



Lower Sioux Indian Community in the State of Minnesota

P.O. Box 308 • 39527 Reservation Highway 1

Morton, MN 56270

Cansayapi Otunwe

April 10, 2024

Rep. Jamie Becker-Finn, Chair
Judiciary Finance and Civil Law Committee
Sent via email (Ella.Schultz@house.mn.gov)

Re: Support for H.F. 4838

Hau Chair Becker-Finn and members of the Committee,

Preservation of ICWA and strengthening of MIFPA is of ongoing and critical importance for the Lower Sioux Indian Community in the State of Minnesota (“Community”).

Prior to the passage of ICWA in 1978, Indian children were placed in foster care and adoptive homes at a rate nineteen (19) times higher than non-Indian children, and in some states, eighty-five (85%) of all Indian children were placed in non-Indian homes. In 2020, Indian children in our state were 16.4 percent (16.4%) more likely than white children to be placed out-of-home.

The Community understands that the MIFPA workgroup involved key stakeholders affected by this legislation, including but not limited to participation from Minnesota County Attorneys Association, Minnesota Association of County Social Service Administrators, Minnesota Department of Human Services, Association of Minnesota Counties, County Social Service Directors, representatives from various tribes, parents attorneys’, the Minnesota State Bar Association Section for Family and Probate - over 180 individuals were invited to participate in the revision process.

House File 4838 amends MIFPA to further compliance, clarify and deconflict statutory language, strengthen existing provisions, clarify the role of foster parents

in MIFPA proceedings, and provide remedies and consequences in cases in which invalidation occurs. It also address the needs of families subject to child protection proceedings, especially children faced with permanency.

The Community fully supports the amendments as provided in House File 4838 and appreciates passage of this bill to ensure MIFPA is strengthened and better serves the needs of Indian children and families.

The Community thanks you, Chair Becker-Finn, for authoring this legislation. The Community is also appreciative of the Committee's support of the Phase I MIFPA amendment during the last legislative session and ask for your support for the amendment as found in House File 4838.

Pidamaya-do,



Robert L. Larsen
President
Lower Sioux Indian Community



Ho-Chunk Nation Legislature

**Comments in Support of Minnesota H.F. 4838
Minnesota Indian Family Preservation Act Amendments
March 20, 2024**

Representative Jamie Becker-Finn
Chair, House Judiciary Finance and Civil Law Committee
559 State Office Building
St. Paul, Minnesota 55155

Re: Support for the Minnesota Indian Family Preservation Act Amendments (H.F. 4838)

Chair Representative Becker-Finn and members of the House Judiciary Finance and Civil Law Committee:

The Ho-Chunk Nation ("Nation") appreciates the opportunity to provide written comments in support of the amendments being proposed to the Minnesota Indian Family Preservation Act ("MIFPA").

The Nation is a unique federally-recognized Tribe in that it lacks a reservation and a contiguous land base, but instead has pockets of trust land spread out across fifteen (15) counties in the state of Wisconsin. However, there are a number of allotments, totaling 302 acres, held in trust by the federal government for Hoocąk (Ho-Chunk) people located in Houston County, Minnesota. These lands are within aboriginal and ceded territory of the Ho-Chunk people. Throughout 1915 - 1955, lands were purchased for individual Ho-Chunks in the Town of Hokah and in the Town of La Crescent. Due to the presence of these trust allotment lands located in Houston County, Minnesota, the U.S. Department of Health and Human Services formerly recognizes Houston County, MN as part of the Nation's territory for its Contract Health Service Delivery Area (CHSDA), now referred to as Purchase Referred Care Delivery Area.¹

The Nation's Legislature represents four legislative Districts, with District 4 encompassing all members residing outside of Wisconsin. All four of the current District 4 Representatives are currently residents of the State of Minnesota. Next to Wisconsin, the highest population of Ho-Chunk adults and minors is located in the State of Minnesota. Due to the Nation's removal history and relocation to several designated lands in Minnesota, it certainly makes sense that Minnesota would have the next highest Ho-Chunk population. Ultimately, the federal Indian Child Welfare Act ("ICWA") and MIFPA protect all federally-recognized Indian children regardless if their Tribe is located in the state where they reside. However, we provide this entirely too brief Minnesota Ho-

¹ 88 Fed. Reg. 37071-72 (June 6, 2023) (including footnote 22 that states "CHSDA counties for the Ho-Chunk Nation of Wisconsin were designated by regulation (42 CFR 136.22(a)(5))").

Chunk history and information to show that the Nation, while not one of the 11 federally-recognized Tribes associated with Minnesota or even state-recognized, has a heightened interest in seeing these amendments adopted.

While the Nation supports the amendments as presented, we wish to take the time to highlight several areas that we believe are particularly important to ensure the best interests of Indian children are always at the forefront of child welfare decision-making and that the true intent and spirit of the ICWA and MIFPA are met – the preservation of Indian families and Indian Tribes.

Definition of Extended Family Member (page 3, lines 3.22-3.29)

The addition of the language addressing parents/guardians/custodians of Indian children’s siblings is an important addition. The intent of this language is not to contradict the *Sibling Bill of Rights* as argued by the Minnesota County Attorneys Association. The intent is to ensure that an Indian child’s best interests are protected. The Indian child has a right to be placed in a home that reflects their culture and helps them maintain a relationship with their Tribal extended family and Tribe - and vice versa. Both MIFPA and federal law mandates this.

The Nation has seen provisions in other states, where a sibling’s parents/guardians/custodians are deemed extended family members, result in a child’s loss of culture when those siblings’ parents/guardians/custodians have no Tribal affiliation and incentive to help the Indian child maintain a connection. Instead, the focus should be a concerted ongoing duty of the individual/agency who conducted a removal to follow appropriate placement preferences and then provide active efforts to keep siblings in close contact throughout the case while working to achieve reunification. (page 14, lines 14.15-14.20). It should be noted too, that these siblings are not always living together full-time at the time of removal. As such, many of these siblings are likely already accustomed to a visitation schedule. At the end of the day, the language clearly allows Tribes to recognize such individuals as extended family members if they so choose. So, any concerns raised regarding this provision seem unfounded.

Intervention of Foster Parents as Parties to Proceedings (page 20, lines 20.32-20.33; page 21, lines 21.1-21.3)

It is crucial that foster parents not be permitted intervention in Indian child custody proceedings. By moving foster parents to party status, it will create a system that will diminish the best interests of Indian children, as established and defined in Minn. Stat. § 260.755(2a)(2023).

Placing foster parents on the same footing as biological parents- implying that foster parents could ever possibly have rights akin to the constitutionally protected fundamental rights of a biological parent- is an invitation to lengthy litigation and appeals. Lengthy litigation and appeals are not in the best interests of an Indian child. Foster parents are not offered protections under federal ICWA, as they are not the ones needing protection; services; or placement, and they should likewise not receive any such elevated protections under MIFPA.

It was the intent of Congress to ensure that “white, middle-class standards” not be utilized in determining whether preferred placements are suitable.² “Discriminatory standards have

²H.R. Rep. No. 95-1386, 95th Cong. 2nd Sess. 24 (1978).

made it virtually impossible for most Indian couples to qualify as foster or adoptive parents, since they are based on middle-class values.”³

The importance of unique Indian social and cultural standards cannot be overemphasized – the historical lack of understanding of such standards by state courts and agencies, and the resulting effects on the populations of Indian tribes and the self identification of Indian children, is precisely why the ICWA was enacted, as “there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children.”⁴

The United States Supreme Court recently reiterated this when upholding the constitutionality of the Indian Child Welfare Act.

In adopting the Indian Child Welfare Act, Congress exercised [] lawful authority to secure the right of Indian parents to raise their families as they please; the right of Indian children to grow in their culture; and the right of Indian communities to resist fading into the twilight of history. All of that is in keeping with the Constitution’s original design.⁵

Thus, in determining the suitability of a potential home, the relevant standards must be “the prevailing social and cultural standards of the Indian community in which the parent or extended family resides or with which the parent or extended family members maintain social and cultural ties.”⁶ This language illustrates that Congress intended agencies and state courts to look beyond just the reservation boundaries, and focus on social and cultural ties as well.

