

Testimony in Support of LD 1970, “An Act to Enact the Maine Indian Child Welfare Act”

May 30, 2023

Dear Senator Carney, Representative Moonen, and members of the Judiciary Committee,

My name is James Myall. I’m an Economic Policy Analyst at the Maine Center for Economic Policy, and I am writing on behalf of MECEP in support of LD 1970, An Act to Enact the Maine Indian Child Welfare Act.

Removal of Indigenous children from their families and cultural ties perpetuates a strategy to diminish and extinguish Indigenous people, language, and culture within the United States and beyond. Separation of Native children, which included residential schools designed to “kill the Indian...and save the man” continued for more than 100 years, and evolved to include unnecessary adoptions and foster placements, impacting the Houlton Band of Maliseet Indians, Passamaquoddy Tribe, Penobscot Nation, and Mi’kmaq Nation in deeply harmful ways.

Before the passage of the Indian Child Welfare Act, as many as 35% of all Indigenous children within the United States were removed from their homes by state child welfare and private adoption agencies. Most of those children were placed outside of their families and communities, even when fit and willing relatives were availableⁱ. In Maine, the rates of removal were the second highest in the nation. In 1972, Wabanaki children in Aroostook County were separated at rates 62 times higher than non-native Maine children.ⁱⁱ

The Indian Child Welfare Act was enacted in 1978 to “protect the best interests of Indian children and to promote the stability and security of Indian tribes and families.” The law, now considered the “gold standard” of child welfare policy by leading child advocacy organizations, affirmed tribes’ rights in matters of their youngest citizens. While implementation is far from perfect, the law is still critically important. Today, in comparison to non-Native children, Indigenous children are still four times more likely to be removed from their families by child welfare agencies and have 14 times higher rates in foster care. 56% of Native children are adopted outside of their families and communities.ⁱⁱⁱ Between 2000 and 2013, Wabanaki children in Maine entered foster care at more than 5 times higher rates than non-Native children on average.^{iv}

ICWA’s constitutionality is being challenged in *Brakeen vs. Haaland*, currently pending in the U.S. Supreme Court with a decision expected within weeks.^v LD 1970 would codify ICWA’s protections on the state level should the federal law be struck down. 12 other states have already taken similar defensive action. Maine is one of 26 states that filed amicus briefs supporting ICWA’s constitutionality^{vi}, along with the brief signed by Senator Collins, Senator King, Representative Pingree, and 84 other members of Congress.^{vii}

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LD 1970 is a critical backstop to ensure that Wabanaki nations can continue to protect their youngest citizens and their community cohesion for future generations. The legislation is supported by all Wabanaki tribes in Maine as well as a coalition of more than 90 Maine organizations representing tens of thousands of Mainers. Together we understand that strengthening tribal sovereignty and self-governance, protecting children and families, and honoring Wabanaki culture benefit all who live in Maine.

I urge you to vote “ought to pass” on the legislation. As always, if you have any questions, I can be reached at jmyall@mecep.org. Thank you for your consideration.

ⁱ <https://www.nicwa.org/wp-content/uploads/2018/10/Setting-the-Record-Straight-2018.pdf> National Indian Child Welfare Association

ⁱⁱ https://d3n8a8pro7vhmx.cloudfront.net/mainewabanakireach/pages/1584/attachments/original/1617238958/FulI_TRC_Report_-_July_2015.pdf Maine Wabanaki-State Child Welfare Truth & Reconciliation Commission report

ⁱⁱⁱ <https://www.nicwa.org/wp-content/uploads/2018/10/Setting-the-Record-Straight-2018.pdf> National Indian Child Welfare Association fact sheet

^{iv} https://d3n8a8pro7vhmx.cloudfront.net/mainewabanakireach/pages/1584/attachments/original/1617238958/FulI_TRC_Report_-_July_2015.pdf Maine Wabanaki-State Child Welfare Truth & Reconciliation Commission report

^v https://sct.narf.org/caseindexes/brackeen_v_bernhardt_lower_courts.html *Brakeen vs Haaland*

^{vi} https://sct.narf.org/documents/brackeen_v_bernhardt/lower_courts/5th-banc-merits-amicus-26states.pdf *Brakeen vs Haaland* amicus briefs tribal side

^{vii} <https://www.indian.senate.gov/sites/default/files/21-376%20bsac%2087%20Members%20of%20Congress%20supporting%20Federal-Tribal%20Defendants.pdf> *Brakeen vs Haaland* amicus briefs

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