

## History of ICWA

### Why did Congress pass ICWA?

1. April 8, 1974 Congress began a series of hearings regarding Indian child welfare in the US. Numerous experts and witnesses from across the country gave sworn testimony under oath.
  - a. The disturbing facts revealed in those hearings showed that federal and state government's had a well-known policy of removing Indian children from their families and tribes and attempted to assimilate them into white culture by placing them in white families or institutions.
  - b. Since the late 1800s, an overwhelming percent of Indian children were removed from their homes and communities and placed in boarding schools or foster care off their tribal reservations in order to teach them white culture and practices and indoctrinate them in Christianity.
  - c. In many cases government authorities removed Indian children from their family because of unsubstantiated claims of neglect or because non-Indian social workers did not understand cultural differences in child rearing practices of Native Americans.
2. The practice of systematically removing and disconnecting Indian children from their tribes went on for more than 100 years and placed the very existence of the tribes at risk.
3. During the 1974 hearings, it became clear to Congress that the United States had a crisis of massive proportions on their hands.
4. Official government policy was destroying the fabric of Indian families and endangering the very existence of tribal governments.
5. The National Statistics Shocked Congressional Leaders
  - a. In Montana, the ratio of Indian foster care placement was at least 13 times greater [than for non-Indian children]. In South Dakota, 40 percent of all adoptions made by the State were of Indian children, yet Indians made up only 7 percent of the juvenile population. The number of South Dakota Indian children that lived in foster homes in the 1970s was per capita nearly 16 times greater than the non-Indian rate. In the State of Washington, the Indian adoption rate during this time was 19 times greater and the foster care rate was 10 times greater.
6. The disturbing trend continued in Michigan.
  - a. In Michigan an Indian child was 390% more often removed from their home than a non-Indian child.
7. Particularly disturbing to Congress was the fact that the massive removal of Indian children from their families was not being done by some rogue individuals, but instead came from official government policy.

8. Officials testified under oath that government documents proved that, "the main thrust of federal policy, since the close of the Indian wars, had been to break up the extended family, the clan structure, to do tribal life and assimilate Indian populations. The practice of Indian religions was banned, children were punished for speaking their languages, and even making beadwork was prohibited by federal officials.
9. Testimony of Dr. ROBERT BERGMAN, INDIAN HEALTH SERVICE talked about the policy:

“Separating Indian children from their parents and tribes has been one of the major aims of governmental Indian services for generations. The assumption is that children and particularly those in any kind of difficulty would be better off being raised by someone other than their own parents. The purpose of the first boarding school on the Navajo reservation as stated in its charter in the 1890's was "to remove the Navajo child from the influence of his savage parents." “
10. The well known official government removal policy was destroying Native American families and damaging Native American youth, which ultimately threatened the very existence of Indian tribes because Native American children are tribe's future citizens, voters and leaders. Without tribal children tribe have no future.
11. Congress took responsibility for the state of Indian families and passed the Indian child welfare act to help fix what official governmental policy helped to break.
12. ICWA was written with the understanding that Indian tribes are in the best position to decide what is in the best interest of Indian children.
13. ICWA attempts to fix what official government policy broke by promoting the following goals:
  - a. Protect the best interests of Indian children and families as determined by their tribe.
  - b. Promote the stability and security of Indian families; and
  - c. Recognize and strengthen the role of tribal governments in determining child custody issues
14. ICWA attempts to accomplish its purpose primarily by establishing minimum Federal standards for the removal of Indian children from their homes and for the placement of Indian children in homes that reflect the values of Indian culture.
15. In other words, compared to pre-ICWA practices, ICWA purposefully makes it more difficult for state governments to remove Indian children from their homes and requires that they be placed in Indian homes and Indian communities whenever possible.