11 nancial support, such as from private founda-  
12 tions and corporate charities, for programs ben-  
13 efitting Native children;

14 (D) the issues relating to data collection,  
15 such as small sample sizes, large margins of  
16 error, or other issues related to the validity and  
17 statistical significance of data on Native chil-  
18 dren;

19 (E) the barriers to the development of sus-  
20 tainable, multidisciplinary programs designed to  
21 assist high-risk Native children and families of  
22 those high-risk Native children;

23 (F) cultural or socioeconomic challenges in  
24 communities of Native children;

(G) any examples of successful program models and use of best practices in programs that serve children and families;

(H) the barriers to interagency coordination on programs benefitting Native children; and

(B) to improve coordination and reduce travel costs, use available technology.

1       tive children received from Federal agencies, the  
2       Commission shall—

3                     (A) develop recommendations for goals,  
4       and plans for achieving those goals, for Federal  
5       policy relating to Native children in the short-  
6       , mid-, and long-term, which shall be informed  
7       by the development of accurate child well-being  
8       measures, except that the Commission shall not  
9       consider or recommend the recognition or the  
10      establishment of a government-to-government  
11      relationship with—

12                     (i) any entity not recognized on or be-  
13       fore the date of enactment of this Act by  
14       the Federal Government through an Act of  
15       Congress, Executive action, judicial decree,  
16       or any other action; or

17                     (ii) any entity not included in the list  
18       authorized pursuant to the Federally Rec-  
19       ognized Indian Tribe List Act of 1994 (25  
20       U.S.C. 479a et seq.);

21                     (B) make recommendations on necessary  
22       modifications and improvements to programs  
23       that serve Native children at the Federal, State,  
24       and tribal levels, on the condition that the rec-  
25       ommendations recognize the diversity in cul-

1           tural values, integrate the cultural strengths of  
2           the communities of the Native children, and will  
3           result in—

4 (i) improvements to the child welfare  
5 system that—

11 (II) increase coordination among  
12 social workers, police, and foster fami-  
13 lies assisting Native children while in  
14 the foster system to result in the in-  
15 creased safety of Native children while  
16 in the foster system;

17 (III) encourage the hiring and re-  
18 tention of licensed social workers in  
19 Native communities;

20 (IV) address the lack of available  
21 foster homes in Native communities;  
22 and

23 (V) reduce truancy and improve  
24 the academic proficiency and gradu-

tion rates of Native children in the foster system;

(ii) improvements to the mental and physical health of Native children, taking into consideration the rates of suicide, substance abuse, and access to nutrition and health care, including—

(I) an analysis of the increased access of Native children to Medicaid under the Patient Protection and Affordable Care Act (Public Law 111-148) and the effect of that increase on the ability of Indian tribes and Native Hawaiians to develop sustainable health programs; and

(II) an evaluation of the effects of a lack of public sanitation infrastructure, including in-home sewer and water, on the health status of Native children;

(iii) improvements to educational and vocational opportunities for Native children that will lead to—

(I) increased school attendance, performance, and graduation rates for

- 1               Native children across all educational  
2               levels, including early education, post-  
3               secondary, and graduate school;  
4               (II) localized strategies developed  
5               by educators, tribal and community  
6               leaders, and law enforcement to pre-  
7               vent and reduce truancy among Na-  
8               tive children;  
9               (III) scholarship opportunities at  
10              a Tribal College or University and  
11              other public and private postsecondary  
12              institutions;  
13              (IV) increased participation of  
14              the immediate families of Native chil-  
15              dren;  
16              (V) coordination among schools  
17              and Indian tribes that serve Native  
18              children, including in the areas of  
19              data sharing and student tracking;  
20              (VI) accurate identification of  
21              students as Native children; and  
22              (VII) increased school counseling  
23              services, improved access to quality  
24              nutrition at school, and safe student  
25              transportation;

(iv) improved policies and practices by local school districts that would result in improved academic proficiency for Native children;

(v) increased access to extracurricular activities for Native children that are designed to increase self-esteem, promote community engagement, and support academic excellence while also serving to prevent unplanned pregnancy, membership in gangs, drug and alcohol abuse, and suicide, including activities that incorporate traditional language and cultural practices of Indians and Native Hawaiians;

