

TESTIMONY OF MICHAEL KEBEDE, ESQ.

LD 1970 – Ought To Pass

An Act to Enact the Maine Indian Child Welfare Act

Joint Standing Committee on Judiciary

May 31, 2023

Senator Carney, Representative Moonen and distinguished members of the Joint Standing Committee on Judiciary, greetings. My name is Michael Kebede, and I am Policy Counsel for the American Civil Liberties Union of Maine, a statewide organization committed to advancing and preserving civil liberties guaranteed by the Maine and U.S. Constitutions. On behalf of our members, I urge you to support LD 1970 because it is necessary to mitigate the cultural genocide of Indigenous people.

European settlement in the Americas involved not just the mass murder and forced removal of Indigenous people from ancestral lands, but also cultural genocide through the separation of children from their Indigenous families and placement in settler homes. In 1969 and 1974, the Association of American Indian Affairs published reports showing “that 25 to 35 percent of all Indian children had been separated from their families and placed in foster homes, adoptive homes or institutions, and 90 percent of those placements were in non-Indian homes.”¹ “[T]he consequences to Indian children, Indian families, and Indian tribes of abusive child welfare practices that resulted in the separation of large numbers of Indian children from their families ... ” cannot be overstated. *Mississippi Band of Choctaw Indians v. Holyfield*, 490 U.S. 30, 32, 109 (1989). United States Senate hearings “in 1974 yielded numerous examples, statistical data, and expert testimony documenting what one witness called ‘[t]he wholesale removal of Indian children from their homes, . . . the most tragic aspect of Indian life today.’” *Id.* (citing Indian Child Welfare Program, Hearings before the Subcommittee on Indian Affairs of the Senate Committee on Interior and Insular Affairs, 93d Cong., 2d Sess., 3.).

¹ Association of American Indian Affairs, Indian Child Welfare Act, *available at* <https://www.indian-affairs.org/icwa.html#:~:text=%E2%80%8BThe%20Association%20completed%20two,were%20in%20non-Indian%20homes>.

In 1978, after holding more hearings about Indigenous child removal, Congress enacted the Indian Child Welfare Act (ICWA). In enacting this law, Congress found

(3) that there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children ...;

(4) that an alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children from them by nontribal public and private agencies and that an alarmingly high percentage of such children are placed in non-Indian foster and adoptive homes and institutions; and

(5) that the States, exercising their recognized jurisdiction over Indian child custody proceedings through administrative and judicial bodies, have often failed to recognize the essential tribal relations of Indian people and the cultural and social standards prevailing in Indian communities and families.

25 U.S.C. § 1901. The final Congressional finding is especially pertinent now, as the possibility of a federal retreat from ICWA's protections has left it to states to enact similar protections. Even before the United States Supreme Court heard *Brackeen v. Haaland*, eleven states had stepped in to supplement federal protections with ICWA-like laws.² Colorado, North Dakota, Montana, and Wyoming recently joined that growing list of states. This bill gives Maine a chance to help ensure the continuity of Indigenous culture, regardless of changes in federal law.

We urge you to vote *ought to pass*.

² Alaska, California, Oregon, Washington, Iowa, Minnesota, Michigan, Nebraska, New Mexico, Wisconsin and Oklahoma.