



UNITED SOUTH AND EASTERN TRIBES, INC.

Resolution No. USET 2000:24

**SUPPORT FOR ICWA AMENDMENTS IN S. 1213 AND AMENDMENTS  
ADDRESSING THE EXISTING INDIAN FAMILY EXCEPTION AND ALLOWING  
TRIBES TO EXERCISE EXCLUSIVE JURISDICTION IN PUBLIC LAW 280 AREAS**

**WHEREAS**, the United South and Eastern Tribes Incorporated (USET) is an intertribal organization comprising twenty-three (23) federally recognized tribes; and

**WHEREAS**, the actions taken by the USET Board of Directors officially represent the intentions of each member tribe, as the Board of Directors comprises delegates from the member tribes' leadership; and

**WHEREAS**, the USET Board of Directors is committed to the needs of its member tribes and to the goal of preserving the sovereignty, inherent rights, integrity, and stability of our Indian children and families; and

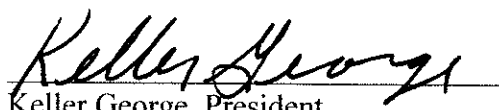
**WHEREAS**, the National Congress of American Indians (NCAI) at its October 1999 Annual Session passed Resolution #PSC-99-045 entitled "Support for ICWA Amendments in S. 1213 and amendments addressing the existing Indian family exception and allowing tribes to exercise exclusive jurisdiction in Public Law 280 areas"; and

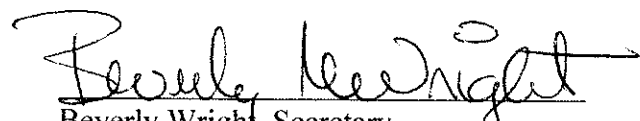
**WHEREAS**, the USET Social Services Committee has discussed the ICWA Amendments in S.1213 and the amendments addressing the existing Indian family exception and allowing tribes to exercise jurisdiction in Public Law 280 areas; therefore, be it

**RESOLVED** the USET Board of Directors supports all aspects of the attached NCAI Resolution #PSC-99-045.

**CERTIFICATION**

This resolution was duly passed at the annual USET Board of Directors Meeting, at which a quorum was present in Verona, New York on Thursday, October 28, 1999.

  
Keller George, President  
United South and Eastern Tribes, Inc.

  
Beverly Wright, Secretary  
United South and Eastern Tribes, Inc.

**THE NATIONAL CONGRESS OF  
AMERICAN INDIANS**

**RESOLUTION # PSC-99-045**

**Title: SUPPORT FOR ICWA AMENDMENTS IN S. 1213 AND  
AMENDMENTS ADDRESSING THE EXISTING INDIAN  
FAMILY EXCEPTION AND ALLOWING TRIBES TO  
EXERCISE EXCLUSIVE JURISDICTION IN PUBLIC LAW 280  
AREAS**

**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 welfare of the Indian people, do hereby establish and submit the following resolution; and

**WHEREAS**, the National Congress of American Indians (NCAI) is the oldest and largest national organization established in 1944 and comprised of representatives of and advocates for national, regional, and local Tribal concerns; and

**WHEREAS**, the health, safety, welfare, education, economic and employment opportunity, and preservation of cultural and natural resources are primary goals and objectives of NCAI.

**WHEREAS**, the Indian Child Welfare Act (ICWA) was designed in consultation with tribes and was enacted to support tribes in the protection of their children from unjust removal and to strengthen their families; and

**WHEREAS**, various members of the Congress, from time-to-time, have advocated for either complete repeal of the ICWA or other legislation that would seriously limit tribal sovereignty with regards to the protection of Indian children; and

**WHEREAS**, these members of Congress have usually acted in response to cases involving the voluntary adoptions of Indian children by non-Indian adoptive parents in circumstances where the case has received national media attention; and

**WHEREAS**, most commonly these members of Congress, encouraged by court decisions in several states that approved an existing Indian family exception to ICWA coverage of voluntary adoptions, have sought to eliminate ICWA coverage of voluntary adoptions; and