In states where the elevation of foster parents to party status is allowable, the Nation has spent a tremendous amount of time and resources battling non-Indian foster parents attempting to rip its children away from their social and cultural ties. We are battling against the white, middle-class discriminatory standards that the United States Congress noted was the very detriment to Indian Tribes and families and impetus for adopting the federal ICWA. We should instead be focused on helping raise the parents and Indian custodians up so that they have the healthy tools to address the historical traumas that have led to the removal of their children, so successful reunifications can result. And in the event reunification cannot occur within the timeframes arbitrarily established within the Adoption and Safe Families Act (“ASFA”) - timeframes that do not take into account things like an individual still having Post-Acute Withdrawal Symptoms (“PAWS”) two whole years after their last use of heroin for example - that these children be placed within a home of an extended family member or family that has the same Tribal social and cultural standards as the Indian child.

In short, by elevating foster parents to party status, it will detract from ensuring active efforts are being provided to reach reunification and that placement preferences are being followed. It will provide non-Indian foster parents a platform to advocate against the very protections afforded by the MIFPA and federal ICWA. Furthermore, this allowance can open doors to

³ H.R. Rep. No. 95-608, 95th Cong. 2nd Sess. 11 (1978).

⁴ CALIFORNIA INDIAN LEGAL SERVICES, CALIFORNIA JUDGES BENCHGUIDE: THE INDIAN CHILD WELFARE ACT 46 (May 2010 ed.); see also 25 U.S.C. § 1901; *Miss. Band of Choctaw Indians v. Holyfield*, 490 U.S. 30, 32-37 (1989).

⁵ *Haaland v. Brackeen*, 143 S. Ct. 1609, 1661 (2023)(Gorsuch, J., concurring).

⁶ 25 U.S.C. § 1915(d).

foster parents gaining access to potentially confidential and sensitive documentation that they should not be privy to regarding the parents or Indian custodians – information that could be used in not just degrading ways, but as ammunition in keeping Indian children away from their Indian families and Tribes. Everything about this is in direct opposition to what MIFPA and ICWA are about. As such, this provision is extremely valuable in ensuring the desired outcomes of MIFPA and ICWA are achieved.

Invalidation (page 26, lines 26.9-26.14)

One of the most difficult aspects of the federal ICWA is the fact that the only teeth the law has is the possibility of invalidation. While this is a powerful tool, and when timed and used effectively can still provide ample protection to children needing protection, it is not enough. The addition of the availability of “sanctions, reasonable costs, and attorney fees” is of utmost importance to help ensure ICWA and MIFPA compliance. The federal law has been in existence since 1978, federal advisory guidelines from 1979-2016, and federal regulations and guidelines since 2016 – yet we fail to see compliance across the country on a yearly basis. The addition of further tools to push compliance is absolutely necessary to protect our Indian children and future of our Tribes.

The proposed legislative amendments found in H.F. 4838 provide important tools to help our Hoocak children have more positive outcomes while navigating a traumatic period of their lives. As such, we offer our support and appreciate the drafters and sponsors for their dedication to this important issue. There is nothing more important to a Tribe than its children. They are our future, and they will ultimately be the links to our past. It is likewise in their best interests to know and have the opportunity to learn about their Indian heritage and be connected with their tribal communities.

Thank you for the opportunity to share our support of H.F. 4838 and our hopes that MIFPA will be strengthened to protect our children.

Sincerely,



Karena Thundercloud
Vice President

Grant Johnson
President



Ronald Johnson
Vice President

Valentina Mgeni
Secretary

Michael Childs Jr.
Treasurer

Constance Campbell
Assistant Secretary/Treasurer

April 12, 2024

The Honorable Mary K. Kunesh
95 University Avenue West
Minnesota Senate Building, Room 3209
St. Paul, MN 55155

The Honorable Jamie Becker-Finn
559 State Office Building
St. Paul, MN 55155

Re: Minnesota Indian Family Protection Act Revision

Dear Senator Kunesh and Representative Becker-Finn:

I write on behalf of the Prairie Island Indian Community (“Community”) in strong support of SF4480/HF4838 and, in addition, to thank you for your leadership in strengthening and expanding the Minnesota Indian Family Protection Act (“MIFPA”) as it undergoes extensive statewide revision in light of the challenges made to the Indian Child Welfare Act (“ICWA”) in recent years.

SF4480/HF4838 supports our effort to preserve our Dakota culture and support our children in embracing their Tribal identity as Native American children. As you know, for many years our voices were silenced, our history buried, and our language forgotten. Our ancestors survived the federal government’s attempts to eliminate the Dakota people, language, and culture. The revision and expansion of MIFPA allows our children to be rightfully placed with their PIIC relatives, therefore furthering our ability to preserve and pass on our way of life to the next seven generations.

Many of us have family members who were removed and lost to the Community at large. The result hurts the child, the family, and the Community. We lose our most precious resource and our future – our children. Some of them find a way back to the Community, but many have not. However, when foster and/or adoption placements result in a child

remaining within the Community in a healthy environment, these children are supported and allowed to maintain their connection. Connection to each other and all things is essential to what it means to be Dakota.

To expand and enhance MIFPA is to demonstrate the state's interest in supporting preservation of Tribal identity in Native American culture and children. It recognizes Tribes as the appropriate governments to provide direction to county social service agencies regarding the best interests of tribal children.

We thank you for the opportunity to share our history and perspective, and we encourage members to support efforts to strengthen and expand MIFPA.

Pidámaya (Thank you),



Grant Johnson
Tribal Council President

RESOLUTION 54-24

- WHEREAS,** the Minnesota Chippewa Tribal Executive Committee is the duly elected governing body of the Minnesota Chippewa Tribe, comprised of six member reservations (Bois Forte, Fond du Lac, Grand Portage, Leech Lake, Mille Lacs, and White Earth); and
- WHEREAS,** the Tribal Executive Committee is comprised of the Chairpersons and Secretary/Treasurers of the six Bands; and
- WHEREAS,** Congress enacted the Indian Child Welfare Act (“ICWA”) in 1978 to protect Indian culture and tribal integrity from the systematic removal of Indian children by public and private agencies; and
- WHEREAS,** prior to the passage of ICWA, Indian children were placed in foster care and adoptive homes at a rate nineteen (19) times higher than non-Indian children, and in some states, eighty-five percent (85%) of all Indian children were placed in non-Indian homes; and
- WHEREAS,** ICWA has been recognized as the gold standard for child welfare policy and practice and ICWA has helped tens of thousands of Indian children and families find fairness and healing in state child welfare systems; and
- WHEREAS,** ICWA has protected Indian children by establishing minimum standards for child welfare proceedings involving Indian children, ensuring stability and security within Indian families, guaranteeing that tribal governments have a role in keeping Indian families together, and helping Indian children retain their cultural identity and heritage; and
- WHEREAS,** the Minnesota Indian Family Preservation Act (“MIFPA”) was enacted by the Minnesota Legislature in 1985 and amended in 2023 and the purpose of MIFPA is to protect the long-term interests of Indian children, their families, and Indian tribes and to preserve Indian families and tribal identity; and
- WHEREAS,** preservation of ICWA and strengthening of MIFPA is of ongoing and critical importance for the Indian Tribes in Minnesota because in 2020, Indian children in our state were 16.4 times more likely than white children to be placed-out-of-home; and
- WHEREAS,** on November 9, 2022, the Supreme Court of the United States heard oral arguments in *Brackeen v. Haaland* which involves constitutional challenges to ICWA on equal protection, anti-commandeering, and commerce clause grounds; and
- WHEREAS,** in response to nearly ten years of litigation and in an effort to further improve on the MIFPA, Tribal leaders in Minnesota tasked their attorneys with reviewing MIFPA and creating amendments that would codify ICWA and improve on its minimum requirements; and

WHEREAS, since 2018, a group of tribal attorneys, tribal staff, and ICWA allies (collectively referred to as the “MIFPA Workgroup”) have been drafting amendments to MIFPA; and

WHEREAS, the MIFPA Workgroup engaged with various stakeholders during the 2023 legislative session including but not limited to the Minnesota Department of Human Services, the Minnesota Association of County Social Service Administrators, the Minnesota County Attorneys Association, the Association of County Attorneys, and the Association of Minnesota Counties; and

WHEREAS, the MIFPA Workgroup’s language was incorporated into law during the 2023 Legislative Session but a variety of topics were left unaddressed; and

WHEREAS, the MIFPA Workgroup recently finalized language additional language that would amend MIFPA to further ensure that MIFPA represents a stand-alone state statute and to ensure that existing protections of ICWA are incorporated in state law and to provide more clarity for everyone working in state proceedings involving Indian children.

