



WHITE MOUNTAIN APACHE TRIBE

A Sovereign Tribal Nation

(Urging the Passage of a State of Arizona Indian Child Welfare Act Bill)

- WHEREAS,** The Constitution of the White Mountain Apache Tribe (“Tribe”) of the Fort Apache Indian Reservation provides, at Article IV, Section 1(a) that the Tribal Council (“Council”) shall exercise the power, “To represent the Tribe and act in all matters that concern the welfare of the Tribe...”; and
- WHEREAS,** In response to state and national child welfare policies in the 20th century that had the effect of removing large numbers of Native American children from their families and communities, the Indian Child Welfare Act of 1978 (“ICWA”) was enacted, and has since been the gold standard for child protection in the United States; and
- WHEREAS,** On November 9, 2022, the United State Supreme Court heard arguments in *Haaland v. Brackeen*, a case that seeks to overturn the ICWA on grounds, including the prohibition against the federal government commandeering state resources; and
- WHEREAS,** Should the Supreme Court find ICWA unconstitutional on anti-commandeering grounds, Arizona’s Department of Child Safety (“DCS”) would no longer be legally obligated to give ICWA’s protections, including active efforts to prevent the breakup of Indian families, to Native families; and
- WHEREAS,** To help protect against this possibility, the Tribe is currently working on an MOU with DCS, whereby the two parties would agree to willingly cooperate to protect Native families, but without an actual state law, that agreement would be unenforceable; and
- WHEREAS,** During the Arizona state legislature’s session last year, a bill was introduced that would have adopted ICWA into state law, however, that bill failed to advance out of committee; and
- WHEREAS,** A working group of tribal attorneys and tribal child protective services caseworkers have convened to draft proposed state legislation and to gather support from the respective tribal nations to work towards passage of an Arizona ICWA; and
- WHEREAS,** The Tribe’s representatives to this group have actively participated in this process, and this day present the attached bill language (incorporated herein by reference), for the Council’s review; and

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WHEREAS, While the language of the draft bill will almost certainly be further amended, its core provisions providing certain procedural and substantive protections to tribes, parents and children are non-negotiable and will remain intact; and

WHEREAS, The Council has reviewed the language of the draft Arizona ICWA, and finds that the passage of an Arizona state ICWA law is absolutely essential, at this time, to protect the Tribe's most vital resource, its children, from those who would seek to remove them from their communities, is in the best interests of the Tribe and its members.


BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Tribe hereby urges the Arizona State Legislature to pass a state law, during the 2023 Legislative Session, that provides the same protections for Native American children as the current Indian Child Welfare Act does, and to work to implement those protections meaningfully, and in cooperation with its Arizona tribal partners.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event this Resolution directly conflicts with the Tribal Constitution, Tribal Ordinances, or any material facts concerning the issues presented are later found to be false, this Resolution shall be deemed null and void and have no legal effect.

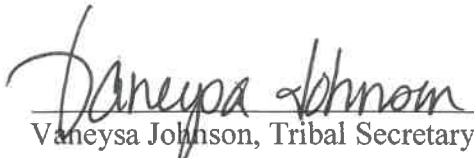
BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event that this Resolution conflicts with a prior Resolution or Policy, this Resolution shall supersede and govern over the conflicting subject matter.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Chairman, or in his absence, the Vice-Chairman, is hereby authorized to execute any and all documents necessary to effectuate the intent of this Resolution.

The foregoing resolution was on **DECEMBER 7, 2022** duly adopted by a vote of **NINE** for, **ZERO** against, and **ZERO** abstentions by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it under the enumerated powers listed in Article IV, Section 1 of the WMAT Constitution, so ratified on November 10, 2021, and federally recognized pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984).


Kasey Velasquez, Chairman
Acting Chairman

12/13/22
Date


Vaneysa Johnson, Tribal Secretary

12/13/2022
Date