

Senate Bill 86
Introduced by Frank Smith

House Human Services Committee
March 30, 2005

Honorable Chairman Arlene Becker
and Committee members:

My name is Lisa Morris. I am the birth mother of five children enrolled in an American Indian tribe and have legal custody of four additional enrolled children. In order to explain my stand on this bill, please allow me to give you some background.

History:

My husband, a man of 100 percent tribal heritage and enrolled with the Minnesota Chippewa Tribe, was born and raised on the Leech Lake Reservation. Roland spoke only Ojibwe as a child and learned how to hunt, fish, set traps and harvest wild rice with his Grandfather. He did not learn English or live with his parents until he started kindergarten. What he remembered with the most fondness is when the community would all be together out at the lake for a couple of weeks, staying in tents and ricing together. He said it was a time of year that felt like Christmas to him; seeing friends and relatives that he did not normally see any other time of the year.

In the 1950s, they lived in poverty, but there was no where near the alcohol, drug abuse and violence prevalent at Leech Lake today. As the years passed, destructive lifestyles and death grew to epidemic levels.

In the time I have lived with him, his 16-year-old niece committed suicide by hanging herself in a closet, his sister drank herself to death on a couch, his brother was stabbed to death in a park, a two-year-old niece was beaten to death by her parent, a sister and two nieces have died of drug overdoses, and there is much more.

My husband and I are not alone in seeing this despair and destruction. In April of last year, the Minneapolis Star and Tribune published a week long series entitled, *The Lost Youth of Leech Lake*. The articles detailed alcoholism, drug abuse, child abuse and even murder that occurs in Leech Lake. Some of those chronicled were relatives of Roland's. One article told of the murder that took place after three little girls were taken from a non-tribal home in which they were loved and placed with relatives on the reservation. My husband and I are not being overly critical of his home reservation. We are speaking from knowledge and fact. We also have contacts with people from all over the country that tell us that Leech Lake is not an aberration.

I am aware that there are some in tribal leadership that claim this is all somehow still the white-man's fault, and that if left alone, the reservation community could return to what it once was.

My husband and I do not buy it.

Honorable Chairman, I say all this as background to what I have to say next.

Our Stand Against ICWA:

For the last ten years my husband and I, having watched all the damage that has occurred to his family while living on the reservation, have actively opposed the Indian Child Welfare Act ("ICWA") and Tribal government jurisdiction over our children. Not only have we watched children suffer terribly, but we have had a significant amount of correspondence from parents, relatives and other care givers struggling under the ICWA law.

Advocates, in their arguments for ICWA, point to the devastation suffered by children of tribal heritage when, years ago, they were forcefully removed from the homes they loved and forced to stay at boarding schools. The trauma those children and families experienced was, indeed, devastating.

However, today, tribal leaders are doing the exact same thing when they remove children from the homes and environments they love and force them to live with people they barely know. But somehow, they have rationalized that it is different. They do not see the situations for what they are - that any emotionally

healthy child, no matter the heritage, will be devastated when they are taken from their familiar homes and forced to live with strangers. It has nothing to do with heritage or traditional culture. It is just a fact of being a healthy human being; attached to other human beings.

But ICWA advocates do not seem to be concerned with a child's normal attachment to humans. They tend to dispute that taking a child of tribal heritage from the only homes he or she knows - if that home is white - will be a serious trauma. No, ICWA advocates seem to be saying that there is an inborn difference between persons of tribal heritage and other persons, and children of tribal heritage will never recover if separated from the tribal community. ICWA advocates seem to be saying that the reasons children of tribal heritage feel trauma when placed with strangers is due to genetic reasons. According to some, children of tribal heritage are "different" from children of other heritages, and even if a child has only a small amount of tribal heritage, or has never even been near an Indian community, the child will suffer lifelong trauma if separated from Indian Country.

That is my opposition to ICWA, itself. My husband and I have for years strongly opposed any law that interferes with parental rights in effort to please tribal government.

If the Montana state government must pass a bill defining ICWA in order to assist the court system, I ask that they take into consideration the harm that ICWA has done and add amendments to alleviate that harm.

In Regards to Your Definitions of a Qualified Expert Witness:

The bill requires that a "Qualified expert witness" be someone who is recognized by the tribal community, knowledgeable in tribal customs, prevailing social and cultural standards and child-rearing practices within the Indian child's tribe; or Indian culture, family structure, and child-rearing practices in general. Frequently, this is taken to mean someone acceptable to or having some interest in the welfare of tribal government.

My Questions:

What is the "tribal community"? If the child lives in an inner city tribal community, would that then be the child's tribal community? Does an inner city tribal community have the same customs, cultural standards and child-rearing practices as a closed reservation does?

Does "where and how" the child has been raised to this point have any bearing?

- * If a child is one half Hispanic and has been raised in a Hispanic community, speaking Spanish, does the prevailing social and cultural standards of the tribal community still take precedence in the placement of that child? Apparently so. A small boy named Jose was nearly beaten to death in 2004 after being removed from his Hispanic paternal grandmother and placed with a maternal grandmother on a reservation, solely on the basis of ICWA. The reported reason he and his brother were beaten? They were speaking Spanish.

Would not a witness be more qualified and expert in the well being of the child if the witness understood the community in which the child has been raised and the community within which the family exists, rather than the community in which the tribe exists? For whom is the Expert Witness testifying?

The bottom line is - humans desire choice and have time and again fought for the freedom to make those choices. That is just as true today as it has been any other time in the history. Tribal members are human beings and desire choice just as much as anyone else. In America, we are proud of our democracy, equality, and the right all citizens have to make individual choices and live life to their fullest. We try to help other countries achieve the same. Are citizens of Native American heritage allowed less?

In addition to advocating for the rights of parents and families to choose their own lifestyle, my husband also felt, from what he had witnessed, that ICWA prevented Indian children from getting protection equal to that of children of other heritages. As one social worker told us when we first received the four children into our home eight years ago, "If they had been white or black, they would have

been removed (from their parents' home) a lot sooner." Is it acceptable to America that children of tribal ancestry are not getting protection equal to that of children of other heritage's?

If ICWA Remains as Law, and Your Intention Is to Protect Children and Families, Please Consider this:

- * Children of tribal heritage should be guaranteed protection equal to that of any other child in the United States. The best interest of the child should be considered first, above the needs of the tribal community. All children, no matter their heritage, should be equally able to obtain protection and live in safe, healthy environments. If there is proven evidence of emotional and/or physical neglect, the state has an obligation to that child's welfare and should be held accountable if the child is knowingly, or by Social Service neglect, left in unsafe conditions.

- * "Qualified expert witness" should be someone who is able to advocate for the well being of the child, first and foremost. He or she should be a professional person who has substantial education and experience in the area of the professional person's specialty and significant knowledge of and experience with the child, his family, and the culture, family structure, and child-rearing practices in which the child has been raised.

Thank you,

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