NOW THEREFORE BE IT RESOLVED, that the Tribal Executive Committee of the Minnesota Chippewa Tribe supports amending MIFPA to incorporate the language drafted by the MIFPA Workgroup during the 2024 Legislative Session; and

BE IT FURTHER RESOLVED, that the Minnesota Chippewa Tribe strongly urges the Minnesota Legislature to move swiftly on the language created by the MIFPA Workgroup to amend MIFPA to ensure that MIFPA is recognized as a stand-alone state statute, to further codify ICWA’s protections into state law, and to provide more clarity to everyone working in state court proceedings that involve Indian; and

BE IT FURTHER AND FINALLY RESOLVED, that the that the Minnesota Chippewa Tribe strongly urges Governor Walz to support this critically important effort.

We do hereby certify that the foregoing Resolution was duly presented and acted upon by a vote of 11 For, 0 Against, 0 Silent, at a Regular Meeting of the Minnesota Chippewa Tribal Executive Committee, a quorum present, held on January 11, 2024, at Carlton, Minnesota.


Catherine J. Chavers, President
THE MINNESOTA CHIPPEWA TRIBE


April McCormick, Secretary
THE MINNESOTA CHIPPEWA TRIBE



Fond du Lac Band of Lake Superior Chippewa Reservation Business Committee

Chairman Kevin R. Dupuis, Sr. Secretary/Treasurer Robert Abramowski
District I Wally J. Dupuis District II Brad Blacketter District III Roger M. Smith, Sr.

RESOLUTION #1077/24

SUPPORTING AMENDMENTS TO THE MINNESOTA INDIAN FAMILY PRESERVATION ACT

- WHEREAS, the Fond du Lac Band of Lake Superior Chippewa are a sovereign people, who occupy the Fond du Lac Reservation and retain their aboriginal rights of self-government and self-determination pursuant to the Treaty of LaPointe of September 30, 1854, 10 Stat. 1109; the Indian Reorganization Act of 1934, 25 U.S.C. § 461 et seq.; the common law of the United States; and as recognized by the United Nations Declaration on the Rights of Indigenous Peoples of September 13, 2007; and
- WHEREAS, The Band's Reservation Business Committee ("RBC), the duly elected governing body of the Band, is responsible for advocating for the health and welfare of Indian children and family within the boundaries of the Fond du Lac Reservation; and
- WHEREAS, the Minnesota Indian Family Preservation Act ("MIFPA") was enacted by the Minnesota Legislature in 1985 and amended in 2015 and 2023 and the purpose of MIFPA is to protect the long-term interests of Indian children, their families, and Indian tribes and to preserve Indian families and tribal identity; and
- WHEREAS Testimony from members of the RBC, other Tribal leaders, and Tribal members during the 2023 legislative session made clear a need for additional amendments to improve practice in Minnesota Courts on custodial issues involving Indian children; and
- WHEREAS, since 2018, a group of tribal attorneys, tribal staff, and ICWA allies, and including Band representatives (collectively referred to as the "MIFPA Workgroup"), have been drafting amendments to MIFPA; and
- WHEREAS, the MIFPA Workgroup engaged with various stakeholders including, but not limited to, the Minnesota Department of Human Services, the Minnesota Association of County Social Service Administrators, the Minnesota County Attorneys Association, the Association of County Attorneys, and the Association of Minnesota Counties; and
- WHEREAS, the MIFPA Workgroup recently finalized language that would again amend MIFPA, specifically to further compliance in areas of the law outside of child protection, to clarify and deconflict statutory language, to strengthen existing provision, to clarify the role of foster parents in MIFPA proceedings, and to provide remedies and consequences in cases in which invalidation occurs.

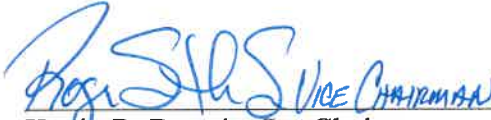
NOW THEREFORE BE IT RESOLVED, that the RBC of the Fond du Lac Band of Lake Superior Chippewa supports amending MIFPA to incorporate the language drafted by the MIFPA Workgroup; and

BE IT FURTHER RESOLVED, that the Fond du Lac Band of Lake Superior Chippewa strongly urges the Minnesota Legislature to move swiftly on the language created by the MIFPA Workgroup to amend MIFPA to ensure that MIFPA is strengthened and better serves the needs of Indian children and families; and

BE IT FURTHER AND FINALLY RESOLVED, that the Fond du Lac Band of Lake Superior Chippewa strongly urges Governor Walz to support this critically important effort.

CERTIFICATION

We do hereby certify that the foregoing Resolution was duly presented and acted upon by vote of 3 for, 0 against, 0 silent, with a quorum of 4 being present at a Special Meeting of the Fond du Lac Reservation Business Committee held on February 20, 2024 on the Fond du Lac Reservation.



Kevin R. Dupuis, Sr., Chairman



Robert Abramowski, Secretary/Treasurer



**Leech Lake Band of Ojibwe
Tribal Council
Agenda Item Request**

PLEASE SUBMIT
AN ORIGINAL PLUS 8 COPIES
OF YOUR ATTACHMENT AND A LEGAL REVIEW FORM

Date Received _____ **Due Date:** 2-2-2024
 Program: Judicial Division: _____
 Who will be presenting this Request? Name: Rebecca McConkey - Greene Phone: 218-606-2226
 Division Director Signature: [Signature]

In the event that the Division Director is unable to attend, must send a delegate to the meeting.

Subject: Minnesota Indian Family Preservation Act Changes 2024

Executive Summary:

Requesting resolution supporting amendments to Minnesota Indian Family Preservation Act and other laws ICWA applies to.

Type of Action: Resolution New Renewal
 Informal (Briefing) (TC Meeting)
 Approval
 No Action Necessary
 Other (please explain): _____

Legal Review (if applicable): submitted

Grant Approval – Are RTC Matching Funds required? Yes No

Accounting Signature (required on Budget items): _____

Executive Director Signature: _____

Council Action: _____

After Tribal Council Meeting, documents were forward to:

Sent to: _____ Date Sent: _____

Sent to: _____ Date Sent: _____



LEECH LAKE BAND OF OJIBWE Legal Department

Christopher Murray, Legal Director **Sarah Stahelin**, Tribal Attorney
Gloria Wilson, Legal Secretary **Ralph Overholt**, Tribal Attorney
Shea Fleming, Paralegal **John Herrera**, Tribal Attorney
Dee Fairbanks, Paralegal **Benjamin Swankier**, Tribal Attorney
Cassandra Johnson, Legal Administrator

Document Review Request Form

TO BE COMPLETED BY THE REQUESTING DIVISION

Document Title: Bill to improve ICWA and MIFPA and Resolution in support

Description of Services:
Please review the attached bill and resolution for the RBC meeting on Tuesday, Feb 6th. I have also included a power point.