(vi) taking into consideration the report of the Indian Law and Order Commission issued pursuant to section 15(f) of the Indian Law Enforcement Reform Act (25 U.S.C. 2812(f)), improvements to Federal, State, and tribal juvenile justice systems and detention programs—

(I) to provide greater access to educational opportunities and social services for incarcerated Native children;

(II) to promote prevention and reduce incarceration and recidivism rates among Native children;

(III) to identify intervention approaches and alternatives to incarceration of Native children;

(IV) to incorporate families and the traditional cultures of Indians and Native Hawaiians in the juvenile justice process, including through the development of a family court for juvenile offenses; and

(V) to prevent unnecessary detentions and identify successful re-entry programs;

(vii) expanded access to a continuum of early development and learning services for Native children from prenatal to age 5 that are culturally competent, support Native language preservation, and comprehensively promote the health, well-being, learning, and development of Native children, such as—

(I) high quality early care and learning programs for children start-

1 ing from birth, including Early Head  
2 Start, Head Start, child care, and  
3 preschool programs;

(II) programs, including home visiting and family resource and support programs, that increase the capacity of parents to support the learning and development of the children of the parents, beginning prenatally, and connect the parents with necessary resources;

(III) early intervention and pre-school services for infants, toddlers, and preschool-aged children with developmental delays or disabilities; and

16 (IV) professional development op-  
17 portunities for Native providers of  
18 early development and learning serv-  
19 ices;

20 (viii) the development of a system that  
21 delivers wrap-around services to Native  
22 children in a way that is comprehensive  
23 and sustainable, including through in-  
24 creased coordination among Indian tribes,

1 schools, law enforcement, health care pro-  
2 viders, social workers, and families;

3 (ix) more flexible use of existing Fed-  
4 eral programs, such as by—

5 (I) providing Indians and Native  
6 Hawaiians with more flexibility to  
7 carry out programs, while maintaining  
8 accountability, minimizing administra-  
9 tive time, cost, and expense and re-  
10 ducing the burden of Federal paper-  
11 work requirements; and

12 (II) allowing unexpended Federal  
13 funds to be used flexibly to support  
14 programs benefitting Native children,  
15 while taking into account—

16 (aa) the Indian Employ-  
17 ment, Training and Related Serv-  
18 ices Demonstration Act of 1992  
19 (25 U.S.C. 3401 note; 106 Stat.  
20 2302);

21 (bb) the Coordinated Tribal  
22 Assistance Solicitation program  
23 of the Department of Justice;

24 (cc) the Federal policy of  
25 self-determination; and

(dd) any consolidated grant

programs; and

(x) solutions to other issues that, as determined by the Commission, would improve the health, safety, and well-being of native children;

(C) make recommendations for improving collection methods that consider—

(i) the adoption of standard defin-

tions and compatible systems platforms to allow for greater linkage of data sets across Federal agencies;

(ii) the appropriateness of existing data categories for comparative purposes;

(iii) the development of quality data

and measures, such as by ensuring sufficient sample sizes and frequency of sampling, for Federal, State, and tribal programs that serve Native children;

(iv) the collection and measurement of

data that are useful to Indian tribes and Native Hawaiians;

(v) the inclusion of Native children in

longitudinal studies; and

(vi) tribal access to data gathered by Federal, State, and local governmental agencies; and

(D) identify models of successful Federal, State, and tribal programs in the areas studied by the Commission.

7       (f) REPORT.—Not later than 3 years after the date  
8 on which all members of the Commission are appointed  
9 and amounts are made available to carry out this Act, the  
10 Commission shall submit to the President, Congress, and  
11 the White House Council on Native American Affairs a  
12 report that contains—

13                   (1) a detailed statement of the findings and  
14 conclusions of the Commission; and

18 (g) POWERS.—

(1) HEARINGS.—

1       Commission shall hold not less than 5 hearings  
2       in Native communities.

3                   (B) PUBLIC REQUIREMENT.—The hearings  
4       of the Commission under this paragraph shall  
5       be open to the public.

6                   (2) WITNESS EXPENSES.—

7                   (A) IN GENERAL.—A witness requested to  
8       appear before the Commission shall be paid the  
9       same fees and allowances as are paid to wit-  
10      nesses under section 1821 of title 28, United  
11      States Code.

12                  (B) PER DIEM AND MILEAGE.—The fees  
13       and allowances for a witness shall be paid from  
14       funds made available to the Commission.

