



Resolution of the NATIONAL NATIVE AMERICAN BAR ASSOCIATION

RESOLUTION # 2016 - 3

TITLE: To Support The Indian Child Welfare Act Particularly Against Litigious Attacks

WHEREAS, the National Native American Bar Association (“NNABA”) works to promote issues important to the Native American community and to improve professional opportunities for Native American lawyers, we do hereby establish and submit the following resolution; and

WHEREAS, NNABA was founded in 1973 and serves as the national association for Native American attorneys, judges, law professors and law students, and NNABA strives to be a leader on social, cultural, political and legal issues affecting American Indians, Alaska Natives, and Native Hawaiians; and

WHEREAS, NNABA has long supported the strength and well-being of tribal nations, including the vibrancy and sacredness of Native youth and Native families;

WHEREAS, prior to the passage of the Indian Child Welfare Act (ICWA), American Indian children were systematically and disproportionately being taken from their homes and either put up for adoption or placed in foster care;

WHEREAS, in 1978 Congress passed the ICWA in order to protect Indian culture and tribal integrity from the unnecessary removal of Indian children by state and federal agencies;

WHEREAS, in 2015, the Bureau of Indian Affairs (BIA) published new ICWA Guidelines and declared its intent to promulgate regulations to govern the implementation of ICWA in state courts and agencies;

WHEREAS, after 35 years of inconsistent interpretations and implementation of ICWA’s provisions, these Guidelines and proposed regulations provide the clarity and certainty that Native children and families deserve;

WHEREAS, in response to the BIA’s guidelines and proposed regulations, various anti-ICWA organizations have challenged the very existence of ICWA in various lawsuits, including *National Council for Adoption v. Jewell, et. al.*, (challenging the constitutionality of ICWA and the revised Guidelines) (dismissed Dec. 9, 2015, U.S. Dist. Ct. Eastern Dist. of Virginia, Case 1:15-cv-006575-GBL-MSN (Dec. 9, 2015)), *Doe v. Jessen* (challenging the constitutionality of



the Minnesota Indian Family Preservation Act), *Carter et. al. v. Washburn* (challenging the constitutionality of ICWA and the revised Guidelines, brought by the Goldwater Institute), *Doe v. Pruitt* (challenging the constitutionality of the Oklahoma Indian Child Welfare Act), *C.E.S. v. Nelson* (challenging the constitutionality of the transfer provisions of the Michigan Indian Family Preservation Act);

WHEREAS, these lawsuits threaten foundational provisions of ICWA and related state-enacted statutes, undermining decades of efforts to counteract the devastating effects of systemic removal of Indian children from their homes;

WHEREAS, concerted efforts to coordinate a legal response and educate state and federal policymakers and the media concerning the importance of ICWA is necessary to defend against such lawsuits;

NOW THEREFORE BE IT RESOLVED, that the National Native American Bar Association calls upon the tribal, state, and local governments, and bar associations to coordinate legal efforts in defense of ICWA and related state statutes.

CERTIFICATION

The foregoing resolution was adopted by the Board of the National Native American Bar Association, on January 21, 2016, with a quorum present.

Linda Benally, President

ATTEST:

Makalika Naholowa'a, Recording Secretary