



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #SAC-06-078

TITLE: In Opposition to the “Existing Indian Family Exception” Doctrine in State Court Proceedings

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Jacqueline Johnson
Tlingit

NCAI HEADQUARTERS
1301 Connecticut Avenue, NW
Suite 200
Washington, DC 20036
202.466.7767
202.466.7797 fax
www.ncai.org

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, the Indian Child Welfare Act (“ICWA”) recognizes that Indian children who are members of or are eligible for membership in a Tribe are the most vita resource of a Tribe; and

WHEREAS, the ICWA promotes the stability and security of Indian tribes and families by establishing minimum federal standards fore removal, placement and adoption of Indian children from their families by state courts, and provides for intervention by a child’s Tribe in such proceedings; and

WHEREAS, certain state courts systems have adopted so-called “existing Indian family exception” to the ICWA based on a state court’s determination that the cultural, political and social relations of the Tribe and child are insufficient to require application of the Act; and

WHEREAS, the NCAI finds that the “existing Indian family exception” undermines Tribal interests as protected by congress under the ICWA and other federal statutory and common law, and deprives Indian children of their essential tribal relations with their tribes.

NOW THEREFORE BE IT RESOLVED, that the NCAI does hereby declare that the “existing Indian family exception,” as practiced in certain state court systems, represents an intrusion by those courts in to Tribal membership relations which are reserved to the Tribes under the Indian Child Welfare Act and other federal statutory and common law and inherent sovereignty, and is accordingly rejected and condemned; 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 2006 63rd Annual Session of the National Congress of American Indians, held at the Sacramento Convention Center in Sacramento, California on October 1-6, 2006, with a quorum present.



President

ATTEST:



Recording Secretary