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Law and Order Committee receives report from HEHSC chair on concerns regarding father parental rights in Navajo court case rulings

WINDOW ROCK – The Law and Order Committee received a report on Monday from Health, Education, and Human Services Committee Chair Council Delegate Jonathan Hale (Oak Springs, St. Michaels) who asked the LOC to consider developing a policy to ensure that the parental rights of a father are being equally protected along with those of a mother in family court rulings involving children.

Delegate Hale brought the issue to the LOC’s attention after a young Navajo father approached him, telling Delegate Hale about a personal circumstance in which the young man felt his parental rights were unfairly diminished when the court decided to give his children’s mother full custody, even though the young father stated that he had always been the primary caretaker of his children.

“There needs to be a policy developed that will consider giving full custody to the father,” Delegate Hale stated, adding that there are currently no Navajo policies that speak to equal parenting, and in most cases, the mother gets to determine when a father gets to see his children.

In some situations, Delegate Hale said it may be that the father is the caretaker and the mother is adversarial.

“In custody situations, somebody needs to be checking with the mother, and making sure that the kids are seeing their father,” said Delegate Hale, who advocated for the implementation of requirements to ensure that either parent is being allowed to see their children per court rulings.

Concluding his report, Delegate Hale posed the question: In this day and age, when does a father get to be a major parental figure, too?

Council Delegate Alton Joe Shepherd (Cornfields, Ganado, Jeddito, Kin Dah Łichíí’, Steamboat) noted that the concerns Delegate Hale raised were important discussion items and suggested that they be addressed at an upcoming work session between the LOC and the Navajo Nation Judicial Branch on May 26 and 27 in Flagstaff.

“There is needed guidance from the courts when something is adjudicated or determined by the judge on these matters. We need a healthy resolve in these family-type situations,” stated Delegate Shepherd, who serves as LOC vice chair.

Delegate Shepherd said was not sure if policy changes could be handled administratively, but requested for the committee to advance toward discussions on the topic with Navajo Nation Supreme Court Justice Herb Yazzie, Navajo district court administrators, and judges.

On a related note, Council Delegate Russell Begaye (Shiprock) took issue with the amount of child support cases that are said to be backlogged at Navajo offices, which he says is a concern that continues to be raised, mostly by Navajo mothers who are requesting enforcement of child support payment.

“A lot of moms feel that they have been abandoned...the process is too long,” said Delegate Begay, who felt that the committee also needs to coordinate with the appropriate program administrators to identify the reason for the high backlog of cases and address it.

In response to Delegate Begaye’s comment, Delegate Shepherd said the LOC shares oversight responsibilities with the Health, Education, and Human Services Committee in the area of child enforcement, and welcomed recommendations from HEHSC on how the two committees could jointly address the issues.

“Again, if changes need to be legislated, then we can do that. That is within our realm as lawmakers, but we always ask the respective entities to see what they can do within their program,” said Delegate Shepherd. “If they can fix the problem there, that’s good - but if it has to be policed or legislated, then we can explore that avenue as well.”

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