



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #MKE-17-016

TITLE: Reaffirm Commitment to the Protection of Indian Children through Standardized Background Check Regulations

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WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, NCAI seeks to reaffirm the Congressional finding within the Indian Child Protection and Family Violence Prevention Act “there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children and the United States has a direct interest, as trustee, in protecting Indian children who are members of, or are eligible for membership in, an Indian tribe”. (25 USC 3201 (a)(1)(F)); and

WHEREAS, the Indian Child Protection and Family Violence Prevention Act (25 USC § 3207) requires criminal background checks of current or prospective employees of a tribe that involves regular contact with or control over children; and

WHEREAS, the criminal background check standards contained in the statute and implemented by regulations issued from the BIA and IHS do not allow for consideration of successful rehabilitation undertaken by individuals, provide reasonable time parameters regarding how long ago the crime occurred, and include misdemeanor crimes in those crimes that can preclude an individual for employment; and

WHEREAS, the criminal background check statutory requirements and regulations are out of step with many other federal and state law requirements in this area and are creating serious barriers for tribes when trying to fill key governmental positions within the tribe, even when qualified individuals with no safety risk to children are available; and

WHEREAS, the statute provides tribes with the authority to develop their own standards as long as they are in accord with criminal background check standards for federal employees, but the language of the statute has not provided tribes with sufficient authority, as states have, to develop standards that are reasonable regarding the protection of children, while also ensuring authority for tribes to develop standards that do not unnecessarily impede the ability to recruit and hire qualified individuals.

NOW THEREFORE BE IT RESOLVED, that the National Congress of American Indians (NCAI) supports amendments to the Indian Child Protection and Family Violence Prevention Act statute to enact reasonable criminal background check standards for tribes that balance the need to protect their children and also recruit and hire qualified individuals for key governmental positions. To further pursue tribal self-determination, the implementing regulations should be clarified to allow tribes and tribal consortium to create their own minimum standards of character. Tribally created standards of character will allow for traditional tribal justice and reconciliation forums to align with tribal employment and create better protections for Native children; and

BE IT FURTHER RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2017 Annual Session of the National Congress of American Indians, held at the Wisconsin Center in Milwaukee, WI, Oct 15, 2017 - Oct 20, 2017, with a quorum present.



Jefferson Keel, President

ATTEST:



Juana Majel Dixon, Recording Secretary