Requesting Division/Department: Judicial

Contact Information: Rebecca McConkey-Greene Number: (218) 606-2226
(Name and Title) (Preferred contact number)

E-mail Address: rebecca.greene@lfojbiwe.net Please Review by: 2/2/24 (Insert Date)

For Resolutions only: I certify that this Resolution complies with the May 15, 2014 Resolution

Formatting Guidelines. Signature: Rebecca J. McConkey-Greene

LEGAL DEPARTMENT USE ONLY

Legal Office Received On: _____ Received By: _____
(mm/dd/yy) (Name of Legal Staff Member)

Document Released by: _____ Date: _____
(Signature of Designated Person releasing signed documents for requesting Division/Department)

LEGAL REVIEW FINDINGS

Reviewed by: _____ APPROVED: _____ (Y/N)
(Signature of Legal Staff and Title)

Additional steps required: _____

Notes: _____



LEECH LAKE RESERVATION BUSINESS COMMITTEE

RESOLUTION NO. 2024 –43

**RESOLUTION IN SUPPORT OF PROPOSED 2024 AMENDMENTS TO THE
MINNESOTA INDIAN FAMILY PRESERVATION ACT**

- WHEREAS,** The Leech Lake Band of Ojibwe ("Band") is a Federally recognized Indian Tribe organized under the Indian Reorganization Act of 1934, and operating under the Revised Constitution and Bylaws of the Minnesota Chippewa Tribe; and
- WHEREAS,** Pursuant to its inherent sovereign authority and its By-Laws, the Band's Reservation Business Committee ("RBC"), made up of duly elected representatives, is the governing body of the Band, having all the legislative powers and responsibilities of the tribal government; and
- WHEREAS,** The RBC is charged with the responsibility of protecting and advocating for the health and welfare of Leech Lake Band members within the exterior boundaries of the Leech Lake Indian Reservation; and
- WHEREAS,** The RBC finds that the Band's children are treasured resources and are vital to the ongoing welfare and prosperity of the Leech Lake Band of Ojibwe for future generations, the State of Minnesota has historically failed to safeguard the Band's children in Minnesota courts and historically facilitated the removal and adoption of the Band's children to non-Indian families without maintaining connections to the children's family, nor the Band's, culture and traditions; and,
- WHEREAS,** The RBC previously supported, in 2023, Minnesota legislation amending the Minnesota Indian Family Preservation Act to include all of the federal Indian Child Welfare Act expressly stated in Minnesota law to strengthen protections for Indian children and their families who are subject to Minnesota state court proceedings; and,
- WHEREAS,** Legislative testimony from RBC members, other elected Tribal leaders, and Tribal members with lived experience of losing children through Minnesota State Court proceedings during the 2023 legislative session identified a need for additional amendments necessary to improve practice in Minnesota Courts on Indian child custody issues; and,

RESOLUTION IN SUPPORT OF PROPOSED 2024 AMENDMENTS TO
THE MINNESOTA INDIAN FAMILY PRESERVATION ACT
RESOLUTION NO. 2024 - 43

WHEREAS, Band representatives participated in a 187-member working group comprised of representatives from the Tribes in Minnesota, County Attorneys, County Social Service Directors, County Board members, organizations serving Indian people, Domestic Violence Advocates, and family law and probate attorneys throughout the State of Minnesota who met to draft changes to facilitate compliance in areas of law besides child protection, clarify language, strengthen existing provisions, decrease unnecessary litigation with foster parents, and provide consequences for invalidation of proceedings; and,


WHEREAS, The purpose of this Resolution is to identify the Band's support for further amendments to Minnesota law to ensure the protection of Indian children and their families from unnecessary interference by the State of Minnesota and agents authorized thereby.


NOW THEREFORE BE IT RESOLVED, That the Leech Lake RBC, at a duly called meeting with a quorum present, does hereby support amendments to Minnesota Statutes 2022 and 2023 Supplement sections 260, 260C, 260D, 260E, 259, and 524, as attached hereto as Exhibit A, and urges the Minnesota Legislature to adopt these proposed amendments.

BE IT FINALLY RESOLVED, That this Resolution is effective immediately.

CERTIFICATION

WE DO HEREBY CERTIFY that the foregoing Resolution was duly presented and acted on by a vote of ____ for, ____ against and ____ silent at a Special Meeting of the Leech Lake Reservation Business Committee, a quorum being present, held on February 8, 2024 at Cass Lake, Minnesota. Accordingly, this Resolution is duly adopted by the Reservation Business Committee for the Leech Lake Band of Ojibwe, and the Reservation Business Committee further certifies that this Resolution is in full force and has not been amended or rescinded in any way.


Faron Jackson Sr., Chairman
Leech Lake Band of Ojibwe


Leonard Fineday, Secretary/Treasurer
Leech Lake Band of Ojibwe



LEECH LAKE BAND OF OJIBWE

Legislative Issues

1. Program Issue

Revisions to Minnesota Indian Family Preservation Act and other areas of law impacted by ICWA

2. Summary of Issue

In 2023 the LLBO RBC supported legislation amending the Minnesota Indian Family Preservation Act to ensure that all of the protections of the Indian Child Welfare Act were expressly stated in Minnesota State Law. At the time there was recognition that additional changes would be necessary to strengthen the law. For the 2024 Minnesota Legislation session, the following changes are proposed:

- 1) ICWA and MIFPA apply to more than child protection proceedings under Minn. Stat. 260C. Language is proposed for Section 257C, 259, 260D, 260e and 524 to reference ICWA and MIFPA and to clarify that provisions of the chapters only apply when not in conflict with ICWA and MIFPA.
- 2) Extended reunification timelines in 260C.
- 3) Address litigation against parents by roster families by prohibiting intervention and limited definitions of who is a relative or extended family member of the Indian child.
- 4) Clarified notice provisions
- 5) Allows courts to award sanctions where appropriate when proceedings are invalidated.
- 6) Ensures appointment of counsel for parents, Indian custodians and children with financial need for non-child protection MIFPA proceedings.

3. Recommendation

Please provide a resolution in support, provide testimony if needed, and assist with lobbying



MILLE LACS BAND OF OJIBWE

Executive Branch of Tribal Government

March 18, 2024

The Honorable Mary K. Kunesh
95 University Ave W.
3209 Minnesota Senate Building
St. Paul, MN 55155

The Honorable Jamie Becker-Finn
559 State Office Building
St. Paul, MN 55155

RE: Minnesota Indian Family Preservation Act (“MIFPA”) SF 4480 and HF 4838

Dear Senator Kunesh and Representative Becker-Finn:

First, thank you for your constant and continued support of legislation that advances the rights, interests and goals of tribal governments in Minnesota. You are both aware that Congress enacted the Indian Child Welfare Act (“ICWA”) in 1978 to protect Indian culture and tribal integrity from the systematic removal of Indian children by public and private agencies, which resulted in Indian children being placed in foster care and adoptive homes at a rate nineteen (19) times higher than non-Indian children. In some states, eighty-five percent (85%) of all Indian children were placed in non-Indian homes.

ICWA applies to all types of proceedings which may result in an Indian child being removed from the child’s parent or Indian custodian, except for custody actions between the parents or criminal/delinquency actions that are not status offenses. ICWA has long been recognized as the gold standard for child welfare policy and practice and has helped tens of thousands of Indian children and families find fairness and healing in state child welfare systems by establishing minimum standards for proceedings involving Indian children, including ensuring stability and security within Indian families, guaranteeing that tribal governments have a role in keeping Indian families together, and helping Indian children retain their cultural identity and heritage.

The Minnesota Legislature strengthened the ICWA protections for Indian families and Tribes by enacting the Minnesota Indian Family Preservation Act (“MIFPA”) in 1985 and adding amendments in 2015. Minnesota is one of five states that has an Indian family preservation act in place and other states look to MIFPA as a model for the codification of ICWA into state statute.

Preservation of ICWA and strengthening of MIFPA is of ongoing and critical importance for the Indian Tribes in Minnesota because out of home placement numbers remain high. In 2020, Indian children in our state were 16.4 percent (16.4%) more likely than white children to be placed-out-of-home; and since 2015, ICWA and the Department of the Interior rules implementing ICWA have been the subject of constant litigation challenging the constitutionality of ICWA.

DISTRICT I

43408 Oodena Drive Onamia, MN 56359
(320) 532-4181 Fax (320) 532-4209

DISTRICT II

36666 State Highway 65 McGregor, MN 55760
(218) 768-3311 Fax (218) 768-3903

DISTRICT IIA

2605 Chiminising Drive Isle, MN 56342
(320) 676-1102 Fax (320) 676-3432

DISTRICT III

45749 Grace Lake Road Sandstone, MN 55072
(320) 384-6240 Fax (320) 384-6190

URBAN OFFICE

1404 East Franklin Avenue Minneapolis, MN 55404
(612) 872-1424 Fax (612) 872-1257

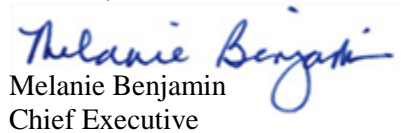
A group of tribal attorneys, tribal staff, and ICWA allies (collectively referred to as the “Tribal MIFPA Workgroup”) drafted amendments to MIFPA which resulted in language that was incorporated into law in 2023; those amendments assure that ICWA protections will remain in the state of Minnesota, regardless of what happens at the federal level.

