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ACLU OF RI POSITION: SUPPORT

TESTIMONY ON 24-H 7697, THE RHODE ISLAND INDIAN CHILD WELFARE ACT April 4, 2024

The purpose of the Rhode Island Indian Child Welfare Act is to strengthen and preserve the protections that Indian families and children receive from the federal Indian Child Welfare Act (ICWA). This is made necessary due to concerns as to whether courts may severely weaken the protections provided by the federal law. The ACLU of Rhode Island therefore strongly supports passage of this state version of the law.

The federal Indian Child Welfare Act was passed in 1978 as an effort to curtail the disproportionate numbers of Native children being removed from their parents and placed with white adoptive families or sent to boarding schools designed to assimilate them to white culture. It was enacted to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families. It established minimum Federal standards for the removal of Indian children from their homes and provides placement guidelines which reflect the unique values of Indian culture. This is achieved by requiring a placement preference be given to extended family members or fellow tribe members if possible. By prioritizing keeping Indian children in out-of-home care with Indian families and tribe members, ICWA protects the interests of both Indian children and tribes. The law has had a positive impact on preserving and protecting tribal relationships as well as the best interest of Indian children by maintaining the involvement and connection of their tribe when child welfare issues arise.

Last year, in *Haaland v. Brackeen*, the United States Supreme Court reviewed a challenge to the constitutionality of ICWA. While the Court upheld the challenged portions of ICWA, the ruling also left open the possibility that other legal challenges to ICWA might succeed. Because a realistic possibility exists that ICWA could still be overturned, and thus become unenforceable on a national basis, passage of a law providing state-level protection is critical.

Although some states had long enacted their own ICWA statute, this threat has led many other states to move quickly to adopt a state ICWA law. At the present time, 17 geographically and politically diverse states – including Connecticut, Maine, Iowa, Michigan, Nebraska, New Mexico, Oklahoma, Oregon and Wisconsin – have passed their own state ICWA laws.

Both the federal ICWA and this bill, importing its protections at the state level, seek to protect the best interests of Indian children in the child welfare system, preserve tribal culture, and guarantee tribal jurisdiction. Enacting this legislation will enhance protection for Rhode Island Indian children and families by adopting its own ICWA that will supplement and support existing federal law. We therefore urge the committee's passage of this legislation. Thank you for considering our views.