



# NATIONAL CONGRESS OF AMERICAN INDIANS

## The National Congress of American Indians Resolution #TUL-13-040

### TITLE: Support for DOJ Investigation of ICWA Non-Compliance

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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**, the Indian Child Welfare Act (ICWA) was passed by Congress in 1978 to stop the abusive practices of state child welfare agencies, adoption attorneys and private agencies that were removing large numbers of American Indian and Alaska Native children, many times unnecessarily, and placing them in non-Indian homes far from their families and communities; and

**WHEREAS**, American Indian and Alaska Native children are disproportionately represented in state foster care systems (at 2-3 times their population numbers) and private adoptions of tribal children continue to go unregulated and undocumented in many cases; and

**WHEREAS**, one of the critical safeguards of ICWA that is often overlooked is the requirement that parents of American Indian/Alaska Native children appearing in state court whose rights are subject to being terminated or taken away temporarily are sometimes not provided legal representation; and

**WHEREAS**, recent events in South Dakota and South Carolina (NPR investigation of South Dakota foster care system and Baby Veronica case) have shed light on ICWA non-compliance problems with state child welfare and private adoption systems; and

**WHEREAS**, these compliance issues go well beyond the recent events in these two states and are part of a larger pattern of ICWA non-compliance that ultimately threatens the well-being of their children and families and the stability of tribes; and

**WHEREAS**, no federal agency has taken action to formally examine ICWA non-compliance which has allowed these issues to continue and worsen; and

**WHEREAS**, the Department of Justice, which has a responsibility to uphold federal law, has reached out to Indian child welfare experts, American Indian organizations and tribes to gain a better understanding of their concerns regarding ICWA non-compliance.

**NOW THEREFORE BE IT RESOLVED**, that the NCAI will urge the U.S. Department of Justice to launch a formal investigation of non-compliance with the Indian Child Welfare Act focusing on both involuntary and voluntary placements of American Indian/Alaska Native children to document the scope and frequency of non-compliance; and

**BE IT FURTHER RESOLVED**, that NCAI urges the Department of Justice to work closely with tribes and experts in Indian child welfare to ensure that any investigation conducted will address all relevant and appropriate issues and requirements of ICWA; and

**BE IT FINALLY 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 2013 Annual Session of the National Congress of American Indians, held at the Cox Business Center from October 13 - 18, 2013 in Tulsa, Oklahoma with a quorum present.

  
President

ATTEST:

  
Recording Secretary