Unfortunately, a variety of topics were left unaddressed in 2023. You have both been champions for causes involving our children. We respectfully request that you support the additional amendments recommended by the Tribal MIFPA Workgroup in 2024 (SF 4480, HF 4838), including:

- Language clarifying where ICWA and MIFPA apply;
- A mechanism to appoint counsel to parents, Indian custodians, and Indian children where counsel is not currently provided for them;
- Language to clarify notice provisions and improve access for Tribes to ensure that they are able to provide input to petitioners and the courts regarding best interests of Indian children;
- Expansion of permanency timelines from twelve to fifteen months, and further allowing for extensions of those timelines under limited circumstances to ensure that Indian children are safe when returned to their parents or Indian custodians;
- The ability of courts to award costs and sanctions where appropriate when the court has invalidated proceedings based on violation of the law.

On behalf of the Mille Lacs Band of Ojibwe, I respectfully request that you support the respective companion legislation pending in the House and Senate chambers (SF 4480 and HF 4838) during the current legislative session. As always, thank you so much for all that you do for Indian country, and please let me know if you have any concerns or questions about this request.

Sincerely,


Melanie Benjamin
Chief Executive



April 12, 2024

Dear Legislators,

The Ain Dah Yung (Our Home) Center supports SF 4480/HF 4838, which expands the protections of the Minnesota Indian Family Preservation Act (MIFPA).

The Indian Child Welfare Act (ICWA), enacted in 1978, maintains the best interests of Indian children and preserves their culture and tribal connections. The requirement for establishing guidelines for child custody proceedings involving Indian children ensures their protection from unwarranted removal from their families and communities. Minnesota strengthened these protections in 1985, 2015, and 2023, with the latest iteration incorporating ICWA's protections into Minnesota law when the US Supreme Court case *Brackeen v. Haaland* threatened to dismantle these protections at the federal level.

The Ain Dah Yung Center provides a healing place within the community for American Indian youth and families to thrive in safety and wholeness. We work with families who have been negatively impacted by federal policies, boarding schools, and the unjustifiable removals from their communities and cultures. But we also see firsthand how, when complied with, ICWA and MIFPA benefit our families. Adhering to these laws can help families heal from the impacts of historical trauma, build protective factors against future trauma and hardships, create support systems, and build connections to community.

Throughout the drafting process the MIFPA Workgroup engaged with various stakeholders, including representatives from Tribal Nations, the Minnesota Association of County Social Service Administrators, the Minnesota County Attorneys Association, the Association of Minnesota Counties, and community partners. Some of the highlights include clarifying the petitioner's responsibility for providing active efforts, the process for an inquiry of the child's tribal lineage, and notice requirements to parents and Tribes. We have no doubt that these amendments will benefit Indian families throughout the state.

We ask that you vote in favor of SF 4480/HF 4838 during this legislative session. Thank you for the opportunity to submit this statement of support.

Sincerely,

Sheri Riemers

Sheri Riemers, Executive Director
Ain Dah Yung (Our Home) Center



Family Preservation Subcommittee

Metropolitan Urban Indian Directors Family Preservation Subcommittee

April 12, 2024

Dear Legislators,

The Metropolitan Urban Indian Directors (MUID) Family Preservation Subcommittee strongly supports SF 4480/HF 4838, which expands the protections of the Minnesota Indian Family Preservation Act (MIFPA). The MUID group promotes the wellbeing, growth, and mutual interests of Minnesota's urban American Indian organizations. The Family Preservation Subcommittee addresses family preservation issues relating to American Indian families, including the Minnesota Indian Family Preservation Act.

Many of the families we work with have been negatively impacted by federal policies, boarding schools, and the unjustifiable removals from their communities and cultures. The proposed amendments in the MIFPA bill will increase protections for the families we work with. In particular, appointing counsel prior to the first hearing on the petition will ensure that parents understand their rights and have an advocate from the beginning of the court process.

These amendments will benefit the families in our community as well as Indian families throughout the state. While this is a tribally led bill, the MIFPA workgroup has engaged with various other stakeholders, including community partners, community organizations, the Minnesota Association of County Social Service Administrators, the Minnesota County Attorneys Association, and the Association of Minnesota Counties.

Thank you for considering this legislation and supporting the continuing efforts to improve the wellbeing of our American Indian families.

Sincerely,

Laura Newton, Chair
MUID Family Preservation Subcommittee



Ramsey County ICWA Advisory Board

April 11, 2024

Dear Legislators,

The Ramsey County ICWA Advisory Board strongly supports SF 4480/HF 4838, which expands the protections of the Minnesota Indian Family Preservation Act (MIFPA).

The Indian Child Welfare Act (ICWA), enacted in 1978, maintains the best interests of Indian children and preserves their culture and tribal connections. The requirement for establishing guidelines for child custody proceedings involving Indian children ensures their protection from unwarranted removal from their families and communities. Minnesota strengthened these protections in 1985, 2015, and 2023 through MIFPA.

The Ramsey County ICWA Advisory Board works closely with the Ramsey County Social Services Department and the Second Judicial District to advise on issues impacting Indian children within the child protection system. Several of the proposed amendments in the MIFPA bill would directly benefit and protect the Indian families we work with. In particular, the ability for tribal representatives to participate in court hearings remotely without prior request will mean that representatives will be able to participate more fully and more often. Removing the barriers of filing fees and the requirement to use the court's electronic filing system for tribes will also facilitate this.

These amendments will greatly benefit the families we work with in Ramsey County. The MIFPA workgroup has engaged with many stakeholders, including community partners, community organizations, the Minnesota Association of County Social Service Administrators, the Minnesota County Attorneys Association, and the Association of Minnesota Counties.

Thank you for considering this request and the impact it has on our families. We strongly support this legislation.

Sincerely,

A handwritten signature in black ink that reads "Sadie Hart". The signature is written in a cursive, flowing style.

Sadie Hart, Chair
Ramsey County ICWA Advisory Board



Saint Paul Indians in Action

Mission:

To address the socioeconomic conditions in the St. Paul Indian community through systems advocacy, policy development and community participation.

April 11, 2024

Dear Legislators,

Saint Paul Indians in Action (SIA) strongly supports SF 4480/HF 4838, which expands the protections of the Minnesota Indian Family Preservation Act (MIFPA).

Minnesota has consistently led the way in ensuring protections for Indian children and their families, strengthening MIFPA in 1985, 2015, and 2023. The latest version incorporated the Indian Child Welfare Act's protections into Minnesota law when the US Supreme Court case *Brackeen v. Haaland* threatened to dismantle these protections at the federal level. The current bill seeks to fine-tune and build upon those protections.

SIA exists to address the socioeconomic conditions in the St. Paul Indian community through systems advocacy, policy development and community participation. Many of the families in our community are impacted by the child protection system, whether or not they are directly involved with the system. Keeping children within their families, communities, and cultures is vital to our very existence and this bill strengthens our ability to do that.

These amendments will benefit the families in our community as well as Indian families throughout the state. While this is a tribally led bill, the MIFPA workgroup has engaged with various other stakeholders, including community partners, community organizations, the Minnesota Association of County Social Service Administrators, the Minnesota County Attorneys Association, and the Association of Minnesota Counties.

Thank you for considering this legislation. We strongly, and without any dissent, endorse it. Miigwech, Pidamayaye, Pilamayaye, Pinigigi (thank you).

Sincerely,

Kelly Miller, Chair
St. Paul Indians in Action



MACSSA

Minnesota Association of County Social Service Administrators

April 15, 2024

Senator Mary Kunesh
3209 Minnesota Senate Building
St. Paul, MN 55155

Representative Jamie Becker-Finn
559 State Office Building
St. Paul, MN 55155

Re: SF 4480 /HF 4838

Dear Senator Kunesh and Representative Becker-Finn:

The Minnesota Association of County Social Service Administrators (MACSSA) appreciate the thoughtful intentionality by which MACSSA members were engaged in the process that culminated in this legislation. As a state supervised, county administered system, it is imperative that practitioners at the local level are consulted and involved in policy changes in this area in the hopes of improving the practice and outcomes for our children and families.