15                  (3) INFORMATION FROM FEDERAL, TRIBAL,  
16       AND STATE AGENCIES.—

17                  (A) IN GENERAL.—The Commission may  
18       secure directly from a Federal agency such in-  
19       formation as the Commission considers to be  
20       necessary to carry out this section.

21                  (B) TRIBAL AND STATE AGENCIES.—The  
22       Commission may request the head of any tribal  
23       or State agency to provide to the Commission  
24       such information as the Commission considers  
25       to be necessary to carry out this Act.

1                   (4) POSTAL SERVICES.—The Commission may  
2       use the United States mails in the same manner and  
3       under the same conditions as other agencies of the  
4       Federal Government.

5                   (5) GIFTS.—The Commission may accept, use,  
6       and dispose of gifts or donations of services or prop-  
7       erty related to the purpose of the Commission.

8                   (h) COMMISSION PERSONNEL MATTERS.—

9                   (1) TRAVEL EXPENSES.—A member of the  
10      Commission shall be allowed travel expenses, includ-  
11      ing per diem in lieu of subsistence, at rates auth-  
12      orized for an employee of an agency under subchapter  
13      I of chapter 57 of title 5, United States Code, while  
14      away from the home or regular place of business of  
15      the member in the performance of the duties of the  
16      Commission.

17                   (2) DETAIL OF FEDERAL EMPLOYEES.—

18                   (A) IN GENERAL.—On the affirmative vote  
19      of  $\frac{2}{3}$  of the members of the Commission—

20                   (i) the Attorney General, the Sec-  
21      retary, the Secretary of Education, and the  
22      Secretary of the Health and Human Serv-  
23      ices shall each detail, without reimburse-  
24      ment, 1 or more employees of the Depart-  
25      ment of Justice, the Department of the In-

1                   terior, the Department of Education, and  
2                   the Department of Health and Human  
3                   Services; and

4                   (ii) with the approval of the appropriate Federal agency head, an employee of  
5                   any other Federal agency may be, without reimbursement, detailed to the Commission.  
6  
7  
8

9                   (B) EFFECT ON DETAILEES.—Detail  
10                  under this paragraph shall be without interruption or loss of civil service status, benefits, or  
11                  privileges.  
12

13                  (3) PROCUREMENT OF TEMPORARY AND INTER-  
14                  MITTENT SERVICES.—

15                  (A) IN GENERAL.—On request of the Commission, the Attorney General shall provide to the Commission, on a reimbursable basis, reasonable and appropriate office space, supplies, and administrative assistance.  
16  
17  
18  
19

20                  (B) NO REQUIREMENT FOR PHYSICAL FA-  
21                  CILITIES.—The Administrator of General Services shall not be required to locate a permanent, physical office space for the operation of the Commission.  
22  
23  
24

1                   (4) MEMBERS NOT FEDERAL EMPLOYEES.—No  
2                   member of the Commission, the Native Advisory  
3                   Committee, or the Native Children Subcommittee  
4                   shall be considered to be a Federal employee.

5                   (i) TERMINATION OF COMMISSION.—The Commis-  
6                   sion shall terminate 90 days after the date on which the  
7                   Commission submits the report under subsection (f).

8                   (j) NONAPPLICABILITY OF FACA.—The Federal Ad-  
9                   visory Committee Act (5 U.S.C. App.) shall not apply to  
10                  the Commission, the Native Advisory Committee, or the  
11                  Native Children Subcommittee.

12                  (k) EFFECT.—This Act shall not be construed to rec-  
13                  ognize or establish a government-to-government relation-  
14                  ship with—

15                   (1) any entity not recognized on or before the  
16                  date of enactment of this Act by the Federal Gov-  
17                  ernment through an Act of Congress, Executive ac-  
18                  tion, judicial decree, or any other action; or

19                   (2) any entity not included in the list author-  
20                  ized pursuant to the Federally Recognized Indian  
21                  Tribe List Act of 1994 (25 U.S.C. 479a et seq.).

1       (l) FUNDING.—There is authorized to be appro-  
2 priated to carry out this Act \$2,000,000.

Passed the Senate June 1, 2015.

Attest:

*Secretary.*

114TH CONGRESS  
1st Session **S. 246**

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To establish the Alyee Spotted Bear and Walter Soboleff Commission on Native Children, and for other purposes.