**WHEREAS**, because voluntary adoptions of Indian children by non-Indian adoptive parents continues, it is only a matter of time before more cases bring tribes and Indian families into conflict with these adoptive parents in a way that leads to increased attacks on the ICWA both in the media and in Congress; and

**WHEREAS**, since it continues to be essential for Indian tribes, families and children to have the protections provided by the ICWA, it is imperative that action be taken to reduce the causes of these attacks and minimize the potential for amendments that would diminish a tribe's sovereignty to protect its children and families; and

**WHEREAS**, limitations of the ICWA have been the primary reason for these contested and highly publicized cases; most particularly the ICWA does not require tribal notification of voluntary adoption proceedings, lacks a strong enforcement mechanism to assure that individuals who try to avoid applying the ICWA are accountable and allows Indian birth parents to relinquish their children voluntarily without being fully informed of their rights under the ICWA; and

**WHEREAS**, the tribal delegates at the 1996 NCAI Mid-Year Convention in Tulsa, Oklahoma and the 1997 NCAI Mid-Year Convention in Juneau, Alaska endorsed tribal amendments to ICWA (resolution # TLS-96-007A and #JNU-97-069); and

**WHEREAS**, these tribal amendments would remove the limitations listed above and at the same time strengthen the ICWA by providing new protections for Indian tribes, families and children; and

**WHEREAS**, Senators McCain, Campbell and Domenici have introduced these tribal ICWA amendments again in the 106<sup>th</sup> Congress as S. 1213; and

**WHEREAS**, S. 1213 drafted by tribes and Indian organizations includes the following provisions:

Requires notice to Indian tribes and certain extended family members in all voluntary child custody proceedings,

Requires that after receiving a duly constituted notice of a voluntary placement or proceeding affecting a tribal member child the tribe or extended family must indicate their intent to intervene or opposition to the placement within a set time frame (not less than 90 days in most cases). This protects a tribes right to intervene in the voluntary proceeding,

A tribe may intervene at anytime if they do not receive notice of the placement or proceeding as required by the amendments,

Provides for criminal sanctions for anyone who assists a person to conceal their Indian ancestry for the purposes of avoiding the application of the ICWA,

Authorizes state courts to enter orders allowing for continuing contact between tribes and their children who are adopted out,

Mandates that the judge in a termination of parental rights or adoption proceeding assure that the parents of an Indian child have been informed of their ICWA rights,

Provides for clarification of the limits on withdrawal of parental consent to adoptions,

Allows that in any case in which a court determines it is appropriate to consider the preference of a birth parent or Indian child, that preference may be considered to constitute good cause to deviate from ICWA's placement preferences; and

**WHEREAS**, certain federal laws including Public Law 280 have diminished the sovereign authority of tribes to determine the custody of tribal children in certain types of child custody proceedings, thereby resulting in the removal of large numbers of Indian children from their families and communities; and

**NOW THEREFORE BE IT RESOLVED**, that NCAI does hereby support enactment of S. 1213; and

**BE IT FURTHER RESOLVED**, that NCAI does hereby support an amendment to S. 1213 that prohibits the use of the "Existing Indian Family" judicial interpretation of the ICWA; and

**BE IT FINALLY RESOLVED**, that the NCAI does hereby support an amendment to S. 1213 providing that tribes affected by Public Law 280 and similar federal laws, at their option, will have the same authority to exercise exclusive jurisdiction under the ICWA as tribes not affected by those laws.

**CERTIFICATION**

The foregoing resolution was adopted at the 1999 Annual Session of the National Congress of American Indians, held at the Palm Springs Convention Center, in Palm Springs, California on October 3-8, 1999 with a quorum present.

\_\_\_\_\_  
W. Ron Allen, President

ATTEST:

\_\_\_\_\_  
Lela Kaskalla, Recording Secretary

Adopted by the General Assembly during the 1999 Annual Session of the National Congress of American Indians, held at the Palm Springs Convention Center, in Palm Springs, California on October 3-8, 1999.