MACSSA continues to value the work conducted by legislative leaders, our eleven sovereign nations in Minnesota, and many others involved, for these policy changes for our Native children and families. We remain mindful of the need to modernize the technology systems that support this work and the need to develop increased capacity for counties and Tribes in Minnesota's child welfare system so that we can successfully implement the provisions of the MIFPA and provide the tools and resources to support both our families and our county-based child welfare workforce.

Sincerely,

Angie Thies - Child Wellbeing Policy Analyst
Association of Minnesota Counties (AMC)
Minnesota Association of County Social Service Administrators (MACSSA)

WHITE EARTH RESERVATION BUSINESS COMMITTEE
WHITE EARTH BAND OF CHIPPEWA INDIANS
Resolution No. 064-24-051

- WHEREAS,** the White Earth Reservation Business Committee is the duly elected governing body of the White Earth Reservation pursuant to Article VI, Section 1, of the revised constitution of the Minnesota Chippewa Tribe, as amended, and organized under Section 16, of the Act of June 18, 1934 (48 Stat. 984), and
- WHEREAS,** the White Earth Reservation Business Committee is the duly authorized governing body of the White Earth Band, and
- WHEREAS,** the White Earth Reservation Business Committee finds that the Band's children are treasured resources who are vital to the ongoing welfare and prosperity of the White Earth Band, and
- WHEREAS,** the White Earth Reservation Business Committee is charged with the responsibility of protecting and advocating of the health and welfare of White Earth Band members regardless of where the Band members reside, and
- WHEREAS,** the White Earth Reservation Business Committee finds that the State of Minnesota has historically failed to comply with the federal Indian Child Welfare Act resulting in widespread removal of White Earth Children from their homes, extended families and Tribes, and
- WHEREAS,** the Indian Child Welfare Act of 1978 was enacted to address severely disproportionate rates of out of home placement and adoption of American Indian and Alaskan Native children and youth by setting minimal standards petitioners must meet, and
- WHEREAS,** the State of Minnesota enacted the Minnesota Indian Family Preservation Act (MIFPA) in 1985, with amendments in 2015 and 2023, to strengthen and enhance the protections of the ICWA for Indian children and their families in state court proceedings, and
- WHEREAS,** the compliance with both ICWA and MIFPA has been deficient resulting in continuation of severely disproportionate rates of out of home placement and adoption of Indian children and youth, and
- WHEREAS,** the work group comprised of representatives from the Tribes in Minnesota, the Minnesota County Attorney's Association, Minnesota Association of County Social Service Administrators, Association of Minnesota Counties, organizations that provide services and support to Indian families, and others met to continue to identify areas for improvement and create legislation to further protect Indian children and families, and

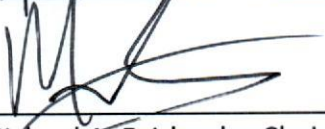
WHEREAS, the work group has proposed changes to the Minnesota Indian Family Preservation Act (Minn. Stat 260.), Minnesota Juvenile Protection Provisions of the Juvenile Court Act (Minn. Stat. 260C), and other areas of Minnesota law including chapters 257C, 259, 260D, 260E, and 524-201 to 524.5-211, and

WHEREAS, the White Earth Reservation Business Committee has reviewed and supports the proposed legislative changes, now

THEREFORE BE IT RESOLVED, that the White Earth Reservation Business Committee hereby approves the proposed legislation to amend Minnesota Laws Affecting Custody of Indian Children.

BE IT FURTHER RESOLVED, that the White Earth Reservation Business Committee hereby authorizes the Chairman, Secretary-Treasurer, Executive Director and/or Child Welfare Director to provide testimony before the Minnesota Legislature in support of the proposed changes.

We do hereby certify that the foregoing resolution was adopted by a vote of 4 for, 0 against, 0 silent, a quorum being present at a regular meeting of the White Earth Reservation Business Committee held on February 28, 2024 in Wishnemen, Minnesota.



Michael A. Fairbanks, Chairman



Michael LaRoque, Secretary/Treasurer



INDIAN AFFAIRS COUNCIL RESOLUTION 02202024_01

Amendments to Minnesota Laws Affecting Custody of Indian Children

WHEREAS, the Minnesota Indian Affairs Council Membership consists of representatives of the federally-recognized Indian Tribes located within the State of Minnesota, members of the legislature, commissioners from the state departments, and

WHEREAS, the Minnesota Indian Affairs Council is a liaison between the state and local units of government in the delivery of services to American Indians in the State of Minnesota, and

WHEREAS, Indian children are important to the welfare of their extended families, their communities, their tribes, and the State of Minnesota, and

WHEREAS, the federal Indian Child Welfare Act of 1978 was enacted to address severely disproportionate rates of out of home placement and adoption of American Indian and Alaskan Native children and youth by setting minimal standards petitioners must meet, and

WHEREAS, the State of Minnesota enacted the Minnesota Indian Family Preservation Act (MIFPA) in 1985, with amendments in 2015 and 2023, to strengthen and enhance the protections of the ICWA for Indian children and their families in state court proceedings, and

WHEREAS, compliance with both ICWA and MIFPA has been deficient resulting in continuation of severely disproportionate rates of out of home placement and adoption of Indian children and youth, and

WHEREAS, a work group comprised of representatives from the Tribes in Minnesota, the Minnesota County Attorney's Association, Minnesota Association of County Social Service Administrators, Association of Minnesota Counties, organizations that provide services and support to Indian families, and others met to continue to identify areas for improvement and create legislation to further protect Indian children and families, and

WHEREAS, the work group has proposed changes to the Minnesota Indian Family Preservation Act (Minn. Stat 260.), Minnesota Juvenile Protection Provisions of the Juvenile Court Act (Minn. Stat. 260C), and other areas of Minnesota law including chapters 257C, 259, 260D, 260E, and 524-201 to 524.5-211, and


WHEREAS, the Minnesota Indian Affairs Council Membership has reviewed and supports the proposed legislative changes,

THEREFORE, BE IT RESOLVED, that the Minnesota Indian Affairs Council does support legislation amending and improving the Minnesota Indian Family Preservation Act (Minn. Stat 260.), Minnesota Juvenile Protection Provisions of the Juvenile Court Act (Minn. Stat. 260C), and other areas of Minnesota law as authored by Senator Mary Kunesch and Representative Alicia Kozlowski.

CERTIFICATION: We do hereby certify that the foregoing resolution was duly presented and acted upon by a vote of 6 For, 0 Against, 1 Silent at Regular Meeting of the Minnesota Indian Affairs Council, a quorum present, held on February 20, 2024, at Tower, Minnesota.

DocuSigned by:

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Robert. L Larsen, Chairman
Minnesota Indian Affairs Council

DocuSigned by:

8DC6719EC8AB472...
Robert Deschampe, Vice Chairman
Minnesota Indian Affairs Council

RED LAKE BAND
of CHIPPEWA INDIANS
RED LAKE NATION HEADQUARTERS



OFFICERS:
DARRELL G. SEKI, SR., Chairman
SAMUEL R. STRONG, Secretary
VERNELLE R. LUSSIER, Treasurer

DISTRICT REPRESENTATIVES:
GLENDA J. MARTIN
EUGENE R. STANDINGCLOUD
ALLEN D. PEMBERTON
HAROLD E. GRAVES, JR.
ROBERT "BOB" SMITH
ROBERT L. MAY
MICHELLE (BARRETT) COBENAIS
HARLOW S. SPEARS

ADVISORY COUNCIL:
7 HEREDITARY CHIEFS

PO Box 550, Red Lake, MN 56671

Phone 218-679-3341 • Fax 218-679-3378

RESOLUTION NO. 41-2024

Upon a motion by Representative May and second by Secretary Strong, the following was enacted:

WHEREAS, the Red Lake Tribal Council is the governing body of the Red Lake Band of Chippewa Indians; and the Tribal Council has the constitutional authority and the responsibility to provide for the safety, health and welfare of its members; and

WHEREAS, Congress enacted the Indian Child Welfare Act ("ICWA") in 1978 to protect Indian culture and tribal integrity from the systematic removal of Indian children by public and private agencies; and

WHEREAS, prior to the passage of ICWA, Indian children were placed in foster care and adoptive homes at a rate nineteen (19) times higher than non-Indian children, and in some states, eighty-five percent (85%) of all Indian children were placed in non-Indian homes; and

