



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #PHX-16-006

TITLE: Calling on Congress to Provide Tribal Court Funding for Tribal Nations in Pub. L. 280 States

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WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, tribal nations rely on tribal courts in the exercise of their inherent tribal sovereignty; and

WHEREAS, tribal courts allow tribal nations to address civil matters and public safety concerns in a way that is more responsive, culturally appropriate, and attuned to local concerns than a state court system; and

WHEREAS, tribal courts provide a front line defense to protect Native children while keeping Native families together through the application of the Indian Child Welfare Act; and

WHEREAS, the Bureau of Indian Affairs provides funding to tribal courts located in non-Pub. L. 280 states but the Bureau of Indian Affairs generally chooses not to provide funding to tribal courts located in Pub. L. 280 states; and

WHEREAS, the Bureau of Indian Affairs cites insufficient funding as its reason for deciding not to allocate resources to tribal courts in Pub. L. 280 states; and

WHEREAS, this leaves tribal courts in Pub. L. 280 states with little to no funding to perform their essential functions; and

WHEREAS, Congress has shown a deep concern regarding the lack of resources available to tribal courts in Pub. L. 280 states; and

WHEREAS, pursuant to the Consolidated and Further Continuing Appropriations Act of 2015 Congress directed the Bureau of Indian Affairs in coordination with the Department of Justice to prepare a report on the budgetary needs of tribal courts located in Pub. L. 280 states, *see* 160 Cong. Rec. H9764-5 (Dec. 11, 2014); and

WHEREAS, the report concluded that full funding for tribal courts would cost over \$860 million and tribes in non-PL 280 jurisdictions are funded at a dismal 6% of need; and

WHEREAS, the report further concluded that “the budgetary cost estimate [for the BIA to fund] tribal courts in P.L. 280 states at a level consistent with BIA-funded Tribal Court programs in non-P.L. 280 states is \$16.9 million” and acknowledged that this would still meet only 6% of the funding need and would not be viewed “as robust or perhaps even adequate;” and

WHEREAS, the appropriation of funding would provide a crucial lifeline to tribal courts in Pub. L. 280 states that are currently operating without federal funds.

NOW THEREFORE BE IT RESOLVED, that the National Congress of American Indians calls on Congress to appropriate funds sufficient to meet the needs for tribal courts regardless of the applicability of PL 280; and

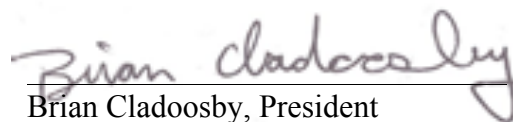
BE IT FURTHER RESOLVED, that Congress should explicitly state that this funding should be available to tribal courts in Pub. L. 280 states; and

BE IT FURTHER RESOLVED, that tribal nations in Pub. L. 280 states should be able to access this funding through the Indian Self-Determination and Education Assistance Act to use in a manner that tribal nations decide best suits the needs of their tribal courts; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2016 Annual Convention of the National Congress of American Indians, held at the Phoenix Convention Center, October 9 to October 14, 2016, with a quorum present.


Brian Cladoosby, President

ATTEST:


Aaron Payment, Recording Secretary