WHEREAS, ICWA has been recognized as the gold standard for child welfare policy and practice and ICWA has helped tens of thousands of Indian children and families find fairness and healing in state child welfare systems; and

WHEREAS, ICWA has protected Indian children by establishing minimum standards for child welfare proceedings involving Indian children, ensuring stability and security within Indian families, guaranteeing that tribal governments have a role in keeping Indian families together, and helping Indian children retain their cultural identify and heritage; and

WHEREAS, the Minnesota Indian Family Preservation Act ("MIFPA") was enacted by the Minnesota Legislature in 1985, and amended in 2015 and the purpose of MIFPA is to protect the long-term interests of Indian children, their families, and Indian tribes and to preserve Indian families and tribal identity; and

WHEREAS Minnesota is one of a handful of states that has an Indian family preservation act in place and other states look to MIFPA as a model for the codification of ICWA into state law; and

WHEREAS, preservation of ICWA and strengthening of MIFPA is of ongoing and critical importance for the Indian Tribes in Minnesota because in 2020, Indian children in our state were over 16 percent more likely than white children to be placed-out-of-home; and

WHEREAS, since 2015, the ICWA and the Department of the Interior rules implementing ICWA have been the subject of constant litigation challenging the constitutionality of ICWA; and

RED LAKE BAND
of CHIPPEWA INDIANS
RED LAKE NATION HEADQUARTERS



OFFICERS:
DARRELL G. SEKI, SR., Chairman
SAMUEL R. STRONG, Secretary
VERNELLE R. LUSSIER, Treasurer

DISTRICT REPRESENTATIVES:
GLENDA J. MARTIN
EUGENE R. STANDINGCLOUD
ALLEN D. PEMBERTON
HAROLD E. GRAVES, JR.
ROBERT "BOB" SMITH
ROBERT L. MAY
MICHELLE (BARRETT) COBENAIS
HARLOW S. SPEARS

ADVISORY COUNCIL:
7 HEREDITARY CHIEFS

PO Box 550, Red Lake, MN 56671

Phone 218-679-3341 • Fax 218-679-3378

RESOLUTION NO. 41-2024 (cont.)

WHEREAS, in 2023, the United States Supreme Court decided the *Brackeen v. Haaland* case, which involved constitutional challenges to ICWA on equal protection, anti-commandeering, and commerce clause grounds; and the Court's decision upheld the constitutionality of ICWA; and

WHEREAS, over the past year, a group of tribal attorneys, tribal staff, and ICWA allies (collectively referred to as the "MIFPA Workgroup") have been drafting amendments to MIFPA; and

WHEREAS, the MIFPA Workgroup recently finalized language that would amend MIFPA to ensure that the law is capable of serving as a stand-alone state law, to ensure that existing protections of ICWA are incorporated in state law, and to provide more clarity for everyone working in state proceedings involving Indian children.

NOW THEREFORE BE IT RESOLVED, that the Red Lake Tribal Council supports amending MIFPA to incorporate the language drafted by the MIFPA Workgroup; and

BE IT FURTHER RESOLVED, that the Red Lake Tribal Council strongly urges the Minnesota Legislature to move swiftly on the language created by the MIFPA Workgroup to amend MIFPA to ensure that MIFPA is recognized as a stand-alone state statute, to further codify ICWA's protections into state law, and to provide more clarity to everyone working in state court proceedings that involve Indian; and

BE IT FURTHER AND FINALLY RESOLVED, that the Red Lake Tribal Council strongly urges Governor Walz to support this critically important effort

FOR: 8
AGAINST: 0 **Representative Cobenais and Representative Martin out**

We do hereby certify that the foregoing resolution was duly presented and acted upon at the Regular Meeting of the Tribal Council held on Tuesday, February 13, 2024 with a quorum present, at the Tribal Council Chambers at the Red Lake Nation Headquarters, Red Lake.

DARRELL G. SEKI, SR., CHAIRMAN

SAMUEL R. STRONG, SECRETARY



Shakopee Mdewakanton Sioux Community

2330 SIOUX TRAIL NW • PRIOR LAKE, MINNESOTA 55372
TRIBAL OFFICE: 952.445.8900 • FAX: 952.233.4256

April 12, 2024

Senator Mary Kunesh
95 University Ave. W
MN Senate Building, Room 3209
Saint Paul, MN 55155

Representative Jamie Becker-Finn
100 Rev. Dr. Martin Luther King, Jr. Blvd.
559 State Office Building
Saint Paul, MN 55155

Re: Minnesota Indian Family Preservation Act

Senator Kunesh and Representative Becker-Finn:

On behalf of the Shakopee Mdewakanton Sioux Community, we write in support of SF4480/HF4838 (Kunesh/Becker-Finn), modifying the Minnesota Indian Family Preservation Act (MIFPA).

Congress enacted the Indian Child Welfare Act (ICWA) in 1978 to protect Indian culture and tribal integrity from the systematic removal of Indian children by public and private agencies. ICWA sets federal requirements that apply to state child custody proceedings involving an Indian child who is a member of or eligible for membership in a federally recognized tribe.

The Minnesota Indian Family Preservation Act (MIFPA) was enacted by the Minnesota Legislature in 1985, amended in 2015 and 2023, to strengthen and enhance the protections of ICWA for Indian children and their families in Minnesota state court proceedings. Alongside other Tribal leaders and legislators, the SMSC Business Council supported legislation passed last year that protected MIFPA from potential federal court action and expressly added federal ICWA provisions into Minnesota law.

Unfortunately, our work cannot stop there. Since 2018, a group of tribal attorneys, tribal staff, and ICWA allies (collectively referred to as the “MIFPA Workgroup”) have been examining ways to clarify statutes with the goals of ensuring active tribal participation, reorganizing language on active efforts for clarity, aligning permanency timelines for consistency with federal Adoption and Safe Families Act (ASFA), and making changes to increase state agency and court compliance with ICWA and MIFPA. We are grateful that the work of this group has continued beyond the passage of the 2023 legislation, because we know that more work is needed to support our Indian children.

According to the National Indian Child Welfare Association, there is limited research available on ICWA compliance and without federal oversight, state agencies and courts must interpret ICWA provisions and definitions themselves. For that reason, there is a varying degree of compliance

with ICWA by different states. This is why we encourage you and your colleagues to continue examining ICWA policies this session (and in future sessions) as experience and practice evolves.

Thank you for championing this legislation. As it moves through the legislative process, please share this letter of support and encouragement with your colleagues as a demonstration of the Shakopee Mdewakanton Sioux Community leadership's support for SF4480/HF4838, which promotes the health and safety of our Indian children in ways that produce better outcomes for our families and communities.

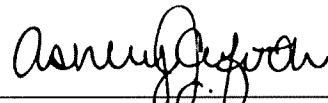
Sincerely,



Cole W. Miller
Chairman



Natasha K. Hacker
Vice-Chairwoman



Ashley J. Cornforth
Secretary/Treasurer



BOARD OF TRUSTEES
TRIBAL CHAIRMAN - KEVIN L. JENSVOLD
TRIBAL VICE CHAIRMAN – CARALYN TRUTNA
TRIBAL SECRETARY – ADAM SAVARIEGO
TRIBAL TREASURER – CAMILLE TANHOFF
MEMBER-AT-LARGE – JEREMY HAMILTON
POST OFFICE BOX 147
5722 TRAVERS LANE
GRANITE FALLS, MN 56241
320.564.3853
320.564.4482 – FAX
WWW.UPPERSIOUXCOMMUNITY-NSN.GOV

Upper Sioux Community Resolution No.012-FY2024
(Supporting 2024 Amendments of the Minnesota Indian Family Preservation Act)

- WHEREAS, the Upper Sioux Community – Pezihutazizi Oyate is a federally recognized Indian Nation bordering the counties of Yellow Medicine and Chippewa of the state of Minnesota, possessing the powers of self-government and self-determination and asserting its Sovereignty by the Constitution of the Upper Sioux Community; and
- WHEREAS, the Upper Sioux Community is governed by the Board of Trustees of the Upper Sioux Community which is empowered by the Tribal Constitution to act on behalf and in the best interests of the members of the Upper Sioux Community; and
- WHEREAS, Congress enacted the Indian Child Welfare Act (“ICWA”) in 1978 to protect Indian culture and tribal integrity from the systematic removal of Indian children by public and private agencies; and
- WHEREAS, prior to the passage of ICWA, Indian children were placed in foster care and adoptive homes at a rate nineteen (19) times higher than non-Indian children, and in some states, eighty-five (85%) of all Indian children were placed in non-Indian homes; and
- WHEREAS, ICWA has been recognized as the gold standard in child welfare policy and practice and ICWA has helped tens of thousands of Indian children and families find fairness and healing in state child welfare systems; and
- WHEREAS, ICWA has protected Indian children by establishing minimum standards for child welfare proceedings involving Indian children, ensuring stability and security within Indian families, guaranteeing that tribal governments have a role in keeping Indian families together, and helping Indian children retain their cultural identity and heritage; and

WHEREAS, the Minnesota Indian Family Preservation Act (“MIFPA”) was enacted by the Minnesota Legislature in 1985 and amended in 2015; the purpose of MIFPA is to protect the long-term interest of Indian children, their families, and Indian tribes and to preserve Indian families and tribal identity; and

WHEREAS, Minnesota is one of five states that has an Indian family preservation act in place and other states look to MIFPA as a model for the codification of ICWA into state statute; and

WHEREAS, preservation of ICWA and strengthening of MIFPA is of ongoing and critical importance for the Indian Tribes in Minnesota because in 2020, Indian children in our state were 16.4 percent (16.4%) more likely than white children to be placed-out-of-home; and

WHEREAS, since 2015, ICWA and the Department of Interior rules implementing ICWA have been subject of constant litigation challenging the constitutionality of ICWA; and

WHEREAS, in response to nearly ten years of litigation and in an effort to further improve on MIFPA, Tribal leaders in Minnesota tasked their attorneys with reviewing MIFPPA and creating amendments that would codify ICWA and improve on its minimum requirements; and

WHEREAS, since 2018, a group of tribal attorneys, tribal staff, and ICWA allies (collectively referred to as the “MIFPA Workgroup”) have been drafting amendments to MIFPA; and

WHEREAS, the MIFPA Workgroup engaged with various stakeholders during the drafting process including but not limited to the Minnesota Department of Human Services, the Minnesota Association of County Social Service Administrators, the Minnesota County Attorneys Association, and the Association of Minnesota Counties; and

WHEREAS, the MIFPA Workout recently finalized language that would amend MIFPA to ensure that MIFPA represents a stand-alone state statute and to ensure that existing protections of ICWA are incorporated in state law and to provide more clarity for everyone working in state proceedings involving Indian children.

NOW THEREFORE BE IT RESOLVED, that the Board of Trustees of the Upper Sioux Community supports amending MIFPA to incorporate the language drafted by the MIFPA Workgroup; and

BE IT FURTHER RESOLVED, that the Upper Sioux Community strongly urges the Minnesota Legislature to move swiftly on the language created by the MIFPA Workgroup to amend MIFPA to ensure that MIFPA is recognized

as a stand-alone state statute, to further codify ICWA's protections into state law, and to provide more clarity to everyone working in state court proceedings that involve Indian children; and

BE IT FURTHER AND FINALLY RESOLVED, that the Upper Sioux Community strongly urges Governor Walz to support this critically important effort.


CERTIFICATION

We, the undersigned officers of the tribal council known as the Board of Trustees, do hereby certify that the foregoing Governing Resolution entitled **Upper Sioux Community Resolution No.012-FY2024** was duly adopted and approved by the Tribal Council on January 23rd, 2024 by a vote of 5 For, 0 Against, 1 Abstentions and 1 Absent and Excused.



Kevin Jensvold, Tribal Chairman

Attest:



Adam Savariego, Tribal Secretary



Bois Forte

American Indian Child Welfare Advisory Council

January 22, 2024



Fond Du Lac



Grand Portage



Leech Lake



Lower Sioux



Mille Lacs



Prairie Island



Red Lake



Shakopee



Upper Sioux



White Earth



Duluth

Dear Senator Kunesh and Representative Kozlowski,

The American Indian Child Welfare Advisory Council supports the bill you are sponsoring. The federal Indian Child Welfare Act (ICWA) was enacted in 1978 to protect Indian children, their families and their Tribes by ensuring that minimal federal standards for the removal of Indian children were required across all fifty states. Minnesota strengthened ICWA in 1985 by enacting the Minnesota Indian Family Preservation Act (MIFPA) and further strengthened it in 2015. Last year, under threat of a pending US Supreme Court decision, the Minnesota legislature passed amendments to MIFPA that ensured all of the protections of ICWA would remain in Minnesota. We thank you and the Minnesota legislature for your leadership ensuring those protections. Your responsiveness to the wishes of the Tribes, and the testimony of Tribal leaders and Indian people set an excellent example for the nation.

During the testimony it became clear that while ensuring the current protections was extremely important it was not enough to make the improvements necessary to truly see change and to reduce the causes of out of home placement of Indian children. Many practice improvements are necessary and this work will be ongoing now and into the future.

This year, the bill you authored improves practice in a manner that ensures greater protection for Indian children, their families and Tribes in the following ways. This legislation provides many practice improvements including:

- 1) inserts language into several areas of law where ICWA and MIFPA apply but are often overlooked,
- 2) provides a mechanism for appointment of counsel to parents, Indian custodians, and Indian children in areas of law where counsel is not already provided for them,
- 3) clarifies notice provisions and improves access for Tribes to ensure Tribes are able to provide input to the petitioners and the courts about what is truly in the best input of Indian children,
- 4) expands permanency timelines from 12 to 15 months and allows for extensions of those timelines under limited circumstances to ensure that Indian children are safe when returned to their parents or Indian custodians,
- 5) allows courts to award costs and sanctions where appropriate when the court has invalidated proceedings based on violation of the law.

Pilámaya, Miigwech, Thank you.

Lisa Tittle, Co-Chair
Shakopee Medwakanton Sioux Community

Laurie York, Co-Chair
White Earth Nation

Board Members

Ann Ahlstrom, Chair
Crysta Parkin
Emelie Rivera
Timothy Zuel
Ruby Tolbert
Stephanie Bumgardner
Honorable Kathleen Blatz



Program Administrator

Tami Baker-Olson
25 Rev. Dr. Martin Luther King Jr. Blvd.
Suite G-27
St Paul, MN 55155
651-215-9467 office
Tami.BakerOlson@courts.state.mn.us

April 15, 2024

Honorable Committee Chairs and
Members of the Minnesota Senate and House of Representatives

RE: Minnesota Indian Family Preservation Act (HF4838 / SF4480)

Dear Chairs and Committee Members:

This letter is submitted on behalf of the Minnesota State Guardian ad Litem Board in support of HF4838 and SF4480, updating the Minnesota Indian Family Preservation Act. The board's support is given with the understanding that provisions modifying required permanency timelines under Chapter 260C have been removed from the legislation.

Guardians ad Litem are appointed by the court to advocate for the best interests of children involved in juvenile and family court proceedings, primarily those proceedings involving allegations of abuse or neglect. American Indian and Alaska Native children have historically experienced, and continue to experience, disproportionate and disparate involvement and outcomes in these proceedings.

In 1978, Congress enacted the Indian Child Welfare Act ("ICWA") to provide specific protections for American Indian and Alaska Native children, their families and Tribes involved in child welfare and custody removal proceedings. Prior to the passage of ICWA, 25% to 35% of American Indian children were removed from their homes and permanently placed outside of their families and communities. These removals and separations resulted in significant trauma including loss of family relationships, language, culture and identity for generations of American Indian children.

In 1985, Minnesota enacted the Minnesota Indian Family Preservation Act ("MIFPA") to codify Minnesota specific practices and to strengthen certain requirements and protections of the ICWA. Despite the enactment of both laws, Native American children continue to be removed from their parents' care at disproportionately high rates.

This legislation is the result of a tribally-led effort aimed at improving outcomes for American Indian children and improving state court practice in judicial proceedings governed by ICWA and MIFPA. The Guardian ad Litem Program values its partnership with Tribes on behalf of American Indian children and appreciates the leadership of Minnesota's Tribes in developing this legislation and inviting so many state partners, including the Guardian ad Litem Program, to participate in the process. We look forward to this continued partnership and this legislation becoming law.

Sincerely,

Ann S. Ahlstrom

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Chair, Minnesota Guardian ad Litem Board